

§5-122. Third-party acceptance of authority of guardian or conservator

1. Refusal to recognize authority required. A person must refuse to recognize the authority of a guardian or conservator to act on behalf of an individual subject to guardianship or conservatorship if:

A. The person has actual knowledge or a reasonable belief that the guardian's or conservator's letters of office are invalid or that the guardian or conservator is exceeding or improperly exercising authority granted by the court; or [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. The person has actual knowledge that the individual subject to guardianship or conservatorship is subject to physical or financial abuse, neglect, exploitation or abandonment by the guardian or conservator or a person acting for or with the guardian or conservator. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Refusal to recognize authority discretionary. A person may refuse to recognize the authority of a guardian or conservator to act on behalf of an individual subject to guardianship or conservatorship if:

A. The guardian's or conservator's proposed action would be inconsistent with this Act or any other law, rule or regulation; or [PL 2019, c. 417, Pt. A, §15 (AMD).]

B. The person makes, or has actual knowledge that another person has made, a report to adult protective services or child protective services stating a good faith belief that the individual subject to guardianship or conservatorship is subject to physical or financial abuse, neglect, exploitation or abandonment by the guardian or conservator or a person acting for or with the guardian or conservator. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2019, c. 417, Pt. A, §15 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Report refusal to court. A person who refuses to accept the authority of a guardian or conservator in accordance with subsection 1 or 2 shall report the refusal and the reason for refusal to the court. The court on receiving a report shall consider whether removal of the guardian or conservator or other action is appropriate.

[PL 2019, c. 417, Pt. A, §16 (AMD).]

4. Petition to require acceptance. A guardian or conservator may petition the court to require a 3rd party to recognize the authority of a guardian or conservator or accept a decision made by the guardian or conservator on behalf of the individual subject to guardianship or conservatorship, and if the court finds that the refusal of a 3rd party to recognize the authority of a guardian or conservator or accept the decision made by the guardian or conservator was in bad faith and without adequate justification, the court may charge the person who refuses to recognize the authority of a guardian or conservator or accept the decision of the guardian or conservator for attorney's fees and costs. Notice of the petition must be given to the adult subject to guardianship or conservatorship and to all persons entitled to notice under section 5-310, subsection 5, section 5-411, subsection 5 or a subsequent order.

[PL 2019, c. 417, Pt. A, §17 (AMD).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. A, §§15-17 (AMD). PL 2019, c. 417, Pt. B, §14 (AFF).

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