CHAPTER 252A

DEVELOPMENTAL DISABILITY PROTECTION

252A.01	POLICY AND CITATION.	252A.111	POWERS AND DUTIES OF PUBLIC GUARDIAN.
252A.02	DEFINITIONS.	252A.12	APPOINTMENT OF PUBLIC GUARDIAN NOT A FINDING OF INCOMPETENCY.
252A.03	NOMINATION OF COMMISSIONER AS GUARDIAN.	252A.14	COMMISSIONER AS ADVISOR.
252A.04	COMPREHENSIVE EVALUATION.	252A.16	ANNUAL REVIEW.
252A.05	COMMISSIONER'S PETITION FOR APPOINTMENT AS PUBLIC GUARDIAN.	252A.17	EFFECT OF SUCCESSION IN OFFICE.
252A.06	PETITION FOR APPOINTMENT OF PUBLIC GUARDIAN.	252A.171	TRANSFER OF VENUE.
252A.07	FILING OF COMPREHENSIVE EVALUATION.	252A.19	MODIFICATION OF GUARDIANSHIP; RESTORATION TO LEGAL CAPACITY.
252A.081	NOTICE OF HEARING.	252A.20	COSTS OF HEARINGS.
252A.09	APPOINTMENT OF COUNSEL.	252A.21	GENERAL PROVISIONS.
252A.101	HEARING.		

252A.001 MS 2006 [Renumbered 15.001]

252A.01 POLICY AND CITATION.

Subdivision 1. **Policy.** (a) It is the policy of the state of Minnesota to provide a coordinated approach to the supervision, protection, and habilitation of its adult citizens with a developmental disability. In furtherance of this policy, sections 252A.01 to 252A.21 are enacted to authorize the commissioner of human services to:

(1) supervise those adult citizens with a developmental disability who are unable to fully provide for their own needs and for whom no qualified person is willing and able to seek guardianship under sections 524.5-101 to 524.5-502; and

(2) protect adults with a developmental disability from violation of their human and civil rights by ensuring that they receive the full range of needed social, financial, residential, and habilitative services to which they are lawfully entitled.

(b) Public guardianship is the most restrictive form of guardianship and should be imposed only when less restrictive alternatives have been attempted and determined to be insufficient to meet the person's needs. Less restrictive alternatives include but are not limited to supported decision making, community or residential services, or appointment of a health care agent.

Subd. 2. **Citation.** Sections 252A.01 to 252A.21 may be cited as the "Public Guardianship for Adults with Developmental Disabilities Act."

History: *1975 c 208 s 1; 1984 c 654 art 5 s 58; 1987 c 185 art 1 s 1; 2004 c 146 art 3 s 14; 2005 c 56 s 1; 2017 c 40 art 1 s 121; 2019 c 50 art 1 s 67; 2021 c 30 art 13 s 4*

252A.02 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 252A.01 to 252A.21, the terms defined in this section have the meanings given them.

Subd. 2. **Person with a developmental disability.** "Person with a developmental disability" refers to any person age 18 or older who:

(1) has been diagnosed as having a developmental disability;

(2) is impaired to the extent of lacking sufficient understanding or capacity to make personal decisions; and

(3) is unable to meet personal needs for medical care, nutrition, clothing, shelter, or safety, even with appropriate technological and supported decision-making assistance.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of human services or the commissioner's designees.

Subd. 3a. **Guardianship service providers.** "Guardianship service providers" are individuals or agencies that meet the ethical conduct and best practice standards of the National Guardianship Association, meet the criminal background check requirements of chapter 245C, and do not provide any other services to the individuals for whom guardianship services are provided.

Subd. 4. **Regional center.** "Regional center" means a state-operated facility for persons with mental illness, developmental disability, or substance use disorder that is under the direct administrative authority of the Direct Care and Treatment executive board.

Subd. 5. **Licensed physician.** "Licensed physician" means a person licensed under the laws of Minnesota to practice medicine or a medical officer of the government of the United States while in Minnesota in performance of official duties.

Subd. 6. **Near relative.** "Near relative" means a spouse, parent, adult sibling, or adult child.

Subd. 7. **Public guardian.** "Public guardian" means the commissioner of human services when exercising all the powers designated in section 252A.111.

Subd. 8. MS 2020 [Repealed, 2021 c 30 art 13 s 84]

Subd. 9. **Person subject to public guardianship.** "Person subject to public guardianship" means a person with a developmental disability for whom the court has appointed a public guardian.

Subd. 10. MS 2020 [Repealed, 2021 c 30 art 13 s 84]

Subd. 11. **Interested person.** "Interested person" means an interested responsible adult, including but not limited to:

(1) the person subject to guardianship, the protected person, or the respondent;

(2) a nominated guardian or conservator;

(3) a legal representative;

(4) a spouse; a parent, including a stepparent; adult children, including adult stepchildren of a living spouse; and siblings. If no such persons are living or can be located, the next of kin of the person subject to public guardianship or the respondent is an interested person;

(5) a representative of a state ombudsman's office or a federal protection and advocacy program that has notified the commissioner or lead agency that it has a matter regarding the protected person subject to guardianship, person subject to conservatorship, or respondent; and

(6) a health care agent or proxy appointed pursuant to a health care directive as defined in section 145C.01, subdivision 5a; a living will under chapter 145B; or other similar documentation executed in another state and enforceable under the laws of this state.

Subd. 12. **Comprehensive evaluation.** (a) "Comprehensive evaluation" consists of:

(1) a medical report on the health status and physical condition of the proposed person subject to public guardianship prepared under the direction of a licensed physician, advanced practice registered nurse, or physician assistant;

(2) a report on the intellectual capacity and functional abilities of the proposed person subject to public guardianship that specifies the tests and other data used in reaching its conclusions and is prepared by a psychologist who is qualified in the diagnosis of developmental disability; and

(3) a report from the case manager that includes:

(i) the most current assessment of individual service needs as described in rules of the commissioner;

(ii) the most current support plan under section 256B.092, subdivision 1b; and

(iii) a description of contacts with and responses of near relatives of the proposed person subject to public guardianship notifying the near relatives that a nomination for public guardianship has been made and advising the near relatives that they may seek private guardianship.

(b) Each report under paragraph (a), clause (3), shall contain recommendations as to the amount of assistance and supervision required by the proposed person subject to public guardianship to function as independently as possible in society. To be considered part of the comprehensive evaluation, the reports must be completed no more than one year before filing the petition under section 252A.05.

Subd. 13. **Case manager.** "Case manager" means the person designated under section 256B.092.

Subd. 14. **Local agency.** "Local agency" means the agency designated by the county board of commissioners, human services boards, local social services agencies in the several counties of the state, or multicounty local social services agencies where those have been established under law.

Subd. 15. **Visitor.** "Visitor" means a person who is trained in law, health care, or social work and is an officer, employee, or special appointee of the court with no personal interest in the proceedings.

Subd. 16. **Protected person.** "Protected person" means a person for whom a guardian or conservator has been appointed or other protective order has been sought. A protected person may be a minor.

Subd. 17. **Respondent.** "Respondent" means an individual for whom the appointment of a guardian or conservator or other protective order is sought.

Subd. 18. **Supported decision making.** "Supported decision making" means assistance to an individual with understanding the nature and consequences of personal and financial decisions from one or more persons of the individual's choosing to enable the individual to make the personal and financial decisions and, when consistent with the individual's wishes, to communicate the individual's decisions.

History: *1975 c 208 s 2; 1984 c 654 art 5 s 58; 1986 c 444; 1987 c 185 art 1 s 2-11; 1994 c 631 s 31; 1Sp2001 c 9 art 13 s 7-9; 2002 c 379 art 1 s 113; 2003 c 15 art 1 s 33; 2005 c 56 s 1; 2017 c 40 art 1 s 121; 2020 c 115 art 4 s 97; 2021 c 30 art 13 s 5-11; 2022 c 58 s 119; 2022 c 98 art 17 s 26; 2022 c 98 art 4 s 51; 2024 c 79 art 10 s 3*

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*

252A.04 COMPREHENSIVE EVALUATION.

Subdivision 1. **Local agency.** Upon receipt of a written nomination, the commissioner shall promptly order the local agency of the county in which the proposed person subject to public guardianship resides to coordinate or arrange for a comprehensive evaluation of the proposed person subject to public guardianship.

Subd. 2. **Medication; treatment.** A proposed person subject to public guardianship who, at the time the comprehensive evaluation is to be performed, has been under medical care shall not be so under the influence or so suffer the effects of drugs, medication, or other treatment as to be hampered in the testing or evaluation process. When in the opinion of the licensed physician, advanced practice registered nurse, or physician assistant attending the proposed person subject to public guardianship, the discontinuance of medication or other treatment is not in the best interest of the proposed person subject to public guardianship, the physician, advanced practice registered nurse, or physician assistant shall record a list of all drugs, medication, or other treatment that the proposed person subject to public guardianship received 48 hours immediately prior to any examination, test, or interview conducted in preparation for the comprehensive evaluation.

Subd. 3. **Time.** The local agency shall prepare and forward the comprehensive evaluation to the commissioner within 90 days of the date the commissioner orders the evaluation.

Subd. 4. **File.** The comprehensive evaluation shall be kept on file at the Department of Human Services and shall be open to the inspection of the proposed person subject to public guardianship and other persons permitted by the commissioner.

History: *1975 c 208 s 4; 1977 c 415 s 2; 1984 c 654 art 5 s 58; 1986 c 444; 1987 c 185 art 1 s 14,15; 2020 c 115 art 4 s 98; 2021 c 30 art 13 s 14-16; 2022 c 58 s 120*

252A.05 COMMISSIONER'S PETITION FOR APPOINTMENT AS PUBLIC GUARDIAN.

In every case in which the commissioner agrees to accept a nomination, the local agency, within 20 working days of receipt of the commissioner's acceptance, shall petition on behalf of the commissioner in the county or court of the county of residence of the person with a developmental disability for appointment to act as public guardian of the person with a developmental disability.

History: *1975 c 208 s 5; 1986 c 444; 1987 c 185 art 1 s 16; 1995 c 189 s 8; 1996 c 277 s 1; 2005 c 56 s 1; 2017 c 40 art 1 s 121; 2021 c 30 art 13 s 17*

252A.06 PETITION FOR APPOINTMENT OF PUBLIC GUARDIAN.

Subdivision 1. **Who may file.** A verified petition alleging that the appointment of a public guardian is required may be filed by: the commissioner; the local agency; a person with a developmental disability; or a parent, stepparent, spouse, or relative of a person with a developmental disability.

Subd. 2. **Contents.** The petition shall set forth:

(1) the name and address of the petitioner and, in the case of a petition brought by a person other than the commissioner, whether the petitioner is a parent, spouse, or relative of the proposed person subject to guardianship;

(2) whether the commissioner has accepted a nomination to act as public guardian;

(3) the name, address, and date of birth of the proposed person subject to public guardianship;

(4) the names and addresses of the nearest relatives and spouse, if any, of the proposed person subject to public guardianship;

(5) the probable value and general character of the real and personal property of the proposed person subject to public guardianship and the probable amount of the debts of the proposed person subject to public guardianship; and

(6) the facts supporting the establishment of public guardianship, including that no family member or other qualified individual is willing to assume guardianship responsibilities under sections 524.5-101 to 524.5-502.

History: *1975 c 208 s 6; 1986 c 444; 1987 c 185 art 1 s 17; 2004 c 146 art 3 s 16; 2005 c 56 s 1; 2017 c 40 art 1 s 121; 2021 c 30 art 13 s 18,19*

252A.07 FILING OF COMPREHENSIVE EVALUATION.

Subdivision 1. **With petition.** When a petition is brought by the commissioner or local agency, a copy of the comprehensive evaluation shall be filed with the petition. If a 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 local agency shall send a copy of the comprehensive evaluation to the court upon notice of the filing of the petition. If a comprehensive evaluation has not been prepared within a year of the filing of the petition, the local agency, upon notice of the filing of the petition, shall arrange for a comprehensive evaluation to be prepared and provided to the court within 90 days.

Subd. 2. **Copies.** A copy of the comprehensive evaluation shall be made available by the court to the proposed person subject to public guardianship, the counsel of the proposed person subject to public guardianship, the county attorney, the attorney general, and the petitioner.

Subd. 3. **Evaluation required; exception.** (a) No action for the appointment of a public guardian may proceed to hearing unless a comprehensive evaluation has been first filed with the court.

(b) Paragraph (a) does not apply if the director of the local agency responsible for conducting the comprehensive evaluation has filed an affidavit that the proposed person subject to public guardianship refused to participate in the comprehensive evaluation and the court finds on the basis of clear and convincing evidence that the proposed person subject to public guardianship is developmentally disabled and in need of the supervision and protection of a guardian.

History: *1975 c 208 s 7; 1977 c 415 s 3; 1986 c 444; 1987 c 185 art 1 s 18,19; 2005 c 56 s 1; 2021 c 30 art 13 s 20-22*

252A.08 MS 1986 [Repealed, 1987 c 185 art 2 s 5]

252A.081 NOTICE OF HEARING.

Subdivision 1. **General.** Except as otherwise provided in this section, sections 524.5-113, 524.5-205, and 524.5-304 apply to a notice of hearing for public guardianship.

Subd. 2. **Service of notice.** Service of notice on the person subject to public guardianship or proposed person subject to public guardianship must be made by a nonuniformed person or nonuniformed visitor. To the extent possible, the person or visitor serving the notice shall explain the document's meaning to the proposed person subject to public guardianship. In addition to the persons required to be served under sections 524.5-113, 524.5-205, and 524.5-304, the mailed notice of the hearing must be served on the commissioner, the local agency, and the county attorney.

Subd. 3. **Attorney.** In place of the notice of attorney provisions in sections 524.5-205 and 524.5-304, the notice must state that the court will appoint an attorney for the proposed person subject to public guardianship unless an attorney is provided by other persons.

Subd. 4. **Service of petition on commissioner.** When a petition has been filed by a person other than the commissioner, the court shall promptly forward a copy of the petition and any other documents filed with or issued by the court to the commissioner.

Subd. 5. **Defective notice of service.** A defect in the service of notice or process, other than personal service upon the proposed person subject to public guardianship or service upon the commissioner and local agency within the time allowed and the form prescribed in this section and sections 524.5-113, 524.5-205, and 524.5-304, does not invalidate any public guardianship proceedings.

History: *1987 c 185 art 1 s 20; 2004 c 146 art 3 s 17; 2021 c 30 art 13 s 23-25*

252A.09 APPOINTMENT OF COUNSEL.

Subdivision 1. **Attorney appointment.** Upon the filing of the petition, the court shall appoint an attorney for the proposed person subject to public guardianship, unless such counsel is provided by others.

Subd. 2. **Representation.** Counsel shall visit with and, to the extent possible, consult with the proposed person subject to public guardianship prior to the hearing and shall be given adequate time to prepare for the hearing. Counsel shall be given the full right of subpoena and shall be supplied with a copy of all documents filed with or issued by the court.

History: *1975 c 208 s 9; 2021 c 30 art 13 s 26,27*

252A.10 MS 1986 [Repealed, 1987 c 185 art 2 s 5]

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.

Subd. 2. **Waiver of presence.** The proposed person subject to public guardianship may waive the right to be present at the hearing only if the proposed person subject to public guardianship has met with counsel and specifically waived the right to appear.

Subd. 3. **Medical care.** If, at the time of the hearing, the proposed person subject to public guardianship has been under medical care, the person subject to public guardianship has the same rights regarding limitation on the use of drugs, medication, or other treatment before the hearing that are available under section 252A.04, subdivision 2.

Subd. 4. **County attorney.** The county attorney shall appear and represent the petitioner upon the request of the court or the petitioner. The petitioner must be notified of the right to request that the county attorney appear. The attorney general may appear and represent the commissioner in any proceedings brought under this chapter.

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 if it finds that:

(1) the proposed person subject to public guardianship is a person with a developmental disability as defined in section 252A.02, subdivision 2;

(2) the proposed person subject to public guardianship is incapable of exercising specific legal rights, which must be enumerated in the court's findings;

(3) the proposed person subject to public guardianship is in need of the supervision and protection of a public guardian; and

(4) no appropriate alternatives to public guardianship exist that are less restrictive of the person's civil rights and liberties, such as appointing a private guardian, supported decision maker, or health care agent; or arranging residential or community services 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 on behalf of the person subject to public guardianship.

Subd. 6. **Notice of order; appeal.** A copy of the order shall be served by mail upon the person subject to public guardianship and the counsel of the person subject to public guardianship. The order must be accompanied by a notice that advises the person subject to public guardianship of the right to appeal the guardianship appointment within 30 days.

Subd. 7. **Letters of guardianship.** (a) Letters of guardianship must be issued by the court and contain:

(1) the name, address, and telephone number of the person subject to public guardianship; and

(2) the powers to be exercised on behalf of the person subject to public guardianship.

(b) The letters under paragraph (a) must be served by mail upon the person subject to public guardianship, the counsel of the person subject to public guardianship, the commissioner, and the local agency.

Subd. 8. **Dismissal.** If upon the completion of the hearing and consideration of the record, the court finds that the proposed person subject to public guardianship is not developmentally disabled or is developmentally disabled but not in need of the supervision and protection of a public guardian, the court shall dismiss the application and shall notify the proposed person subject to public guardianship, the counsel of the person subject to public guardianship, and the petitioner of the court's findings.

History: *1987 c 185 art 1 s 21; 1Sp1993 c 1 art 3 s 16; 2005 c 10 art 4 s 10,11; 2005 c 56 s 1; 2017 c 40 art 1 s 121; 2021 c 30 art 13 s 28-33*

252A.11 MS 1986 [Repealed, 1987 c 185 art 2 s 5]

252A.111 POWERS AND DUTIES OF PUBLIC GUARDIAN.

Subdivision 1. **General.** Except as otherwise provided in this section, sections 524.5-207 and 524.5-313, apply to the powers and duties of a public guardian.

Subd. 2. **Additional powers.** In addition to the powers contained in sections 524.5-207 and 524.5-313, the powers of a public guardian that the court may grant include:

(1) the power to permit or withhold permission for the person subject to public guardianship to marry;

(2) the power to begin legal action or defend against legal action in the name of the person subject to public guardianship; and

(3) the power to consent to the adoption of the person subject to public guardianship as provided in section 259.24.

Subd. 3. MS 2000 [Repealed, 1Sp2001 c 9 art 13 s 29]

Subd. 4. **Appointment of conservator.** If the person subject to public guardianship has a personal estate beyond that which is necessary for the personal and immediate needs of the person subject to public

guardianship, the commissioner shall determine whether a conservator should be appointed. The commissioner shall consult with the parents, spouse, or nearest relative of the person subject to public guardianship. The commissioner may petition the court for the appointment of a private conservator of the person subject to public guardianship. The commissioner cannot act as conservator for public persons subject to public guardianship or public protected persons.

Subd. 5. **Local agencies.** The commissioner may carry out the powers and duties prescribed by this chapter directly or through local agencies.

Subd. 6. **Special duties.** In exercising powers and duties under this chapter, the commissioner shall:

(1) maintain close contact with the person subject to public guardianship, visiting at least twice a year;

(2) protect and exercise the legal rights of the person subject to public guardianship;

(3) take actions and make decisions on behalf of the person subject to public guardianship that encourage and allow the maximum level of independent functioning in a manner least restrictive of the personal freedom of the person subject to public guardianship consistent with the need for supervision and protection; and

(4) permit and encourage maximum self-reliance on the part of the person subject to public guardianship and permit and encourage input by the nearest relative of the person subject to public guardianship in planning and decision making on behalf of the person subject to public guardianship.

History: *1987 c 185 art 1 s 22; 1988 c 532 s 10; 1991 c 292 art 6 s 58 subd 2; 1Sp1993 c 1 art 3 s 17; 1995 c 189 s 8; 1996 c 277 s 1; 1Sp2001 c 9 art 13 s 10; 2002 c 379 art 1 s 113; 2004 c 146 art 3 s 18; 2021 c 30 art 13 s 34-36*

252A.12 APPOINTMENT OF PUBLIC GUARDIAN NOT A FINDING OF INCOMPETENCY.

An appointment of the commissioner as public guardian shall not constitute a judicial finding that the person with a developmental disability is legally incompetent except for the restrictions that the public guardianship places on the person subject to public guardianship. The appointment of a public guardian shall not deprive the person subject to public guardianship of the right to vote.

History: *1975 c 208 s 12; 2005 c 56 s 1; 2017 c 40 art 1 s 121; 2021 c 30 art 13 s 37*

252A.13 MS 1986 [Repealed, 1987 c 185 art 2 s 5]

252A.14 COMMISSIONER AS ADVISOR.

The commissioner, acting through the local agency, shall seek out those persons with a developmental disability who are in need of guardianship and shall advise them as to the availability of suitable services and assistance. The provision of advice and guidance may be made without prior appointment by a court and shall not be dependent upon a finding of incompetency. The provision of services by the commissioner does not authorize the care, treatment, supervision, or any control over any person with a developmental disability.

History: *1975 c 208 s 14; 1987 c 185 art 1 s 23; 2005 c 56 s 1; 2017 c 40 art 1 s 121*

252A.15 MS 1986 [Repealed, 1987 c 185 art 2 s 5]

252A.16 ANNUAL REVIEW.

Subdivision 1. **Review required.** The commissioner shall require an annual review of the physical, mental, and social adjustment and progress of every person subject to public guardianship. A copy of this review shall be kept on file at the Department of Human Services and may be inspected by the person subject to public guardianship, the parents, spouse, or relatives of the person subject to public guardianship, and other persons who receive the permission of the commissioner. The review shall contain information required under Minnesota Rules, part 9525.3065, subpart 1.

Subd. 2. **Assessment of need for continued guardianship.** The commissioner shall annually review the legal status of each person subject to public guardianship in light of the progress indicated in the annual review. If the commissioner determines the person subject to public guardianship is no longer in need of public guardianship or is capable of functioning under a less restrictive guardianship, the commissioner or local agency shall petition the court pursuant to section 252A.19 to restore the person subject to public guardianship to capacity or for a modification of the court's previous order.

History: *1975 c 208 s 16; 1984 c 654 art 5 s 58; 1986 c 444; 1987 c 185 art 1 s 24; 1Sp2001 c 9 art 13 s 11; 2002 c 379 art 1 s 113; 2021 c 30 art 13 s 38*

252A.17 EFFECT OF SUCCESSION IN OFFICE.

The appointment by the court of the commissioner as public guardian shall be by the title of the commissioner's office. The authority of the commissioner as public guardian shall cease upon the termination of the commissioner's term of office and shall vest in a successor or successors in office without further court proceedings.

History: *1975 c 208 s 17; 1984 c 654 art 5 s 58; 1986 c 444; 1987 c 185 art 1 s 25; 2021 c 30 art 13 s 39*

252A.171 TRANSFER OF VENUE.

Section 524.5-108 applies to the transfer of venue in proceedings under this chapter. Notice of a transfer of venue petition must be given to the persons and in the manner required by section 252A.081.

History: *1987 c 185 art 1 s 26; 2004 c 146 art 3 s 19*

252A.18 MS 1986 [Repealed, 1987 c 185 art 2 s 5]

252A.19 MODIFICATION OF GUARDIANSHIP; RESTORATION TO LEGAL CAPACITY.

Subdivision 1. **Commissioner to serve.** The commissioner shall serve as public guardian with all the powers awarded pursuant to the guardianship, until termination or modification by the court.

Subd. 2. **Petition.** The commissioner, person subject to public guardianship, or any interested person may petition the appointing court or the court to which venue has been transferred:

(1) for an order to remove the guardianship;

(2) for an order to limit or expand the powers of the guardianship;

(3) for an order to appoint a guardian under sections 524.5-101 to 524.5-502;

(4) for an order to restore the person subject to public guardianship or protected person to full legal capacity;

(5) to review de novo any decision made by the public guardian for or on behalf of a person subject to public guardianship or protected person; or

(6) for any other order as the court may deem just and equitable.

Subd. 3. **Notice of time and place.** Upon the filing of the petition the court shall fix the time and place for the hearing. Notice of the filing of the petition and of the hearing shall be provided in the manner set forth in section 252A.081.

Subd. 4. **Comprehensive evaluation.** The commissioner shall, at the court's request, arrange for the preparation of a comprehensive evaluation of the person subject to public guardianship or protected person.

Subd. 5. **Court order.** Upon proof of the allegations of the petition the court shall enter an order removing the guardianship or limiting or expanding the powers of the guardianship or restoring the person subject to public guardianship or protected person to full legal capacity or may enter such other order as the court may deem just and equitable.

Subd. 6. **County attorney participation.** The county attorney may attend the hearing and may oppose the petition in the court and in the appellate courts if the county attorney deems it for the best interest of the public.

Subd. 7. **Attorney general's role; commissioner's role.** The attorney general may appear and represent the commissioner in such proceedings. The commissioner shall support or oppose the petition if the commissioner deems such action necessary for the protection and supervision of the person subject to public guardianship or protected person.

Subd. 8. **Court-appointed counsel.** In all such proceedings, the protected person or person subject to public guardianship shall be afforded an opportunity to be represented by counsel, and if neither the protected person or person subject to public guardianship nor others provide counsel the court shall appoint counsel to represent the protected person or person subject to public guardianship.

Subd. 9. **Costs for private guardianship.** In proceedings where private guardianship or conservatorship is being sought under sections 524.5-101 to 524.5-502, costs are reimbursable under section 524.5-502.

History: *1975 c 208 s 19; 1986 c 444; 1987 c 185 art 1 s 27-30; 1995 c 189 s 8; 1996 c 277 s 1; 1Sp2001 c 9 art 13 s 12; 2002 c 379 art 1 s 113; 2004 c 146 art 3 s 20; 2021 c 30 art 13 s 40-44*

252A.20 COSTS OF HEARINGS.

Subdivision 1. **Witness and attorney fees.** In each proceeding under sections 252A.01 to 252A.21, the court shall allow and order paid to each witness subpoenaed the fees and mileage prescribed by law; to each physician, advanced practice registered nurse, physician assistant, psychologist, or social worker who assists in the preparation of the comprehensive evaluation and who is not employed by the local agency or the state Department of Human Services, a reasonable sum for services and for travel; and to the counsel of the person subject to public guardianship, when appointed by the court, a reasonable sum for travel and for each day or portion of a day actually employed in court or actually consumed in preparing for the hearing. Upon order the county auditor shall issue a warrant on the county treasurer for payment of the amount allowed.

Subd. 2. **Expenses.** When the settlement of the person subject to public guardianship is found to be in another county, the court shall transmit to the county auditor a statement of the expenses incurred pursuant to subdivision 1. The auditor shall transmit the statement to the auditor of the county of the settlement of the person subject to public guardianship and this claim shall be paid as other claims against that county. If

the auditor to whom this claim is transmitted denies the claim, the auditor shall transmit it, together with the objections thereto, to the commissioner, who shall determine the question of settlement and certify findings to each auditor. If the claim is not paid within 30 days after such certification, an action may be maintained thereon in the district court of the claimant county.

Subd. 3. **Change of venue; cost of proceedings.** Whenever venue of a proceeding has been transferred under sections 252A.01 to 252A.21, the costs of such proceedings shall be reimbursed to the county of the settlement of the person subject to public guardianship by the state.

History: *1975 c 208 s 20; 1984 c 654 art 5 s 58; 1986 c 444; 1987 c 185 art 1 s 31; 1Sp2001 c 9 art 13 s 13; 2002 c 379 art 1 s 113; 2020 c 115 art 4 s 99; 2021 c 30 art 13 s 45; 2022 c 58 s 121*

252A.21 GENERAL PROVISIONS.

Subdivision 1. **Appeal.** The commissioner may appeal from an order of the court entered under sections 252A.01 to 252A.21 to the court of appeals in the manner prescribed by sections 525.71 to 525.731, for appeals by the state. Any persons, other than the commissioner, aggrieved by an order of the court entered under sections 252A.01 to 252A.21, may appeal to the court of appeals in the manner prescribed by sections 525.71 to 525.731.

Subd. 2. **Rules.** The commissioner shall adopt rules to implement this chapter. The rules must include standards for performance of guardianship duties including but not limited to: twice a year visits with the person subject to public guardianship; a requirement that the duties of guardianship and case management not be performed by the same person; specific standards for action on "do not resuscitate" orders as recommended by a physician, an advanced practice registered nurse, or a physician assistant; sterilization requests; and the use of psychotropic medication and aversive procedures.

Subd. 3. MS 2020 [Repealed, 2021 c 30 art 13 s 84]

Subd. 4. **Private guardianships.** Nothing in sections 252A.01 to 252A.21 shall impair the right of individuals to establish private guardianships in accordance with applicable law.

History: *1975 c 208 s 21; 1983 c 247 s 105; 1985 c 248 s 70; 1986 c 444; 1987 c 185 art 1 s 32; 2012 c 216 art 9 s 8; 2017 c 59 s 6; 2021 c 30 art 13 s 46,47*