

§5-408. Attendance and rights at hearing

1. Attendance by respondent required. Except as otherwise provided in subsection 2, a hearing under section 5-403 may proceed only if the respondent attends the hearing. If it is not reasonably feasible for the respondent to attend a hearing at the location court proceedings typically are conducted, the court shall make reasonable efforts to hold the hearing at an alternative location convenient to the respondent or allow the respondent to attend the hearing using real-time audiovisual technology or by telephone if real-time audiovisual technology is not available.

[PL 2019, c. 417, Pt. A, §60 (AMD).]

2. Hearing without respondent; findings. A hearing under section 5-403 may proceed without the respondent in attendance if the court finds by clear and convincing evidence that:

A. The respondent consistently and repeatedly has refused to attend the hearing after having been fully informed of the right to attend the hearing and the potential consequences of failing to do so; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. There is no practicable way for the respondent to attend and participate in the hearing even with appropriate supportive services and technological assistance; or [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. The respondent is a minor who has received proper notice and attendance would be harmful to the minor. [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).]

3. Assistance to respondent. The respondent may be assisted in a hearing under section 5-403 by a person or persons of the respondent's choosing, assistive technology or an interpreter or translator, or a combination of these supports. If assistance would facilitate the respondent's participation in the hearing but is not otherwise available to the respondent, the court shall make reasonable efforts to provide it.

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

4. Attorney for respondent. The respondent has a right to choose an attorney to represent the respondent at a hearing under section 5-403.

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

5. Rights of respondent at hearing. At a hearing under section 5-403, the respondent may:

A. Present evidence and subpoena witnesses and documents; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. Examine witnesses, including any court-appointed evaluator and the visitor; and [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. Otherwise participate in the hearing. [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).]

6. Attendance by proposed conservator required. Unless excused by the court for good cause, the proposed conservator shall attend a hearing under section 5-403 in person. Upon a showing of good cause, the court may allow the proposed conservator to participate using real-time audiovisual technology or by telephone if real-time audiovisual technology is not available.

[PL 2019, c. 417, Pt. A, §61 (AMD).]

7. Closed upon request; good cause. A hearing under section 5-403 must be closed on request of the respondent and a showing of good cause.

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

8. Participation; best interest of respondent. Any person may request to participate in a hearing under section 5-403. The court may grant the request, with or without hearing, on determining that the best interest of the respondent will be served. The court may attach appropriate conditions to the person's participation.

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

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. A, §§60, 61 (AMD). PL 2019, c. 417, Pt. B, §14 (AFF).

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