

## SUBCHAPTER II. GUARDIAN AND WARD.

### Article 4.

#### Purpose and Scope; Jurisdiction; Venue.

#### § 35A-1201. Purpose.

- (a) The General Assembly of North Carolina recognizes that:
- (1) Some minors and incompetent persons, regardless of where they are living, require the assistance of a guardian in order to help them exercise their rights, including the management of their property and personal affairs.
  - (2) Incompetent persons who are not able to act effectively on their own behalf have a right to a qualified, responsible guardian.
  - (3) The essential purpose of guardianship for an incompetent person is to replace the individual's authority to make decisions with the authority of a guardian when the individual does not have adequate capacity to make such decisions.
  - (4) Limiting the rights of an incompetent person by appointing a guardian for him should not be undertaken unless it is clear that a guardian will give the individual a fuller capacity for exercising his rights.
  - (5) Guardianship should seek to preserve for the incompetent person the opportunity to exercise those rights that are within his comprehension and judgment, allowing for the possibility of error to the same degree as is allowed to persons who are not incompetent. To the maximum extent of his capabilities, an incompetent person should be permitted to participate as fully as possible in all decisions that will affect him.
  - (6) Minors, because they are legally incompetent to transact business or give consent for most purposes, need responsible, accountable adults to handle property or benefits to which they are entitled. Parents are the natural guardians of the person of their minor children, but unemancipated minors, when they do not have natural guardians, need some other responsible, accountable adult to be responsible for their personal welfare and for personal decision-making on their behalf.
  - (7) For adults, guardianship should always be a last resort and should only be imposed after less restrictive alternatives have been considered and found to be insufficient to meet the adult's needs.
  - (8) The filing of regular status reports by the guardian of the person or general guardian concerning the conditions and welfare of an incompetent person is encouraged and should be required whenever appropriate.
- (b) The purposes of this Subchapter are:
- (1) To establish standards and procedures for the appointment of guardians of the person, guardians of the estate, and general guardians for incompetent persons and for minors who need guardians;
  - (2) To specify the powers and duties of such guardians;
  - (3) To provide for the protection of the person and conservation of the estate of the ward through periodic accountings and reports; and
  - (4) To provide for the termination of guardianships. (1987, c. 550, s. 1; 2023-124, s. 7.8.)