CHAPTER 30.1-27
GUARDIANS OF MINORS

30.1-27-01. (5-201) Status of guardian of minor - General.

A person becomes a guardian of a minor by acceptance of a testamentary appointment or upon appointment by the court. The guardianship status continues until terminated, without regard to the location from time to time of the guardian and minor ward.

30.1-27-02. (5-202) Testamentary appointment of guardian of minor.

The parent of a minor may appoint by will a guardian of an unmarried minor. Subject to the right of the minor under section 30.1-27-03, a testamentary appointment becomes effective upon filing the guardian's acceptance in the court in which the will is probated and upon approval by the court either after or without a hearing, if, before acceptance, both parents are dead or the surviving parent is adjudged incapacitated. If both parents are dead, an effective appointment by the parent who died later has priority. This state recognizes a testamentary appointment effected by filing the guardian's acceptance under a will probated in another state which is the testator's domicile and upon approval by the court either after or without a hearing. Upon acceptance of appointment, written notice of acceptance must be given by the guardian to the minor and to the person having the minor's care or to the minor's nearest adult relation.

30.1-27-03. (5-203) Objection by minor of fourteen or older to testamentary appointment.

A minor of fourteen or more years may prevent an appointment of the minor's testamentary guardian from becoming effective, or may cause a previously accepted appointment to terminate, by filing with the court in which the will is probated a written objection to the appointment before it is accepted or within thirty days after notice of its acceptance. An objection may be withdrawn. An objection does not preclude appointment by the court in a proper proceeding of the testamentary nominee or any other suitable person.

30.1-27-04. (5-204) Court appointment of guardian of minor - Conditions for appointment.

The court may appoint a guardian for an unmarried minor if all parental rights of custody have been terminated or suspended by circumstances or prior court order. A guardian appointed by will as provided in section 30.1-27-02 whose appointment has not been prevented or nullified under section 30.1-27-03 has priority over any guardian who may be appointed by the court, but the court may proceed with an appointment upon a finding that the testamentary guardian has failed to accept the testamentary appointment within thirty days after notice of the guardianship proceeding.

30.1-27-05. (5-205) Court appointment of guardian of minor - Venue.

The venue for guardianship proceedings for a minor is in the place where the minor resides or is present.

30.1-27-06. (5-206) Court appointment of guardian of minor - Qualifications - Priority of minor's nominee.

The court may appoint as guardian any person whose appointment would be in the best interests of the minor. The court shall appoint a person nominated by the minor, if the minor is fourteen years of age or older, unless the court finds the appointment contrary to the best interests of the minor.

30.1-27-07. (5-207) Court appointment of guardian of minor - Procedure.

1. Notice of the time and place of hearing of a petition for the appointment of a guardian of a minor is to be given by the petitioner in the manner prescribed by section 30.1-03-01 to:
   a. The minor, if the minor is fourteen or more years of age.

b. The person who has had the principal care and custody of the minor during the sixty days preceding the date of the petition.
c. Any living parent of the minor.

2. Upon hearing, if the court finds that a qualified person seeks appointment, venue is proper, the required notices have been given, the requirements of section 30.1-27-04 have been met, and the welfare and best interests of the minor will be served by the requested appointment, it shall make the appointment. In other cases, the court may dismiss the proceedings or make any other disposition of the matter that will best serve the interest of the minor.
3. If necessary, the court may appoint a temporary guardian, with the status of an ordinary guardian of a minor, but the authority of a temporary guardian shall not last longer than six months.
4. If, at any time in the proceeding, the court determines that the interests of the minor are or may be inadequately represented, it may appoint an attorney to represent the minor, giving consideration to the preference of the minor if the minor is fourteen years of age or older.

30.1-27-08. (5-208) Consent to service by acceptance of appointment - Notice.

By accepting a testamentary or court appointment as guardian, a guardian submits personally to the jurisdiction of the court in any proceeding relating to the guardianship that may be instituted by any interested person. Notice of any proceeding shall be delivered to the guardian or mailed to the guardian by ordinary mail at the guardian's address as listed in the court records and to the guardian's address as then known to the petitioner. Letters of guardianship must indicate whether the guardian was appointed by will or by court order.

30.1-27-09. (5-209) Powers and duties of guardian of minor.

A guardian of a minor has the powers and responsibilities of a parent who has not been deprived of custody of the parent's minor and unemancipated child, except that a guardian is not legally obligated to provide from the guardian's own funds for the ward and is not liable to third persons by reason of the parental relationship for acts of the ward. In particular, and without qualifying the foregoing, a guardian has the following powers and duties:

1. The guardian must take reasonable care of the ward's personal effects and commence protective proceedings if necessary to protect other property of the ward.
2. The guardian may receive money payable for the support of the ward to the ward's parent, guardian, or custodian under the terms of any statutory benefit or insurance system or any private contract, devise, trust, conservatorship, or custodianship. The guardian also may receive money or property of the ward paid or delivered by virtue of section 30.1-26-03. Any sums so received shall be applied to the ward's current needs for support, care, and education. The guardian must exercise due care to conserve any excess for the ward's future needs unless a conservator has been appointed for the estate of the ward, in which case excess shall be paid over at least annually to the conservator. Sums so received by the guardian are not to be used for compensation for the guardian's services except as approved by order of court or as determined by a duly appointed conservator other than the guardian. A guardian may institute proceedings to compel the performance by any person of a duty to support the ward or to pay sums for the welfare of the ward.
3. The guardian is empowered to facilitate the ward's education, social, or other activities and to authorize medical or other professional care, treatment, or advice. A guardian is not liable by reason of this consent for injury to the ward resulting from the negligence or acts of third persons unless it would have been illegal for a parent to have consented. A guardian may consent to the marriage or adoption of the ward.
4. A guardian shall file an annual report with the court informing the court of the status or condition of the ward and provide a copy of the report to the ward. The report must include changes that have occurred since the previous reporting period and an accounting of the ward's estate. The guardian shall report whether the ward has resided in an institution, whether the ward continues to require guardianship, and

whether any powers of the guardian should be increased or limited. The filing of a report and its acceptance by the court or clerk of district court does not constitute an adjudication or a determination of the merits of the report nor does the filing of the report constitute the court's approval of the report. The court may approve a report and allow and settle an accounting only upon notice to the ward's guardian ad litem and other interested persons who have made an appearance or requested notice of proceedings. The office of state court administrator shall provide printed forms that may be used to fulfill reporting requirements. Any report must be similar in substance to the state court administrator's form. The forms must be available in the office of clerk of district court or obtainable through the supreme court's internet website.

30.1-27-10. (5-210) Termination of appointment of guardian - General.

A guardian's authority and responsibility terminates upon the death, resignation, or removal of the guardian, or upon the minor's death, adoption, marriage, or attainment of majority, but termination does not affect the guardian's liability for prior acts, nor the guardian's obligation to account for funds and assets of the ward. Resignation of a guardian does not terminate the guardianship until it has been approved by the court. A testamentary appointment under an informally probated will terminates if the will is later denied probate in a formal proceeding.

30.1-27-11. (5-211) Proceedings subsequent to appointment - Venue.

1. The court where the ward resides has concurrent jurisdiction with the court which appointed the guardian, or in which acceptance of a testamentary appointment was filed, over resignation, removal, accounting, and other proceedings relating to the guardianship.
2. If the court located where the ward resides is not the court in which acceptance of appointment is filed, the court in which proceedings subsequent to appointment are commenced shall in all appropriate cases notify the other court, in this or another state, and after consultation with that court determine whether to retain jurisdiction or transfer the proceedings to the other court, whichever is in the best interest of the ward. A copy of any order accepting a resignation or removing a guardian shall be sent to the court in which acceptance of appointment is filed.

30.1-27-12. (5-212) Resignation or removal proceedings.

1. Any person interested in the welfare of a ward, or the ward, if fourteen or more years of age, may petition for removal of a guardian on the ground that removal would be in the best interests of the ward. A guardian may petition for permission to resign. A petition for removal or for permission to resign may, but need not, include a request for appointment of a successor guardian.
2. After notice and hearing on a petition for removal or for permission to resign, the court may terminate the guardianship and make any further order that may be appropriate.
3. If, at any time in the proceeding, the court determines that the interests of the ward are, or may be, inadequately represented, it may appoint an attorney to represent the minor, giving consideration to the preference of the minor if the minor is fourteen or more years of age.