
By Mr. Locke, a petition (accompanied by bill, Senate, No. 802) of Paul C. Gay and David H. Locke for legislation to further regulate the appointment of guardians. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-nine.

AN ACT FURTHER REGULATING THE APPOINTMENT OF GUARDIANS.

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 6 of Chapter 201 is hereby amended by striking
2 section 6 and inserting in place thereof the following: —
3 A parent, two or more relatives or friends, a non-profit
4 corporation organized under the laws of the Commonwealth
5 whose corporate charter authorizes the corporation to act as
6 a guardian, or the department of mental health, may file a
7 petition in the probate court asking to have a guardian ap-
8 pointed for any person of diminished mental capacity who
9 lacks the present ability to reason or to make rational judg-
10 ments as a result of mental illness, physical injury or disease,
11 or the use of mind altering agents; and if after notice as pro-
12 vided in section seven and a hearing, the court finds that said
13 person is incapable of taking care of himself for any of the
14 aforesaid reasons, it shall appoint a guardian of his person
15 and estate. A copy of such appointment shall be sent by mail
16 by the register to the said department. The petition for ap-
17 pointment of a guardian shall be accompanied by an affidavit
18 of a physician containing information pertaining to the na-
19 ture and cause of the diminished mental capacity and an esti-
20 mate of the duration of the term of incapacity. Said phy-
21 sician's affidavit shall be dated and the examination shall have
22 taken place within 30 days of its filing. No decree of appoint-
23 ment of a guardian shall be entered beyond the term of in-
24 capacity as recited in said affidavit. The court may require
25 additional medical testimony as to the mental and physical
26 condition of the person in whose behalf a guardian is required

27 and may require said person to submit to medical examin-
 28 ation. It may also appoint one or more physicians, expert in
 29 mental illness, to examine such person and report their con-
 30 clusions to the court. Reasonable expenses incurred in such
 31 examination shall be paid out of the estate of such person or
 32 by the county as may be determined by the court.