

IN THE SENATE

SENATE BILL NO. 1036

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO TEMPORARY GUARDIANS; AMENDING SECTION 66-404A, IDAHO CODE, TO REVISE A PROVISION REGARDING A HEARING ON THE APPROPRIATENESS OF AN APPOINTMENT AND TO MAKE A TECHNICAL CORRECTION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 66-404A, Idaho Code, be, and the same is hereby amended to read as follows:

66-404A. TEMPORARY GUARDIANS. (1) The court may appoint a temporary guardian if it finds:

(a) A petition for guardianship under section 66-404, Idaho Code, has been filed, but a guardian has not yet been appointed;

(b) Substantial evidence the person has a developmental disability;

(c) By a preponderance of the evidence, an emergency exists that will likely result in immediate and substantial harm to the person's health, safety or welfare; and

(d) No other person appears to have the ability, authority and willingness to act.

(2) When a person is under guardianship, the court may appoint a temporary guardian if it finds:

(a) Substantial evidence that the guardian is not performing the guardian's duties; and

(b) By a preponderance of the evidence, an emergency exists that will likely result in immediate and substantial harm to the person's health, safety or welfare.

The authority of a guardian previously appointed by the court is suspended as long as a temporary guardian has authority. The court must hold a hearing before the expiration of the temporary guardian's authority and may enter any appropriate order.

(3) (a) A temporary guardian may be appointed without notice or hearing if the court finds from a statement under oath that the person will be immediately and substantially harmed before notice can be given or a hearing held.

(b) If the court appoints a temporary guardian without notice, notice of the appointment must be given to those designated in section 66-404(4), Idaho Code, within seventy-two (72) hours after the appointment. The notice must inform interested persons of the right to request a hearing. The court must hold a hearing on the appropriateness of the appointment within ~~ten~~ fourteen (14) days after request by an interested person.

(c) The temporary guardian's authority may not exceed ninety (90) days, unless extended for good cause. The powers of the temporary guardian must be limited to those necessary to protect the immediate health,

1 safety or welfare of the person until such time as a hearing may be held
2 in the matter.
3 (d) A temporary guardian must make reports as the court requires.