

CHAPTER 252A

MENTAL RETARDATION PROTECTION

252A.03 Nomination of commissioner as guardian
or conservator.

252A.101 Hearing.

252A.03 NOMINATION OF COMMISSIONER AS GUARDIAN OR CONSERVATOR.

Subdivision 1. **Nomination of guardian or conservator.** The commissioner may be nominated in a sworn written request by any one of the following to act as guardian for any mentally retarded person:

- (a) an interested person;
- (b) the guardian of the mentally retarded person to act as successor;
- (c) the mentally retarded person.

[For text of subs 2 and 3, see M.S.2004]

Subd. 4. **Alternatives.** Public guardianship or conservatorship may be imposed only when no acceptable, less restrictive form of guardianship or conservatorship is available. The commissioner shall seek parents, near relatives, and other interested persons to assume guardianship for persons with developmental disabilities who are currently under public guardianship. If a person seeks to become a guardian or conservator, costs to the person may be reimbursed under section 524.5-502. The commissioner must provide technical assistance to parents, near relatives, and interested persons seeking to become guardians or conservators.

History: 2005 c 10 art 4 s 8,9

252A.101 HEARING.

Subdivision 1. **General.** Except as otherwise provided in this section, sections 524.5-101 to 524.5-502 apply to public guardianship hearings.

[For text of subs 2 to 4, see M.S.2004]

Subd. 5. **Findings.** (a) In all cases the court shall make specific written findings of fact, conclusions of law, and direct entry of an appropriate judgment or order. The court shall order the appointment of the commissioner as guardian or conservator if it finds that:

- (1) the proposed ward or conservatee is a mentally retarded person as defined in section 252A.02, subdivision 2;
- (2) the proposed ward or conservatee is incapable of exercising specific legal rights, which must be enumerated in its findings;
- (3) the proposed ward or conservatee is in need of the supervision and protection of a guardian or conservator; and
- (4) no appropriate alternatives to public guardianship or public conservatorship exist that are less restrictive of the person's civil rights and liberties, such as appointing a guardian or conservator under sections 524.5-101 to 524.5-502.

(b) The court shall grant the specific powers that are necessary for the commissioner to act as public guardian or conservator on behalf of the ward or conservatee.

[For text of subs 6 to 8, see M.S.2004]

History: 2005 c 10 art 4 s 10,11