SNACK PRESENTATION

GUARDIANSHIPS

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Standard for Appointment of Guardian

SCPA Art 17A

MHL Art 81

- Incapable of managing himself/herself or his/her affairs by reason of MR or DD
- Appointment is in the best interest of respondent
- Finding that AIP is unable to provide for personal needs &/or property management & cannot understand & appreciate the nature and consequences of such inability
- AIP consents to appt of guardian

Proving Incapacity SCPA Art 17A MHL Art 81 • Certification by 2 physicians or extra displayed a convincing evidence Proving Incapacity MHL Art 81 • Functional assessment of actual abilities of the person to perform activities of daily living • Clear and convincing evidence

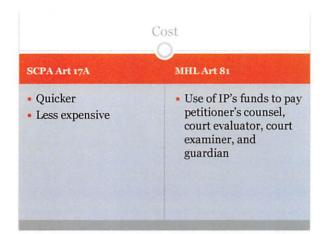
SCPA Art 17A	MHL Art 81
Does not provide for the appointment of counsel	 Provides for the appointment of counse. Payment of counsel - from IP funds or 18b panel



SCPA Art 17A	MHL Art 81
Does not provide for "tailoring" the guardian's powers to the needs of the individual	Must specifically define the authority of the guardian

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SCPA Art 17A	MHL Art 81	
Does not provide for training Appointment of guardian is continuation of parent's legal authority over their child	Training for court evaluators, court examiners and guardians	

SCPA Art 17A	MHLArt 81
Reporting for guardian of property only	Initial Report Annual Report
Certain courts require	 For both guardian of person and property
reporting for guardian of the person	potosii ana property





SCPA Art 17A	MHL Art 81
Low functioning because severely disabled & can't meaningfully participate in decision making	 High functioning & capable of making some decisions Provides flexibility & independence

SCPA Art 17A	MHL Art 81
Going to court more	More flexibility in
often	management of
Prior to age of majority	property of infant &
After age of majority	SNT

Costs SCPA Art 17A MHL Art 81 · Less expensive More expensive · Standardized forms · Forms vary from county to county • \$20 filing fee Filing fee - \$305 · Most are application of Provides for payment person not property of petitioner's attorney · GAL can serve without fees, court evaluator & a fee IP's counsel

Role & Authority of Guardian SCPA Art 17A MHL Art 81 · Health care decision · Health care decision making making · No training for guardian · Guardianship training • Guidance for annual class reporting for guardian of · Accountability the property annual reports for both Some courts require person and property reporting of guardian of person

Role & Authority of Guardian – cont'd SCPA Art 17A MHL Art 81 Duration of guardianship – indefinite Duration of guardianship - varies on the needs of the IP

