

9525.3025 PROCESS OF APPOINTING A PUBLIC GUARDIAN.

Subpart 1. **Nomination of commissioner.** Under Minnesota Statutes, section 252A.03, subdivision 1, nomination of the commissioner to act as public guardian is made by submitting a notarized sworn request directly to the commissioner. The commissioner may be nominated by any of the following:

- A. the person with a developmental disability;
- B. an interested person, including a public official, spouse, parent, adult sibling, legal counsel, adult child, or next of kin; and
- C. the current private guardian of the person who is unable or unwilling to continue to act as guardian and who requests the commissioner to act as public guardian.

Subp. 2. **Comprehensive evaluation.** Upon receipt of the written nomination, the commissioner shall order the local agency of the county in which the proposed ward resides, to arrange for the comprehensive evaluation of the proposed ward. The local agency shall complete and file the comprehensive evaluation according to Minnesota Statutes, section 252A.04. The local agency shall prepare and forward the comprehensive evaluation to the commissioner within 90 days of the date the commissioner orders the evaluation. When the proposed ward is under medical care, the requirements regarding drugs, medications, and other treatments under Minnesota Statutes, section 252A.04, subdivision 2, apply. The comprehensive evaluation must consist of the following reports required under Minnesota Statutes, section 252A.02, subdivision 12:

- A. a medical report on the health status and physical condition of the proposed ward;
- B. a report on the proposed ward's intellectual capacity and functional abilities; and
- C. a report from the case manager that includes the most current assessment of individual service needs, the most current individual service plan, if applicable, and a description of contacts with and responses of near relatives of the proposed ward about the notification to them that a nomination for public guardianship has been made and that they may seek private guardianship.

Subp. 3. **Commissioner's acceptance or rejection of nomination.** Under Minnesota Statutes, section 252A.03, the commissioner shall accept or reject the nomination in writing to the nominating person within 20 working days of receipt of the comprehensive evaluation. If the commissioner rejects the nomination, the person, parents, spouse, or near relatives may file a petition to appoint the commissioner as public guardian under

Minnesota Statutes, section 252A.06. The commissioner shall accept the nomination if the following criteria are met:

- A. the person was diagnosed as being a person with a developmental disability;
- B. the person is in need of the supervision and protection of a guardian; and
- C. no qualified person is willing to become a private guardian.

Subp. 4. **Petition.** When the commissioner agrees to accept a nomination for appointment as public guardian, the local agency shall petition on behalf of the commissioner within 20 working days of receipt of the commissioner's acceptance, under Minnesota Statutes, section 252A.05. The petition must include the items specified in Minnesota Statutes, section 252A.06, subdivision 2.

Subp. 5. **Filing the comprehensive evaluation.** Under Minnesota Statutes, section 252A.07, subdivision 1, when a petition is brought by the commissioner or local agency after the acceptance of the nomination, a copy of the comprehensive evaluation must be filed with the petition. If the petition is brought by a person other than the commissioner or local agency and a comprehensive evaluation has been prepared within a year of the filing of the petition, the commissioner shall forward a copy of the comprehensive evaluation to the court upon notice of filing of the petition. If a comprehensive evaluation has not been prepared within a year of the filing of the petition, the local agency or the commissioner, upon notice of filing of a petition, shall arrange for a comprehensive evaluation to be prepared and forwarded to the court within 90 days. A copy of the comprehensive evaluation must be made available according to Minnesota Statutes, section 252A.07, subdivision 2.

Subp. 6. **Exception.** A comprehensive evaluation must be filed with the court before a court hearing. However, the action may proceed pursuant to the exception under Minnesota Statutes, section 252A.07, subdivision 3.

Subp. 7. **Notice of hearing.** The notice of hearing of the petition for appointment of public guardian is governed by Minnesota Statutes, sections 252A.081 and 525.55, which require that notice be personally served upon the proposed ward by a nonuniformed officer.

Subp. 8. **Hearing.** The public guardianship hearing is governed by Minnesota Statutes, section 252A.101.

Statutory Authority: *MS s 252A.21*

History: *17 SR 2276; L 2013 c 59 art 3 s 21*

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