

HOUSE BILL 1993

By Stevens

AN ACT to amend Tennessee Code Annotated, Title 34,
Chapter 1, relative to fiduciary oaths.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 34-1-109, is amended by deleting subsection (b) and substituting:

(b)

(1) Before delivering the letters of guardianship or conservatorship, the clerk shall administer to the fiduciary or fiduciaries an oath for the faithful performance of the fiduciary's duties.

(2) An in-person oath may be waived by the clerk if a fiduciary files with the clerk a written fiduciary oath that contains all language required pursuant to this subsection (b) and is sworn or affirmed by the fiduciary in the presence of a notary public or signed and dated under penalty of perjury pursuant to Rule 72 of the Tennessee Rules of Civil Procedure.

(3) All fiduciary oaths must include the following language:

"I understand the needs and preferences of the respondent are important and should be considered. I will treat the respondent with respect. I will not physically, mentally, sexually, or financially abuse or exploit the respondent.

I will follow the orders of the court. I understand that if an authority is not specifically listed in the court's order, then I cannot make the decision on behalf of the respondent."

(4) If the fiduciary is a guardian or conservator over property, then the oath must include the language provided in subdivision (b)(3) and the following language:

"I PROMISE I WILL:

1. Make decisions based upon the best interest of the respondent.
2. Notify the court if my address changes or if the address of the respondent changes.
3. Notify the court if I believe the respondent no longer needs a conservator.
4. File all required reports, including, but not limited to, inventory reports, property management plans, status reports, annual and final accountings, tax returns, corporate security statements, and social security statements of account, on time unless waived by the court.
5. Open a conservatorship bank account and deposit all income of the respondent into the account.
6. Maintain accurate records. If an accounting is required, I understand that I must provide all required financial statements, including, but not limited to, bank statements, investment statements, credit card statements, cancelled checks, invoices, receipts, and tax returns.

I PROMISE I WILL NOT:

1. Limit the respondent's communication with others or access to visitors unless specifically authorized to do so by the court.
2. Spend the respondent's money or use the respondent's property for my benefit, or pay myself without court approval.
3. Spend the respondent's money or use the respondent's property for the benefit of someone else without the court's approval.

4. Make gifts on behalf of the respondent without court approval.
5. Deposit money belonging to anyone other than the respondent into the conservatorship bank account.
6. Borrow money from the respondent, loan the respondent's money to others, or use the respondent's assets to loan money to others.
7. Mortgage or sell the respondent's real property without court approval.
8. Spend more than one thousand dollars (\$1,000) on a single expenditure without express permission granted in a property management plan or other court order.
9. Retitle the respondent's assets into my name.
10. Pay guardian ad litem fees, attorney ad litem fees, attorney fees, or fees for professional tax preparation without specific court approval."

(5) If the fiduciary is a guardian or conservator over the respondent's person, then the oath must include the language provided in subdivision (b)(3) and the following language:

"I PROMISE I WILL:

1. Make decisions based upon the best interest of the respondent.
2. Notify the court if my address changes or if the respondent's address changes.
3. Notify the court if I believe the respondent no longer needs a conservator.
4. File all required reports, including, but not limited to, inventory reports, property management plans, status reports, annual and final accountings, tax returns, corporate security statements, and social security statements of account, on time unless waived by the court.

I PROMISE I WILL NOT:

1. Limit the respondent's communication with others unless specifically authorized to do so by the court.
2. Limit the respondent's access to visitors unless specifically authorized to do so by the court."

SECTION 2. This act takes effect July 1, 2024, the public welfare requiring it.