

Book V.  
Title XLIII.

Concerning persons suspected (of misconduct).  
(De suspectis.)

Bas. 37.10.12; D. 26.10; Inst. 1.26.

5.43.1. Emperor Antoninus to Domitia.

You may accuse your freedman who is your son's guardian as a person suspected of misconduct if you think that he manages the property fraudulently, provided that his office has not expired by reason of the ward arriving at the age of puberty. For if the guardian ceases to be such by reason of that fact, he must be sued in an action on the guardianship.

Promulgated at Rome August 13 (212).

5.43.2. The same Emperor to Longinus.

Curators neglect to act at their peril, which becomes greater in proportion to the time that the transference of the guardianship is deferred. If you think that this was done through fraud, sue them as persons suspected (of misconduct). If they deserve to be removed, others will be appointed in their place.<sup>1</sup>

Promulgated January 13 (215).

Note.

Removal as a suspected person involved infamy if the removal was for fraud. Law 9 of this title. The proceeding was quasi-delictal and was by way of accusation which might be brought by anyone. 9 Cujacius 542. The result of such proceeding must have been a powerful influence in deterring tutors and curators from misconduct. In most other cases of removal, infamy did not follow. C. 5.47.1. Failure to make inventory resulted in removal with infamy. C. 5.5.31. If there were two or more guardians, and one or more was suspected of misconduct, and the other guardians failed to bring a proceeding for removal, they were responsible therefor. C. 5.55.1.

5.43.3. Emperor Alexander to Fortunata.

The president of the province will use severe measures in compelling the guardians of your sons to undertake their administration. If they persevere in their contumacy, you may sue them as persons suspected (of misconduct) so that others may be asked to be appointed in their place.

Promulgated January 13 (229).

5.43.4. The same Emperor to Thalida.

You may also sue the guardian appointed by the testament of your father, as a person suspected of (misconduct), if you accuse him of fraud.

Promulgated September 9 (229).

5.43.5. The same Emperor to Asclepiades.

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<sup>1</sup> [Blume] Knowledge of the appointment must exist.

In suing guardians or curators as persons suspected of misconduct, the chief consideration is not the amount of property they have, but whether they have done anything carelessly or fraudulently.  
Promulgated December 25 (233).

5.43.6. Emperor Gordian to Felix.

You perform a pious duty when you attempt, urged on by the tie of blood, to protect the sons of your brother.

1. If their guardians or curators, therefore, do not manage (the property) properly, and they have been accused and shown to be guilty of misconduct, your request that others be appointed in their place will readily be complied with.

2. But if they are guilty of no fraud, but are so needy that the property of the sons of your brother is endangered by their management, the rector of the province will determine whether a curator who has sufficient property should not be appointed to act with them.

3. An action of removal may be brought not only by parents (ascendants) of either sex, but also by cognate relatives, outsiders (even) infamous persons and the minor himself, in the discretion of the cognate relatives of good reputation by whose property is managed, if not under the age of puberty.

Promulgated November 9 (238).

5.43.7. The same Emperor to Gorgonia.

The president of the province will order the person whom you accuse as a suspected guardian or curator, to abstain from the management of your property during the pendency of the cause. But another person is meanwhile to be appointed to manage the property in his stead.

Promulgated February 23 (240).

5.43.8. Emperor Philip and Caesar Philip to Proculus.

If you fail to accuse you co-guardian as suspected (of misconduct) and cause him to be removed from the management of the property of the minor, your wish in asking that the management in the name of the minor be turned over to you cannot be complied with.

Promulgated October 20 (244).

5.43.9. Emperors Diocletian and Maximian and the Caesars to Ammianus.

It is clear that suspected guardians who are removed for fraud, not those also who are removed for negligence, become infamous.

Subscribed April 24 (294).