

2016 -- H 7004

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LC003365  
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO PROBATE PRACTICE AND PROCEDURE-PETER FALK BILL

Introduced By: Representatives Kennedy, Craven, Ruggiero, Serpa, and Naughton

Date Introduced: January 06, 2016

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1           SECTION 1. Sections 33-15-1, 33-15-29 and 33-15-44 of the General Laws in Chapter  
2 33-15 entitled "Limited Guardianship and Guardianship of Adults" are hereby amended to read as  
3 follows:

4           **33-15-1. Legislative intent.** -- The ~~legislature~~ general assembly finds that adjudicating a  
5 person totally incapacitated and in need of a guardian deprives that person of all his or her civil  
6 and legal rights and that this deprivation may be unnecessary. The general assembly further finds  
7 and declares that every adult in this state has the right to visit with, and receive mail and  
8 telephone or electronic communication from whomever they choose, unless a court has  
9 specifically ordered otherwise. The ~~legislature~~ general assembly further finds that it is desirable to  
10 make available, the least restrictive form of guardianship to assist persons who are only partially  
11 incapable of caring for their needs. Recognizing that every individual has unique needs and  
12 differing abilities, the ~~legislature~~ general assembly declares that it is the purpose of this ~~act~~  
13 chapter to promote the public welfare by establishing a system that permits incapacitated persons  
14 to participate as fully as possible in all decisions affecting them; that assists such persons in  
15 meeting the essential requirements for their physical health and safety, in protecting their rights,  
16 in managing their financial resources, and developing or regaining their abilities to the maximum  
17 extent possible; and that accomplishes these objectives through providing, in each case, the form  
18 of assistance that least interferes with the legal capacity of a person to act in his or her own  
19 behalf. This chapter shall be liberally construed to accomplish this purpose.

1           **33-15-29. General duties of limited guardians or guardians with respect to person**  
2 **and estate.** -- Every limited guardian or guardian with authority to make decisions with respect to  
3 the person of his or her ward shall exercise authority in the best interest of his or her ward. Every  
4 limited guardian or guardian with authority to make decisions with respect to the estate of his or  
5 her ward shall manage the estate frugally, without waste, and shall apply the income and profits  
6 from the estate, or so much thereof as may be necessary and proper, to the support and  
7 maintenance of the ward and his or her household and family. [Unless specifically authorized by](#)  
8 [court order, a limited guardian or a guardian shall not restrict the personal rights of the ward,](#)  
9 [including, but not limited to, the right to receive visitors, telephone calls and personal mail.](#)

10           **33-15-44. Conservator for incompetent person -- Disability to contract.** -- If a person,  
11 by reason of disability or upon his or her own election, is unable to properly care for his or her  
12 property, the probate court of the town in which he or she resides, upon his or her petition, or the  
13 petition of one or more of his or her relatives or friends, may appoint a conservator of his or her  
14 property. Upon the filing of the petition, the court shall appoint a time and place for a hearing,  
15 and shall cause at least fourteen (14) days' notice of the hearing to be given to the person for  
16 whom a conservator is to be appointed if he or she is not the petitioner. If, at the hearing, it  
17 appears that the person is incapable of properly caring for his or her property, a conservator shall  
18 be appointed, who shall have the charge and management of the property of the person subject to  
19 the direction of the court. [Unless specifically authorized by court order, a conservator shall not](#)  
20 [restrict the personal rights of the ward, including, but not limited to, the right to receive visitors,](#)  
21 [telephone calls, and personal mail.](#) No person convicted of a felony offense involving a charge of  
22 forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion,  
23 conspiracy to defraud, burglary, breaking and entering, or any other offense involving fraud or  
24 theft shall be qualified for appointment as a conservator. The conservator may be discharged by  
25 the probate court upon the application of the ward, or otherwise, when it appears that the  
26 conservatorship is no longer necessary. After the filing of the petition, the person shall be under  
27 the same disability to contract as a person for whom an application for guardianship has been  
28 made is under by virtue of the provisions of § 33-15-13.

29           SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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1           This act would provide that unless a limited guardian, guardian or conservator is  
2 specifically authorized by court order, the limited guardian, guardian or conservator may not  
3 restrict the personal rights of the ward, including, but not limited to, the right to receive visitors,  
4 telephone calls, and personal mail.

5           This act would take effect upon passage.

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