

[CHAPTER 551A]
OFFICE OF THE PUBLIC GUARDIAN

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" **[§551A-1] Office of public guardian; establishment; appointment.** There is established the office of the public guardian in the judiciary. The chief justice shall appoint the public guardian, who shall serve at the chief justice's pleasure. [L 1984, c 223, pt of §1]

" **§551A-2 Powers and duties.** (a) The public guardian shall serve as guardian, limited guardian, testamentary guardian, emergency guardian, or temporary substitute guardian of an incapacitated person when so appointed by the family court or by the circuit court under chapter 560. Notwithstanding section 560:5-304, the public guardian may not file a petition for the public guardian's own appointment. Petitions for public guardianship may be filed by any person, agency, or facility responsible for the support or care of individuals who:

- (1) Are not able to understand or adequately participate in decisions concerning their care; and
- (2) Have no relatives or friends willing and able to act as a guardian.

(b) The public guardian shall have the same powers and duties as a private guardian. In addition, if there is no conservatorship in effect for a ward, the court may authorize the public guardian to:

- (1) Request and obtain copies of any and all of the ward's financial information, records, and documents, including but not limited to account statements, deposit and withdrawal records, and canceled or returned checks, from any and all savings accounts, checking accounts, safe deposit box accounts, retirement or pension accounts, investment accounts, insurance accounts, annuity accounts, credit card accounts, and all other accounts held in the name of the ward; and
- (2) Transact business or take necessary action as to the accounts in paragraph (1);

provided that if a conservatorship comes into effect for the ward, the public guardian shall not have and shall not exercise the powers in paragraphs (1) and (2) that have been granted to the conservator, for the duration of the conservatorship.

(c) The public guardian shall assist the court, as the court may request or direct, in proceedings for the appointment of a guardian and in the supervision of persons, corporations, or agencies which have been appointed as guardians.

(d) The public guardian shall advise and assist persons, corporations, and agencies which are seeking appointment as a guardian for an incapacitated person. The public guardian shall also provide advice, information, and guidance to the persons,

corporations, or agencies who have been appointed as guardian to assist them in the discharge of their duties.

(e) The public guardian may offer guidance and counsel, without court appointment as guardian, to those persons who request such assistance or to those on whose behalf it is requested for the purpose of encouraging maximum self-reliance and independence of such persons and avoiding the need for appointment of a guardian.

(f) The public guardian shall develop programs of public education on guardianship and alternatives to guardianship and encourage the development of private guardians able and willing to serve as guardian. [L 1984, c 223, pt of §1; am L 1986, c 158, §1; am L 2004, c 161, §20; am L 2005, c 22, §36; am L 2015, c 141, §1]

" **[\$551A-3] When not appointed.** The public guardian shall not be appointed if another suitable guardian is available and willing to accept the guardianship appointment, unless the court finds that the best interests of the ward would be better served by the appointment of the public guardian. [L 1984, c 223, pt of §1]

" **[\$551A-4] Court costs.** In any proceeding for appointment of a public guardian, the court may waive any court costs or filing fees. [L 1984, c 223, pt of §1]

" **[\$551A-5] Fees for services; when not allowed.** (a) The public guardian may receive such reasonable fees for services as public guardian as the court allows.

(b) No fees shall be allowed which would unreasonably diminish the ward's estate so as to endanger the ward's financial independence, and no fees shall be allowed when the ward's primary source of support derives from public funds.

(c) Any fees received under this section by the public guardian shall be deposited in the state general fund.

(d) No fees shall accrue to the individual benefit of the public guardian. [L 1984, c 223, pt of §1]

" **[\$551A-6] Rules.** The public guardian shall make such rules as may be necessary to carry out its duties. [L 1984, c 223, pt of §1]

" **[\$551A-7] Annual report.** The public guardian shall prepare and submit an annual report to the chief justice and render such other reports as the chief justice may from time to time require. [L 1984, c 223, pt of §1]

" **[\$551A-8] Funding.** Funding for the office of the public guardian shall be included in the budget of the judiciary. [L 1984, c 223, pt of §1]

" **[\$551A-9] Contracts.** The public guardian may make and enter into contracts, and generally do all such things as in its judgment may be necessary, proper, and expedient in accomplishing its duties. [L 1984, c 223, pt of §1]