

Article 2.

Appointment of Guardian.

**§ 35A-1120. Appointment of guardian.**

Except as otherwise provided in this Article, if the respondent is adjudicated incompetent, or proper application is made for appointment of the guardian of a minor under Article 6 of this Chapter, a guardian or guardians shall be appointed in the manner provided for in Subchapter II of this Chapter. (1987, c. 550, s. 1; 2021-53, s. 2.1.)

**§ 35A-1121. Authorization of a single protective arrangement or single transaction without appointing guardian.**

(a) If it is established in a proper proceeding that a basis exists for the appointment of a guardian of a minor or an incompetent person, the clerk of superior court, without appointing a guardian, may order a single protective arrangement or single transaction for the benefit of a minor or incompetent person as follows:

- (1) Authorize, direct, or ratify any transaction necessary or desirable to achieve any service, care, or safety arrangement meeting the foreseeable needs of the minor or incompetent person, and authorize a special fiduciary to execute any such transaction on behalf of the minor or incompetent person, including any of the following:
  - a. The payment, delivery, deposit, or retention of funds or property.
  - b. The sale, mortgage, lease, or other transfer of property in accordance with the requirements of subsection (c) of this section.
  - c. The entry into an annuity contract, a contract for life care, a deposit contract, or a contract for training and education.
  - d. The establishment, funding, or addition to a suitable trust, including, but not limited to, a trust for the benefit of the minor or incompetent person pursuant to 42 U.S.C. § 1396p(d)(4).
  - e. The establishment, funding, or administration of an ABLE account, as defined in section 529A of the Internal Revenue Code.
- (2) Authorize, direct, or ratify any contract, trust, or other transaction relating to the minor or incompetent person's property and business affairs, and authorize a special fiduciary to execute any such contract, trust, or other transaction on behalf of the minor or incompetent person, if the clerk of superior court determines that the transaction is in the best interest of the minor or incompetent person.

(b) Before approving a protective arrangement or other transaction under this section, the clerk of superior court shall consider the interests of creditors and dependents of the minor or incompetent person and, in view of the disability, whether the minor or incompetent person needs the continuing protection of a guardian. The clerk of superior court may appoint a temporary guardian to assist in the accomplishment of any protective arrangement or other transaction authorized under this section who shall have the authority conferred by the order and serve until discharged by order after report to the clerk of superior court of all matters done pursuant to the order of appointment.

(c) The sale, mortgage, exchange, lease, or gift of any property by a special fiduciary or temporary guardian appointed as provided in this section shall be subject to the same procedural and reporting requirements that would otherwise apply to the sale, mortgage, exchange, lease, or

gift of such property by a guardian of the estate or general guardian, pursuant to this Chapter.  
(2021-53, s. 2.2.)