

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

H

D

HOUSE DRH10253-ST-8 (4/15)

Short Title: Testamentary Recommendation of Guardian. (Public)

Sponsors: Representative Moore.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE PARENTS OF AN INCOMPETENT ADULT WHO IS NOT MARRIED TO RECOMMEND A GUARDIAN FOR THAT ADULT BY WILL OR OTHER DOCUMENT.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 5 of Chapter 35A is amended by adding a new section to read:

**"§ 35A-1212.1. Recommendation of appointment of guardian by will or other writing.**

(a) Any parent may by will, recommend appointment of a guardian for an unmarried child who has been adjudicated an incompetent person and specify desired limitations on the powers to be given to the guardian. If both parents make such recommendations, the will with the latest date shall, in the absence of other relevant factors, prevail. Such recommendation shall be a strong guide for the clerk in appointing a guardian, but the clerk is not bound by the recommendation if the clerk finds that a different appointment is in the incompetent adult's best interest. If the will specifically so directs, a guardian appointed pursuant to such recommendation may be permitted to qualify and serve without giving bond, unless the clerk finds as a fact that the interest of the incompetent adult would be best served by requiring the guardian to give bond."

**SECTION 2.** G.S. 35A-1214 reads as rewritten:

**"§ 35A-1214. Priorities for appointment.**

The clerk shall consider appointing a guardian according to the following order of priority: an individual recommended under G.S. 35A-1212.1; an individual; a corporation; or a disinterested public agent. No public agent shall be appointed guardian until diligent efforts have been made to find an appropriate individual or

1 corporation to serve as guardian, but in every instance the clerk shall base the  
2 appointment of a guardian or guardians on the best interest of the ward."

3           **SECTION 3.** This act is effective when it becomes law.