

HB 638 -- PROBATE ACTIONS INVOLVING GUARDIANS

SPONSOR: Kelley

Currently, if it appears to the court that a termination of guardianship or conservatorship proceeding was commenced in the wrong county, the domicile or residence of the ward or protectee has been changed to another county, or that it would be in the best interest of the ward or disabled person and his or her estate in the case of conservatorship, the court may order the proceeding to be transferred to the probate division of the circuit court of another county. This bill specifies that the court must make the transfer unless the guardian objects to the court's venue being changed.

The bill specifies that the general powers and duties of the guardian of an incapacitated individual must also include directly and regularly participating in any medical or other service provided to the ward; promoting and protecting the quality of life and treatment of the ward; and signing required consent papers, contracts, forms, and documents on behalf of the ward.

The guardian has the right to appear and file motions, pleadings, and other documents with the court that has jurisdiction as a real party of interest or a party having a legal or other beneficial interest without having to be represented by legal counsel.

The bill specifies when the guardian is authorized to act under specified Missouri Supreme Court rule and any other law authorizing the guardian to act for or on the ward's behalf. A guardian may accept any service of process or summons for and on behalf of the ward; assist the ward in exercising his or her rights, liberties, or privileges under the law, administrative or court order, decree, or adjudication, rule, or regulation; and maintain weekly and ongoing contact with the ward if he or she is confined, regardless of the duration, extent, or type of confinement.

A guardian or limited guardian must not be restricted or prevented from discharging any duty or authority under these provisions or authorized by any other law, rule, or regulation without the party seeking to restrict or prevent first obtaining an order from the court having jurisdiction over the guardianship upon a full, fair, and impartial hearing being conducted with proper notice given to the guardian or limited guardian and the ward. The guardian or limited guardian and the ward must have the right to be present for the hearing to testify, file motions, pleadings, and other documents; to present and cross examine witnesses; and to present evidence. These provisions must be retroactively applied unless the court having jurisdiction has already issued an order that

restricts or prevents the guardian or limited guardian from discharging any duty or authority under these provisions, excluding any amendments to these provisions that occurs after the court order was issued.