

Book V.  
Title XXXVI.

In what cases a guardian or curator may be appointed for one already having a guardian.  
(In quibus causis tutorem habenti tutor vel curator dari potest.)

5.36.1. Emperor Antoninus to Tiberianus and Rufus.

If you have been temporarily appointed in place of a guardian who was absent on public business, and he has returned after having finished the mission entrusted to him, you need not doubt that the affairs of the minor are in his hands and care. 1. But you would act more advisedly if you would go before the honorable president of the province, so that the former may be compelled to undertake the management of the guardianship. Promulgated July 25 (213).

Note.

Persons might be appointed to hold office until the occurrence of a condition, and on this condition their office terminated. Inst. 1.22.2. That was the situation in the present case.

5.36.2. Emperor Alexander to Valentinus.

The proper judge could, and it was his duty to, appoint another in place of the curator who was excused, although the minor had other persons as guardians. But though you were substituted as curator for the person excused, to act with others, you are not responsible for any risk of administration beyond the age of puberty. Promulgated June 9 (228).

Note.

In this case a man was appointed as curator to take the place of guardians in managing the property. His office, accordingly, expired when the minor arrived at the age of puberty, the same as the office of the guardians. See headnote C. 5.28; C. 5.34.10 note.

5.36.3. The same Emperor to Hyla.

The president of the province will decide whether or not you are able to act alone because the property is widely distributed, that is to say, situated in various places, or because of other reasons, and whether others ought to be appointed. Promulgated December 6 (231).

5.36.4. Emperors Valerian and Gallian to Euploius.

Although a guardian cannot be appointed for a person already having one, still another is usually, for certain reasons, by order of the judge, appointed as a substitute, that is to say in place of one suspected, convicted, and removed, and in place of one excused, deceased or relegated.<sup>1</sup> Promulgated March 15 (260).

5.36.5. Emperors Diocletian and Maximian and the Caesars to Zeno.

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<sup>1</sup> [Blume] C. 5.34.10 and note.

Although curators are usually appointed on account of increase of property (to act with guardians), the guardians already appointed are not released by reason of the administration of the former, if, of course, the person who managed the property was solvent at the end of the guardianship, it is clear that no risk of the subsequent time could fall on you.<sup>2</sup>

Given March 30 (294).

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<sup>2</sup> [Blume] The meaning is: Co-guardians, or persons who act as such, are jointly liable for the administration, each for the whole. But the active manager is primarily responsible, and if he is solvent at the end of the guardianship, but is not sued for any default, and subsequently becomes insolvent, the co-guardians are released. C. 5.52.1.