

Senate File 2200

AN ACT
RELATING TO TRANSFER OF GUARDIANSHIP FOR A CHILD IN NEED OF
ASSISTANCE TO THE PROBATE COURT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 232.104, subsection 7, Code 2009, is amended to read as follows:

7. a. Following an initial permanency hearing and the entry of a permanency order which places a child in the custody or guardianship of another person or agency, the court shall retain jurisdiction and annually review the order to ascertain whether the best interest of the child is being served. When the order places the child in the custody of the department for the purpose of long-term foster care placement in a facility, the review shall be in a hearing that shall not be

waived or continued beyond twelve months after the initial permanency hearing or the last permanency review hearing. Any modification shall be accomplished through a hearing procedure following reasonable notice. During the hearing, all relevant and material evidence shall be admitted and procedural due process shall be provided to all parties.

b. In lieu of the procedures specified in paragraph "a", the court may close the child in need of assistance case by transferring jurisdiction over the child's guardianship to the probate court. The court shall inform the proposed guardian of the guardian's reporting duties under section 633.669 and other duties under the probate code. Upon transferring jurisdiction, the court shall direct the probate clerk, once the proposed guardian has filed an oath of office and identification in accordance with section 602.6111, to issue letters of appointment for guardianship and docket the case in probate. Records contained in the probate case file that were copied or transferred from the juvenile court file concerning the case shall be subject to section 232.147 and other confidentiality provisions of this chapter for cases not involving juvenile delinquency.

Sec. 2. Section 633.559, Code 2009, is amended to read as follows:

633.559 Preference as to appointment of guardian.

The Except for a minor child for whom the court's jurisdiction over the child's guardianship was established pursuant to transfer of the child's case in accordance with section 232.104, the parents of a minor child, or either of them, if qualified and suitable, shall be preferred over all others for appointment as guardian. Preference shall then be given to any person, if qualified and suitable, nominated as guardian for a minor child by a will executed by the parent having custody of a minor child, and any qualified and suitable person requested by a minor fourteen years of age or older, or by standby petition executed by a person having physical and legal custody of a minor. Subject to these preferences, the court shall appoint as guardian a qualified and suitable person who is willing to serve in that capacity.

Sec. 3. Section 633.675, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Notwithstanding subsections 1 through 4, if the court appointed a guardian for a minor child for whom the court's jurisdiction over the child's guardianship

was established pursuant to transfer of the child's case in accordance with section 232.104, the court shall not enter an order terminating the guardianship before the child becomes age eighteen unless the court finds by clear and convincing evidence that the best interests of the child warrant a return of custody to the child's parent.

Sec. 4. Section 633.679, Code 2009, is amended to read as follows:

633.679 Petition to terminate — cases transferred from juvenile court — request for voting rights reinstatement.

1. ~~At~~ Except as otherwise provided in subsection 2, at any time after the appointment of a guardian or conservator, the person under guardianship or conservatorship may apply to the court by petition, alleging that the person is no longer a proper subject thereof, and asking that the guardianship or conservatorship be terminated.

2. Unless the child or guardian dies or other exceptional circumstances arise, if the court has appointed a guardian for a minor child for whom the court's jurisdiction over the child's guardianship was established pursuant to transfer of the child's case in accordance with section 232.104, a petition shall not be filed asking that the guardianship be terminated or modified until at least six months has elapsed from the date the order was entered appointing the guardian.

3. A person under an order appointing a guardian which order found the person incompetent to vote may include a request for reinstatement of the person's voting rights in a petition to

terminate the guardianship or by filing a separate petition for modification of this determination.

JOHN P. KIBBIE
President of the Senate

PATRICK J. MURPHY
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2200, Eighty-third General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2010

CHESTER J. CULVER
Governor