

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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HOUSE DRH45036-LL-109 (3/27)

Short Title: Guardianship Amendments. (Public)

Sponsors: Representative Farmer-Butterfield.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO EXPRESSLY PROVIDE FOR LIMITED GUARDIANSHIPS FOR
INCOMPETENT PERSONS AND TO CLARIFY THE DUTY OF A GUARDIAN
AD LITEM APPOINTED TO REPRESENT A PERSON IN AN
INCOMPETENCY ADJUDICATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 35A-1212(a) reads as rewritten:

"(a) The clerk shall make such inquiry and receive such evidence as the clerk deems necessary to determine:

(1) The nature and extent of the needed guardianship;

(2) The assets, liabilities, and needs of the ward; and

(3) Who, in the clerk's discretion, can most suitably serve as the guardian or guardians.

If the clerk determines that the nature and extent of the ward's capacity justifies ordering a limited guardianship, the clerk may do so."

SECTION 2. G.S. 35A-1215(b) reads as rewritten:

"(b) ~~The~~ If the clerk orders a limited guardianship as authorized by G.S. 35A-1212(a), the clerk may order that the ward retain certain legal rights and privileges to which he was entitled before he was adjudged incompetent; provided, any such order shall include findings as to the nature and extent of the ward's incompetence as it relates to the ward's need for a guardian or guardians."

SECTION 3. G.S. 35A-1107 reads as rewritten:

§ 35A-1107. Right to counsel or guardian ad litem.

The respondent is entitled to be represented by counsel of his own choice or by an appointed guardian ad litem. A guardian ad litem appointed pursuant to this section shall represent the expressed interests of the respondent unless the respondent is unable to express those interests, in which case the guardian ad litem shall make inquiry into

1 the best interests of the respondent. Upon filing of the petition, an attorney shall be
2 appointed as guardian ad litem to represent the respondent unless the respondent retains
3 his own counsel, in which event the guardian ad litem may be discharged. Appointment
4 and discharge of an appointed guardian ad litem shall be in accordance with rules
5 adopted by the Office of Indigent Defense Services."

6 **SECTION 4.** This act is effective when it becomes law.