

IN THE SENATE

SENATE BILL NO. 1248

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO TESTAMENTARY APPOINTMENTS OF GUARDIANS OF MINORS; AMENDING SEC-
2 TION 15-5-202, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE DISTRI-
3 BUTION OF WRITTEN NOTICE OF ACCEPTANCE OF TESTAMENTARY APPOINTMENT OF
4 GUARDIANSHIP OF A MINOR, TO PROVIDE FOR THE APPOINTMENT OF ALTERNATIVE
5 GUARDIANS, TO SPECIFY CONDITIONS UNDER WHICH AN ALTERNATE GUARDIAN BE-
6 COMES THE APPOINTED GUARDIAN AND TO PROVIDE FOR WRITTEN NOTICE OF AC-
7 CEPTANCE; AND AMENDING SECTION 15-5-203, IDAHO CODE, TO PROVIDE THAT IN
8 THE EVENT A MINOR OBJECTS TO A TESTAMENTARY APPOINTMENT THE ALTERNATE
9 GUARDIAN NEXT IN PRIORITY NAMED IN THE WILL MAY ACCEPT THE APPOINTMENT,
10 TO PROVIDE THAT THE MINOR SHALL HAVE THE SAME RIGHT OF OBJECTION AND TO
11 MAKE A TECHNICAL CORRECTION.
12

13 Be It Enacted by the Legislature of the State of Idaho:

14 SECTION 1. That Section 15-5-202, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 15-5-202. TESTAMENTARY APPOINTMENT OF GUARDIAN OF MINOR. A parent of
17 a minor may appoint a guardian of an unmarried minor by will, subject to the
18 right of the minor under section 15-5-203, Idaho Code. The termination of
19 parental rights of a parent as to the minor shall also terminate the right
20 of that parent to appoint a guardian for the minor. A testamentary appoint-
21 ment becomes effective upon the filing of the guardian's acceptance in the
22 court in which the will is probated, if, at the decedent's death, no parent
23 of the minor was alive who had a right to appoint a guardian for the minor.
24 This state recognizes a testamentary appointment effected by the guardian's
25 acceptance under a will probated in another state which is the testator's
26 domicile. Written notice of acceptance of the appointment must be given by
27 the guardian to the minor and to the person having his custody, or if none,
28 his care, or if none, to his nearest adult relation immediately upon accep-
29 tance of appointment. The parent may appoint by will one (1) or more alter-
30 nate guardians, in order of priority. If a guardian appointed by will fails
31 to accept guardianship within thirty (30) days after the will is probated,
32 or files a notice of declination to accept appointment prior to the running
33 of the thirty (30) day period, or is deceased, or ceases to act after accep-
34 tance, then the alternate guardian next in priority becomes the appointed
35 guardian and may file a written notice of acceptance in the court in which the
36 will is probated.

37 SECTION 2. That Section 15-5-203, Idaho Code, be, and the same is hereby
38 amended to read as follows:

39 15-5-203. OBJECTION BY MINOR OF FOURTEEN YEARS OR OLDER TO TESTA-
40 MENTARY APPOINTMENT. A minor of fourteen (14) or more years may prevent an

1 appointment of his testamentary guardian from becoming effective, or may
2 cause a previously accepted appointment to terminate, by filing with the
3 court in which the will is probated a written objection to the appointment
4 before it is accepted or within thirty (30) days after notice of its accep-
5 tance. An objection may be withdrawn. In the event of such objection, the
6 alternate guardian next in priority named in the will may accept appointment
7 as set forth in section 15-5-202, Idaho Code, and the minor shall have the
8 same right of objection. An objection does not preclude appointment by the
9 court in a proper proceeding of the testamentary nominee, or any other suit-
10 able person.