

House Bill 654 (COMMITTEE SUBSTITUTE)

By: Representatives Oliver of the 82<sup>nd</sup>, Quick of the 117<sup>th</sup>, Fleming of the 121<sup>st</sup>, McCall of the 33<sup>rd</sup>, Willard of the 51<sup>st</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 29-2-4 of the Official Code of Georgia Annotated, relating to  
2 nomination of testamentary guardian, so as to change provisions relating to the appointment  
3 of a testamentary guardian; to provide for objections to the nomination of a testamentary  
4 guardian and procedure; to amend Code Section 53-5-21 of the Official Code of Georgia  
5 Annotated, relating to the procedure for probating a will in solemn form, so as to provide for  
6 conforming a cross-reference; to provide for related matters; to provide for an effective date;  
7 to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Code Section 29-2-4 of the Official Code of Georgia Annotated, relating to nomination of  
11 testamentary guardian, is amended by revising subsection (b) as follows:

12 "(b)(1) Unless the minor has another living parent, upon probate of the minor's parent's  
13 will, letters of guardianship shall be issued to the individual nominated in the will who  
14 shall serve as testamentary guardian without ~~notice~~ or a hearing provided that the  
15 individual is willing to serve and no objection is filed. If a timely objection is filed,  
16 letters of guardianship shall only be issued after a hearing held pursuant to paragraph (4)  
17 of this subsection.

18 (2) At the time such will is offered for probate, notice of the testamentary guardianship  
19 shall be served by certified mail or statutory overnight delivery, return receipt requested,  
20 to the minor child's adult siblings. If such child does not have any adult siblings, such  
21 notice shall be served on his or her grandparents. If such child does not have adult  
22 siblings or grandparents, such notice shall be served on such child's great-grandparents,  
23 aunts, uncles, great aunts, or great uncles, insofar as any such relative exists.

24 (3) Any person who receives a notice pursuant to this subsection and objects to the  
25 appointment of the nominated testamentary guardian shall file an objection with the court  
26 within ten days of being served with notice. Such objection shall include allegations and

27 facts with reasonable specificity stating why the nominated testamentary guardian is unfit  
 28 to serve.  
 29 (4) If a timely objection is filed, the court shall conduct an expedited hearing within 30  
 30 days of the date of the filing of the last objection. The hearing shall be conducted in  
 31 accordance with Code Section 29-2-14. The court shall award the letters of guardianship  
 32 to the nominated testamentary guardian unless the objecting party establishes by clear and  
 33 convincing evidence that the nominated testamentary guardian is unfit to serve as  
 34 testamentary guardian.  
 35 (5) Any proceeding relating to the appointment of a testamentary guardian shall not  
 36 affect or delay the probating of a will."

37 **SECTION 2.**

38 Code Section 53-5-21 of the Official Code of Georgia Annotated, relating to the procedure  
 39 for probating a will in solemn form, is amended by revising subsection (b) as follows:

40 "(b) The petition to probate a will in solemn form shall set forth the full name, the place  
 41 of domicile, and the date of death of the testator; the mailing address of the petitioner; the  
 42 names, ages or majority status, and addresses of the surviving spouse and of all the other  
 43 heirs, stating their relationship to the testator; and whether, to the knowledge of the  
 44 petitioner, any other proceedings with respect to the probate of another purported will of  
 45 the testator are pending in this state and, if so, the names and addresses of the propounders  
 46 and the names, addresses, and ages or majority status of the beneficiaries under the other  
 47 purported will. If a testamentary guardian is being appointed in accordance with  
 48 subsection (b) of Code Section 29-2-4, the names and mailing addresses of any persons  
 49 required to be served with notice pursuant to such Code section shall be provided by the  
 50 petitioner. In the event full particulars are lacking, the petition shall state the reasons for  
 51 any omission. The petition shall conclude with a prayer for issuance of letters  
 52 testamentary. If all of the heirs acknowledge service of the petition and notice and shall  
 53 in their acknowledgment assent thereto, and if there are no other proceedings pending in  
 54 this state with respect to the probate of another purported will of the decedent, the will may  
 55 be probated and letters testamentary thereupon may issue without further delay; provided,  
 56 however, that letters of guardianship shall only be issued in accordance with Code Section  
 57 29-2-4."

58 **SECTION 3.**

59 This Act shall become effective on January 1, 2015.

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**SECTION 4.**

61 All laws and parts of laws in conflict with this Act are repealed.