

The Senate Judiciary Committee offered the following substitute to HB 654:

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 and grandparents. If such child does not have adult
21 siblings or grandparents, such notice shall be served on such child's great-grandparents,
22 aunts, uncles, great aunts, or great uncles, insofar as any such relative exists.

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

26 facts with reasonable specificity stating why the nominated testamentary guardian is unfit
 27 to serve.

28 (4) If a timely objection is filed, the court shall conduct an expedited hearing within 30
 29 days of the date of the filing of the last objection. The hearing shall be conducted in
 30 accordance with Code Section 29-2-14. The court shall award the letters of guardianship
 31 to the nominated testamentary guardian unless the objecting party establishes by clear and
 32 convincing evidence that the nominated testamentary guardian is unfit to serve as
 33 testamentary guardian.

34 (5) Any proceeding relating to the appointment of a testamentary guardian shall not
 35 affect or delay the probating of a will."

36 **SECTION 2.**

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

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

57 **SECTION 3.**

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

