

COUNCIL OF THE DISTRICT OF COLUMBIA

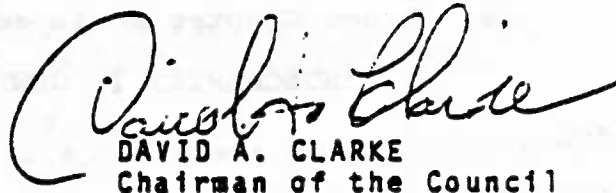
NOTICE

D.C. LAW 6-204

"D.C. Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 6-7 on first and second readings, November 18, 1986 and December 16, 1986, respectively. Following the signature of the Mayor on January 8, 1987, this legislation was assigned Act No. 6-263, published in the January 30, 1987, edition of the D.C. Register, (Vol. 34 page 632) and transmitted to Congress on January 13, 1987 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 6-204, effective February 28, 1987.


DAVID A. CLARKE
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

January 13,14,15,16,20,21,22,23,26,27,28,29,30

February 2,3,4,5,6,9,10,11,17,18,19,20,23,24,25,26,27

EFFECTIVE DATE FEB 28 1987

AN ACT

D.C. ACT 6 - 2 6 8

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JAN 0 8 1987

To simplify and clarify the law concerning the affairs of missing individuals, protected individuals, and incapacitated individuals.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986".

Sec. 2. Title 21 of the District of Columbia Code is amended as follows:

(a) A new Chapter 20 is added to read as follows.

"SUBCHAPTER I. GENERAL PROVISIONS.

"Sec.

- "21-2001. Rule of construction; purposes.
- "21-2002. Supplementary general principles of law applicable.
- "21-2003. Standard of proof.
- "21-2004. Effect of finding incapacity.

"SUBCHAPTER II. DEFINITIONS.

- "21-2011. Definitions.

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"SUBCHAPTER III. SCOPE.

- "21-2021. Territorial application.
- "21-2022. Practice in court.
- "21-2023. Jury trial.
- "21-2024. Appeals.

"SUBCHAPTER IV. NOTICE, PARTIES, AND REPRESENTATION IN GUARDIANSHIP AND PROTECTIVE PROCEEDINGS.

- "21-2031. Notice; method, contents, and time of giving.
- "21-2032. Notice; waiver.
- "21-2033. Guardian Ad Litem; counsel; visitor.
- "21-2034. Request for notice; interested person.

"SUBCHAPTER V. GUARDIANS OF INCAPACITATED INDIVIDUALS.

- "21-2041. Procedure for court-appointment of a guardian of an incapacitated individual.
- "21-2042. Notice in guardianship proceeding.
- "21-2043. Who may be guardian; priorities.
- "21-2044. Findings; order of appointment.
- "21-2045. Acceptance of appointment; consent to jurisdiction.
- "21-2046. Emergency orders; temporary guardians.
- "21-2047. General powers and duties of guardian.
- "21-2048. Termination of guardianship for incapacitated individual.
- "21-2049. Removal or resignation of guardian; termination of incapacity.

"SUBCHAPTER VI. PROTECTION OF PROPERTY OF INCAPACITATED, DISAPPEARED, OR DETAINED INDIVIDUALS.

- "21-2051. Protective proceedings.
- "21-2052. Original petition for appointment or protective order.
- "21-2053. Notice.
- "21-2054. Procedure concerning hearing and order on original petition.
- "21-2055. Permissible court orders.
- "21-2056. Protective arrangements and single transactions authorized.
- "21-2057. Who may be appointed conservator; priorities.
- "21-2058. Bond.
- "21-2059. Effect of acceptance of appointment.
- "21-2060. Compensation and expenses.

- "21-2061. Death, resignation, or removal of conservator.
- "21-2062. Petitions for orders subsequent to appointment.
- "21-2063. General duty of conservator.
- "21-2064. Inventory and records.
- "21-2065. Accounts.
- "21-2066. Conservators; title by appointment.
- "21-2067. Recording of conservator's letters.
- "21-2068. Sale, encumbrance, or transaction involving conflict of interest; voidable; exceptions.
- "21-2069. Persons dealing with conservators; protection.
- "21-2070. Powers of conservator in administration.
- "21-2071. Distributive duties and powers of conservators.
- "21-2072. Enlargement or limitation of powers of conservator.
- "21-2073. Preservation of estate plan; right to examine.
- "21-2074. Personal liability of conservator.
- "21-2075. Termination of proceedings.
- "21-2076. Payment of debt and delivery of property to foreign conservator without local proceedings.
- "21-2077. Foreign conservator; proof of authority; bond; powers.

"SUBCHAPTER VII. DURABLE POWER OF ATTORNEY.

- "21-2081. Definition.
- "21-2082. Durable power of attorney not affected by incapacity.
- "21-2083. Relation of attorney in fact to court appointed fiduciary.
- "21-2084. Power of attorney not revoked until notice.
- "21-2085. Proof of continuance of durable and other powers of attorney by affidavit.

"SUBCHAPTER I. GENERAL PROVISIONS.

"Section 21-2001. Rule of construction; purposes.

New, D.C. Code
sec. 21-2001
(1987 supp.)

"(a) This chapter shall be liberally construed and applied to promote its underlying purposes and policies.

"(b) The underlying purposes and policies of this chapter are to:

"(1) Simplify and clarify the law concerning the affairs of missing individuals, protected individuals, and

incapacitated individuals;

"(2) Promote a speedy and efficient system for managing and protecting the estates of protected individuals so that assets may be preserved for application to the needs of protected individuals and their dependents; and

"(3) Provide a system of general and limited guardianships for incapacitated individuals and coordinate guardianships and protective proceedings concerned with management and protection of estates of incapacitated individuals.

"Section 21-2002. Supplementary general principles of law applicable.

New, D.C.
sec. 21-2
(1987 sup

"(a) Unless displaced by the particular provisions of this chapter, the principles of law and equity supplement its provisions.

"(b) Nothing in this chapter shall operate to repeal, alter, or amend the rights of an individual who is the subject of a petition for civil commitment in any proceeding under chapter 5 of title 21, or the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978, effective November 8, 1978 (D.C. Law 2-137; D.C. Code, sec. 6-1901 et seq.).

"(c) Nothing in this chapter shall effect guardians or conservators appointed by the court prior to the effective date of this chapter.

"Section 21-2003. Standard of proof.

New, D.C.
sec. 21-
(1987 sup

"In proceedings under this chapter for the appointment of a guardian or conservator, either general or limited, or subsequent proceedings in which the powers of a guardian or conservator are sought to be enlarged, the petitioner or moving party shall present clear and convincing evidence that the appointment or enlargement of powers is warranted.

"Section 21-2004. Effect of a finding of incapacity.

New, D.C.
sec. 21-
(1987 sup

"A finding under this chapter that an individual is incapacitated shall not constitute a finding of legal incompetence. An individual found to be incapacitated shall retain all legal rights and abilities other than those expressly limited or curtailed in the order of appointment of a guardian or in a protective proceeding, or subsequent order of the court.

"SUBCHAPTER II. DEFINITIONS.

"Section 21-2011. Definitions.

New, D.C.
sec. 21-
(1987 sup

"For the purposes of this chapter, the term:

"(1) "Claims" in respect to a protected individual; means liabilities of the protected individual, whether arising in contract, tort, or otherwise, and liabilities of the estate that arise at or after the appointment of a conservator, including expenses of administration.

"(2) "Court" means the Superior Court of the

District of Columbia.

"(3) "Conservator" means a person who is appointed by a court to manage the estate of a protected individual and includes a limited conservator described in section 21-2066(a).

"(4) "Counsel" means an attorney admitted to the practice of law in the District.

"(5) "District" means District of Columbia.

"(6) "Estate" means the property of the individual whose affairs are subject to this chapter.

"(7) "Examiner" means an individual qualified by training or experience in the diagnosis, care, or treatment of the causes and conditions giving rise to the alleged incapacity, such as a gerontologist, psychiatrist, or qualified mental retardation professional.

"(8) "Guardian" means a person who has qualified as a guardian of an incapacitated individual pursuant to court appointment and includes a limited guardian as described in section 21-2044(c), but excludes one who is merely a guardian ad litem.

"(9) "Guardian ad litem" means an individual appointed by the court to assist the subject of an intervention proceeding to determine his or her interests in regard to the guardianship or protective proceeding or to make that determination if the subject of the intervention

proceeding is unconscious or otherwise wholly incapable of determining his or her interest in the proceeding even with assistance.

"(10) "Habilitation" means the process by which an individual is assisted to acquire and maintain those life skills that enable him or her to cope more effectively with the demands of his or her own person and of his or her own environment and to raise the level of his or her physical, intellectual, social, emotional, and economic efficiency.

"(11) "Incapacitated individual" means an adult whose ability to receive and evaluate information effectively or to communicate decisions is impaired to such an extent that he or she lacks the capacity to manage all or some of his or her financial resources or to meet all or some essential requirements for his or her physical health, safety, habilitation, or therapeutic needs without court-ordered assistance or the appointment of a guardian or conservator.

"(12) "Intervention proceeding" means any proceeding under this chapter.

"(13) "Lease" means an oil, gas, or other mineral lease.

"(14) "Letters" means letters of guardianship and letters of conservatorship.

"(15) "Manage financial resources" means those