

Article 13.

Removal or Resignation of Guardian; Successor Guardian; Estates Without Guardians;
Termination of Guardianship.

§ 35A-1290. Removal by Clerk.

(a) The clerk has the power and authority on information or complaint made to remove any guardian appointed under the provisions of this Subchapter, to appoint successor guardians, and to make rules or enter orders for the better management of estates and the better care and maintenance of wards and their dependents.

(b) It is the clerk's duty to remove a guardian or to take other action sufficient to protect the ward's interests in the following cases:

- (1) The guardian wastes the ward's money or estate or converts it to his own use.
- (2) The guardian in any manner mismanages the ward's estate.
- (3) The guardian neglects to care for or maintain the ward or his dependents in a suitable manner.
- (4) The guardian or his sureties are likely to become insolvent or to become nonresidents of the State.
- (5) The original appointment was made on the basis of a false representation or a mistake.
- (6) The guardian has violated a fiduciary duty through default or misconduct.
- (7) The guardian has a private interest, whether direct or indirect, that might tend to hinder or be adverse to carrying out his duties as guardian.
- (8) The guardian has been adjudged incompetent by a court of competent jurisdiction and has not been restored to competence.
- (9) The guardian has been convicted of a felony under the laws of the United States or of any state or territory of the United States or of the District of Columbia and his citizenship has not been restored.
- (10) The guardian was originally unqualified for appointment and continues to be unqualified, or the guardian would no longer qualify for appointment as guardian due to a change in residence, a change in the charter of a corporate guardian, or any other reason.
- (11) The guardian is the ward's spouse and has lost his rights as provided by Chapter 31A of the General Statutes.
- (12) The guardian fails to post, renew, or increase a bond as required by law or by order of the court.
- (13) The guardian refuses or fails without justification to obey any citation, notice, or process served on him in regard to the guardianship.
- (14) The guardian fails to file required accountings with the clerk.
- (15) The clerk finds the guardian unsuitable to continue serving as guardian for any reason.
- (16) The guardian is a nonresident of the State and refuses or fails to obey any citation, notice, or process served on the guardian or the guardian's process agent.
- (17) The guardian is a licensed attorney, and the clerk is in receipt of an order entered pursuant to G.S. 84-28 enjoining, suspending, or disbaring the attorney.

(c) Repealed by Session Laws 2017-158, s. 4, effective July 21, 2017. (1987, c. 550, s. 1; 2004-203, s. 31(b); 2017-158, s. 4.)