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A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend, on a temporary basis, Chapter 3 of Title 13 of the District of Columbia Official Code, to include appointments of a vulnerable youth guardian under legal actions that may have published notice in substitution of personal service of process, and to amend Chapter 23 of Title 16 of the District of Columbia Official Code to authorize the Family Division of the Superior Court to appoint, modify, and terminate a new class of legal guardianship for vulnerable youth.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Vulnerable Youth Guardianship Protection Temporary Amendment Act of 2023”.

Sec. 2. Section 13-336(b) of the District of Columbia Official Code is amended as follows:

(a) Paragraph (7) is amended by striking the phrase “; and” and inserting a semicolon in its place.

(b) Paragraph (8) is amended by striking the period and inserting the phrase “; and” in its place.

(c) A new paragraph (9) is added to read as follows:

“(9) actions for the appointment of a vulnerable youth guardian under Subchapter VI of Chapter 23 of Title 16 of the District of Columbia Official Code.”.

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38           Sec. 3. Chapter 23 of Title 16 of the District of Columbia Official Code is amended as  
39 follows:

40           (a) The table of contents is amended by adding a new designation for Subchapter VI to  
41 read as follows:

42           “Subchapter VI. Vulnerable Youth Guardian.

43           “§ 16-2399.01. Definitions.

44           “§ 16-2399.02. Guardianship petition.

45           “§ 16-2399.03. Parties.

46           “§ 16-2399.04. Timing and notice.

47           “§ 16-2399.05. Conduct of hearings.

48           “§ 16-2399.06. Adjudicatory hearings.

49           “§ 16-2399.07. Order appointing a guardian of a vulnerable youth.

50           “§ 16-2399.08. Effect of guardianship order

51           “§ 16-2399.09. Additional available remedies.”.

52           (b) A new Subchapter VI is added to read as follows:

53           “Subchapter VI. Vulnerable Youth Guardian.

54           “§ 16-2399.01. Definitions.

55           “For purposes of this subchapter, the term:

56                   “(1) “Guardian” means a person designated by the court pursuant to this subchapter  
57 as the guardian of a vulnerable youth.

58                   “(2) “Guardianship order” means the court document that establishes legal  
59 guardianship and enumerates the guardian’s rights and responsibilities concerning the care and  
60 custody of the vulnerable youth.

61                   “(2) “Noncitizen” means a person who is not a United States citizen.

62           “(3) “Proposed guardian” means a person seeking to be appointed guardian of a  
63 vulnerable youth.

64           “(4) “Similar basis” means conditions that have an effect on a vulnerable youth  
65 comparable to abuse, neglect, or abandonment, including the death of a parent.

66           “(5) “Vulnerable youth” means an unmarried noncitizen who is at least age 18 but  
67 younger than 21 years old.

68           “§ 16-2399.02. Guardianship petition.

69           “(a) A vulnerable youth or proposed guardian may file a petition with the Family Court to  
70 appoint a guardian under this Subchapter. The petition must name the proposed guardian and  
71 describe why:

72           “(1) The appointment is in the best interests of the vulnerable youth;

73           “(2) Reunification of the vulnerable youth with one or both parents is not viable  
74 due to abuse, neglect, abandonment, or a similar basis under District law; and

75           “(3) It is not in the best interests of the vulnerable youth to be returned to the  
76 vulnerable youth’s or vulnerable youth’s previous parents’ country of nationality or country of last  
77 habitual residence.

78           “(b) The court shall determine whether it is in the vulnerable youth’s best interests that a  
79 guardian be appointed by considering the following factors:

80           “(1) The vulnerable youth’s need for continuity of care and caretakers, and for  
81 timely integration into a stable home, taking into account the differences in the development and  
82 the concept of time of youth of different ages and nationalities;

83           “(2) The physical, mental, and emotional health of all individuals involved to the  
84 degree that each affects the welfare of the vulnerable youth, the decisive consideration in regard  
85 to this factor being the physical, mental, and emotional needs of the vulnerable youth;

86                   “(3) Access to stability, safety, supports or services to remedy the impacts of prior  
87 abuse, abandonment, neglect, or a similar basis under District law;

88                   “(4) The quality of the interaction and interrelationship of the vulnerable youth with  
89 his or her parents, siblings, relatives, and caretakers, including the proposed guardian; and

90                   “(5) The vulnerable youth’s opinion of their own best interest.

91                   “§ 16-2399.03. Parties.

92                   “Parties to a guardianship proceeding shall be the vulnerable youth, the proposed guardian,  
93 and the District of Columbia. The court may, at its discretion, on its own motion, or in response to  
94 a motion for joinder or intervention, join additional parties to a guardianship proceeding.

95                   “§ 16-2399.04 Timing and notice.

96                   “(a) When a petition for guardianship is filed, the court shall promptly set a time for an  
97 adjudicatory hearing and shall cause notice thereof to be given to all parties.

98                   “(b) The following individuals, if there are any for the vulnerable youth, and their attorneys,  
99 shall be provided notice of, and an opportunity to be heard in, the guardianship proceedings:

100                   “(1) The vulnerable youth;

101                   “(2) The vulnerable youth’s parents; and

102                   “(3) The proposed guardian.

103                   “(c) When it is appropriate to the proper disposition of the case, the court may direct the  
104 service of a summons upon other persons.”

105                   “(d) If personal service under this section cannot be effected, then notice shall be made  
106 constructively pursuant to rules of the Superior Court of the District of Columbia.”

107                   “(e) When a proposed guardian or vulnerable youth files a petition to appoint a guardian  
108 of a vulnerable youth pursuant to this subchapter, the court shall set a time for an adjudicatory

109 hearing, as soon as administratively feasible, before the vulnerable youth reaches 21 years of  
110 age.”

111 “16-2399.05. Conduct of the hearings.

112 “(a) All hearings and proceedings conducted pursuant to this subchapter shall be held by a  
113 judge, without a jury.

114 “(b) All hearings and proceedings conducted pursuant to this subchapter shall be recorded  
115 by appropriate means.

116 “(c) Except in hearings to declare a person in contempt of court, the general public shall be  
117 excluded from hearings and proceedings arising pursuant to this subchapter. Only persons  
118 necessary to such hearings and proceedings shall be admitted, but the court may, pursuant to rules  
119 of the Superior Court of the District of Columbia, admit such other persons as have a proper interest  
120 in the case or the work of the Division on the condition that they refrain from divulging information  
121 identifying the vulnerable youth involved in the proceedings or members of his or her family.

122 “16-2399.06. Adjudicatory hearings.

123 “(a) The court shall begin the adjudicatory hearing by determining whether all parties are  
124 present and whether proper notice of the hearing has been given.

125 “(b) Both parties, the vulnerable youth and the proposed guardian, have the right to present  
126 evidence and cross-examine witnesses.

127 “(c) The court shall hear evidence presented by the proposed guardian or vulnerable youth  
128 and the burden of proof shall rest upon the proposed guardian or vulnerable youth.

129 “(d) Every party shall have the right to present evidence, to be heard in his or her own  
130 behalf, and to cross-examine witnesses called by another party.

131 “(e) All evidence which is relevant, material, and competent to the issues before the court  
132 shall be admitted.”

133           “(f) Notwithstanding the provisions of §§ 14-306 and 14-307, neither the spouse or  
134 domestic partner privilege nor the physician/client or mental health professional/client privilege  
135 shall be a ground for excluding evidence in any proceeding brought under this subchapter.

136           “(g) The court may enter, modify, or terminate a guardianship order after considering all  
137 of the evidence presented, including the Mayor’s report and recommendation, and after making a  
138 determination based upon a preponderance of the evidence that creation, modification, or  
139 termination of the guardianship order is in the vulnerable youth’s best interests. If the court does  
140 not find that sufficient grounds exist to create, modify, or terminate a guardianship order, the  
141 petition may be dismissed.”

142           “§ 16-2399.07. Order appointing a guardian of a vulnerable youth.

143           “(a) After consideration of all the relevant, material, and competent evidence, the court  
144 shall issue an order establishing a guardianship if the court finds that the guardianship is in the  
145 vulnerable youth’s best interests.

146           “(b) After the guardianship is established, upon request by the proposed guardian or the  
147 vulnerable youth, the court shall, if the court finds that the allegations in the petition pursuant to  
148 §16-2399.02(a) are supported by a preponderance of the evidence, enter a guardianship order  
149 containing the following judicial determinations supported by relevant statutory citations and  
150 findings of fact:

151                   “(1) Where the identity is known, the specific identity of the parent or parents whom  
152 the court finds have abused, abandoned, or neglected, or similarly mistreated the vulnerable youth;

153                   “(2) That the vulnerable youth is dependent on the court and has been placed under  
154 the care and custody of an individual or entity appointed by the court through the appointment of  
155 a guardian;

156                   “(3) That reunification of the vulnerable youth with one or both parents is not viable  
157 due to abuse, abandonment, neglect or similar basis under District law; and

158                   “(4) That it is not in the best interest of the vulnerable youth to be returned to the  
159 vulnerable youth or vulnerable youth’s parents’ country of nationality or last habitual residence.

160                   “(c) The court may, upon motion of a party, modify or terminate a guardianship order when  
161 the modification or termination of the guardianship order is in the vulnerable youth’s best  
162 interests.

163                   “(d) The entry of a guardianship order under this subchapter shall not impinge on the  
164 vulnerable youth’s fundamental rights to make their own medical, educational, financial, or other  
165 such decisions.

166                   “(e) A guardianship order entered under this subchapter shall automatically terminate when  
167 the youth reaches age 21.”

168                   “§ 16-2399.08 Effect of guardianship order

169                   “(a) Unless the court specifies otherwise, the guardian shall have the following rights and  
170 responsibilities concerning the vulnerable youth:

171                   “(1) The guardian shall ensure that the legal rights of the vulnerable youth are not  
172 violated;

173                   “(2) The guardian shall provide care and support to the vulnerable youth to  
174 promote the youth's stability and wellness; and

175                   “(3) The guardianship will promote the physical, mental, and emotional health of  
176 the vulnerable youth.

177                   “(b) The guardian is not liable to third persons by reason of the relationship for acts of the  
178 vulnerable youth.

179           “(c) The guardian shall not impinge on the vulnerable youth’s fundamental rights to make  
180 their own medical, educational, financial, or other such decisions.

181           “(d) The court may specify the guardian's other rights and responsibilities concerning the  
182 care, custody, and nurturing of the vulnerable youth.”

183           “§ 16-2409. Additional available remedies.

184           “Nothing in this subchapter shall be construed to prevent:

185                   (1) A proposed guardian or vulnerable youth from seeking any other remedy or  
186 protections available under District law.

187                   (2) The court from issuing judicial determinations similar to those in §16-  
188 2399.07(b) in any other proceeding concerning a noncitizen under age 18, as this cause of action  
189 in this subchapter shall apply only to youth who are least 18 but younger than 21.”.

190           Sec. 4. Fiscal impact statement.

191           The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact  
192 statement required by section 4a of the General Legislative Procedures Act of 1975, approved  
193 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

194           Sec. 5. Effective date.

195           (a) This act shall take effect following approval by the Mayor (or in the event of veto by  
196 the Mayor, action by the Council to override the veto), a 30-day period of Congressional review  
197 as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December  
198 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
199 Columbia Register.

200           (b) This act shall expire after 225 days of its having taken effect.