252A.03 NOMINATION OF COMMISSIONER AS GUARDIAN.

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

- (1) an interested person;
- (2) the guardian of the person with a developmental disability to act as successor;
- (3) the person with a developmental disability.
- Subd. 2. Acceptance or rejection. The commissioner shall accept or reject the nomination in writing within 20 working days of the receipt of a comprehensive evaluation provided for in section 252A.04. The commissioner's acceptance shall be binding upon the commissioner and successors. Acceptance of a nomination shall confer no authority on the commissioner unless affirmed at a judicial hearing. Rejection of a nomination by the commissioner shall not bar the filing of a petition pursuant to section 252A.06.
 - Subd. 3. Standard for acceptance. The commissioner shall accept the nomination if:
- (1) the person's assessment confirms that they are a person with a developmental disability under section 252A.02, subdivision 2;
 - (2) the person is in need of the supervision and protection of a guardian;
 - (3) no qualified person is willing to assume guardianship under sections 524.5-101 to 524.5-502; and
- (4) the person subject to public guardianship was included in the process prior to the submission of the nomination.
 - Subd. 4. Alternatives. (a) Public guardianship may be imposed only when:
- (1) the person subject to guardianship is impaired to the extent of lacking sufficient understanding or capacity to make personal decisions;
- (2) the person subject to guardianship is unable to meet personal needs for medical care, nutrition, clothing, shelter, or safety, even with appropriate technological and supported decision-making assistance; and
 - (3) no acceptable, less restrictive form of guardianship is available.
- (b) 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, 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.

History: 1975 c 208 s 3; 1977 c 415 s 1; 1986 c 444; 1987 c 185 art 1 s 12,13; 1989 c 282 art 6 s 23; 2004 c 146 art 3 s 15; 2005 c 10 art 4 s 8,9; 2005 c 56 s 1; 2017 c 40 art 1 s 121; 2021 c 30 art 13 s 12,13