

**231E.5 Local office of substitute decision maker — requirements for state and local substitute decision makers.**

1. The state substitute decision maker shall select persons to provide local substitute decision-making services in each of the planning and service areas, based upon a request for proposals process developed by the department.

2. The local office shall comply with all requirements established for the local office by the department and shall do all of the following:

a. Maintain a staff of professionally qualified individuals to carry out the substitute decision-making functions.

b. Identify client needs and local resources to provide necessary support services to recipients of substitute decision-making services.

c. Collect program data as required by the state office.

d. Meet standards established for the local office.

e. Comply with minimum staffing requirements and caseload restrictions.

f. Conduct background checks on employees and volunteers.

g. With regard to a proposed ward, the local office shall do all of the following:

(1) Determine the most appropriate form of substitute decision making needed, if any, giving preference to the least restrictive alternative.

(2) Determine whether the needs of the proposed ward require the appointment of a guardian or conservator.

(3) Assess the financial resources of the proposed ward based on the information supplied to the local office at the time of the determination.

(4) Inquire and, if appropriate, search to determine whether any other person may be willing and able to serve as the proposed ward's guardian or conservator.

(5) Determine the form of guardianship or conservatorship to request of a court, if any, giving preference to the least restrictive form.

(6) If determined necessary, file a petition for the appointment of a guardian or conservator pursuant to chapter 633.

h. With regard to an estate, the local office may appoint a personal representative to file a petition to open an estate who shall do all of the following:

(1) Retain legal counsel as described in section 231E.11 to be compensated from the proceeds of the estate pursuant to chapter 633, division III, part 8.

(2) Liquidate all assets of the estate.

(3) Distribute the assets of the estate pursuant to chapter 633, division VII, parts 7 and 8, and other applicable provisions of law.

3. A local office may do any of the following:

a. Contract for or arrange for provision of services necessary to carry out the duties of a local substitute decision maker.

b. Accept the services of volunteers or consultants and reimburse them for necessary expenses.

c. Employ staff and delegate to members of the staff the powers and duties of the local substitute decision maker. However, the local office shall retain responsibility for the proper performance of the delegated powers and duties. All delegations shall be to persons who meet the eligibility requirements of the specific type of substitute decision maker.

4. An individual acting as the state or a local substitute decision maker shall comply with applicable requirements for guardians, conservators, or personal representatives pursuant to chapter 633, attorneys in fact under a power of attorney pursuant to chapter 633 or a durable power of attorney for health care pursuant to chapter 144B, or representative payees pursuant to federal law and regulations.

5. Notwithstanding any provision to the contrary, an individual acting as the state or a local substitute decision maker shall not be subject to the posting of a bond pursuant to chapter 633. An individual acting as the state or a local substitute decision maker shall complete at least eight hours of training annually as certified by the department.

2005 Acts, ch 175, §134