§ 1707. Decree appointing guardian; term of office

1. If the court be satisfied that the interests of the infant will be promoted by the appointment of a guardian or by the issuance of temporary letters of guardianship of his or her person or of his or her property, or of both, it must make a decree accordingly. If the court determines that appointment of a permanent guardian is in the best interests of the infant or child, the court shall issue a decree appointing such guardian. The same person may be appointed guardian of both the person and the property of the infant or the guardianship of the person and of the property may be committed to different persons. The court may appoint a person other than the parent of the infant or the person nominated by the petitioner. When the court is informed that the infant, a person nominated to be a guardian of such infant, the petitioner, or any individual eighteen years of age or over who resides in the home of the proposed guardian is a subject of or another person named in an indicated report, as such terms are defined in section four hundred twelve of the social services law, filed with the statewide register of child abuse and maltreatment pursuant to title six of article six of the social services law or is or has been the subject of or the respondent in or a party to a child protective proceeding commenced under article ten of the family court act which resulted in an order finding that the child is an abused or neglected child the court shall obtain such records regarding such report or proceeding as it deems appropriate and shall give the information contained therein due consideration in its determination. The court shall provide in its order appointing a guardian of a child for whom the guardian and a local department of social services have entered into an agreement under title ten of article six of the social services law: (a) if the guardian would meet the definition of relative guardian as such term is defined in section four hundred fifty-eight-a of the social services law, the compelling reasons that exist for determining that the return home of the child and the adoption of the child are not in the best interests of the child and are, therefore, not appropriate permanency options for the child; and (b) that the local department of social services and the attorney for the child must receive notice of, and be made parties to, any subsequent proceeding to vacate or modify the order of guardianship.

2. The term of office of a guardian of the person or property so appointed expires when the infant attains majority, unless the infant consents to the continuation of or appointment of a guardian after his or her eighteenth birthday, in which case such term of office expires on his or her twenty-first birthday, or after such other shorter period as the court establishes upon good cause shown; except that the term of office of a guardian of the person of an infant expires upon the infant's marriage prior to attaining majority. The appointment of a guardian of a child shall expire when the infant or child reaches the age of eighteen years, unless the infant or child consents to the continuation of a guardian after his or her eighteenth birthday, in which case such term of office expires on his or her twenty-first birthday, or unless vacated by the court prior to the infant or child's eighteenth or twenty-first birthday if the court finds that, based upon clear and convincing evidence, the guardian failed to or is unable, unavailable or unwilling to provide proper care and custody of the infant or child, or that the guardianship is no longer in the best interests of the infant or child.