

232D.204 Guardianship without parental consent.

1. The court may appoint a guardian for a minor without the consent of the parent or parents having legal custody of the minor if the court finds by clear and convincing evidence all of the following:

a. There is a person serving as a de facto guardian of the minor.

b. There has been a demonstrated lack of consistent parental participation in the life of the minor by the parent. In determining whether a parent has demonstrated a lack of consistent participation in the minor's life, the court may consider all of the following:

(1) The intent of the parent in placing the custody, care, and supervision of the minor with the person petitioning as a de facto guardian and the facts and circumstances regarding such placement.

(2) The amount of communication and visitation of the parent with the minor during the alleged de facto guardianship.

(3) Any refusal of the parent to comply with conditions for retaining custody of the minor set forth in any previous court orders.

2. The court may appoint a guardian for a minor without the consent of the parent or parents having legal custody of the minor if the court finds by clear and convincing evidence all of the following:

a. No parent having legal custody of the minor is willing or able to exercise the power the court will grant to the guardian if the court appoints a guardian.

b. Appointment of a guardian for the minor is in the best interest of the minor.

3. Prior to granting a petition for guardianship, the court shall consider whether the filing of a child in need of assistance petition is appropriate under [section 232.87](#). If the court determines a child in need of assistance petition is not appropriate, the court shall make findings of why a child in need of assistance petition is not appropriate.

4. A proceeding under [this section](#) shall not create a new eligibility category for the department of health and human services protective services.

[2019 Acts, ch 56, §10, 44, 45; 2023 Acts, ch 19, §652](#)

Referred to in [§232D.503](#)

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

Subsection 4 amended