

By Mr. Klimm of Barnstable, petition of John C. Klimm relative to the powers of a guardian or conservator. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-One.

AN ACT RELATIVE TO THE POWERS OF A GUARDIAN OR CONSERVATOR.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 38 of chapter 201 of the General Laws,
2 as appearing in the 1990 Official Edition, is hereby amended by
3 striking out the second paragraph and inserting in place thereof
4 the following paragraph: —

5 The probate court, upon petition of a conservator or guardian,
6 other than the guardian of a minor, and after such notice to all
7 other persons interested as it directs, may authorize such
8 conservator or guardian to exercise any or all powers over the
9 estate and business affairs of the ward which the ward could
10 exercise if present and not under disability. The court may
11 authorize the taking of such action, or the application of such
12 funds as are not required for the ward's own maintenance and
13 support, in such fashion as the court shall approve as being in
14 keeping with the ward's wishes so far as they can be ascertained.
15 In ascertaining and carrying out the ward's wishes the court may
16 consider, but is not limited to, minimization of state or federal
17 income, estate or inheritance taxes, and provisions of gifts to such
18 charities, relatives and friends as would be likely recipients of
19 donations from the ward. The ward's wishes as best they can be
20 ascertained are to be carried out, whether or not tax savings are
21 involved.

1 SECTION 2. Said section 38 of said chapter 201, as so appear-
2 ing, is hereby further amended by inserting in line 29 after the

3 word "life" the words: — amendment of any such trust which is
4 revocable or amendable.

1 SECTION 3. Said section 38 of said chapter 201, as so appear-
2 ing, is hereby further amended by inserting in line 39 after the
3 word "savings" the following words: — , if any,.