

S

SB483

FILED

2006 APR -4 P 4: 54

WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
Regular Session, 2006



**ENROLLED**

SENATE BILL NO. 483

(By Senator Kessler, et al )



PASSED March 11, 2006

In Effect from Passage

FILED

2006 APR -4 P 4: 54

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

ENROLLED

## Senate Bill No. 483

(BY SENATORS KESSLER, DEMPSEY, FANNING, FOSTER,  
MINARD, OLIVERIO, WHITE, BARNES, CARUTH, DEEM,  
HARRISON, LANHAM AND WEEKS)

---

[Passed March 11, 2006; in effect from passage.]

---

AN ACT to amend and reenact §44-10-3 of the Code of West Virginia, 1931, as amended, relating to confidentiality of circuit court records involving guardianship of minors.

*Be it enacted by the Legislature of West Virginia:*

That §44-10-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 10. GUARDIANS AND WARDS GENERALLY.**

**§44-10-3. Appointment and revocation of guardian by county commission.**

- 1 (a) The circuit court or family court of the county in
- 2 which the minor resides, or if the minor is a nonresident of
- 3 the state, the county in which the minor has an estate, may
- 4 appoint as the minor's guardian a suitable person. The

5 father or mother shall receive priority. However, in every  
6 case, the competency and fitness of the proposed guardian  
7 and the welfare and best interests of the minor shall be  
8 given precedence by the court when appointing the  
9 guardian.

10 (b) Within five days of the filing of a petition for the  
11 appointment of a guardian, the circuit clerk shall notify  
12 the court. The court shall hear the petition for the ap-  
13 pointment of a guardian within ten days after the petition  
14 is filed.

15 (c) The court, the guardian or the minor may revoke or  
16 terminate the guardianship appointment when:

17 (1) The minor reaches the age of eighteen and executes a  
18 release stating that the guardian estate was properly  
19 administered and that the minor has received the assets of  
20 the estate from the guardian;

21 (2) The guardian or the minor dies;

22 (3) The guardian petitions the court to resign and the  
23 court enters an order approving the resignation; or

24 (4) A petition is filed by the guardian, the minor, an  
25 interested person or upon the motion of the court stating  
26 that the minor is no longer in need of the assistance or  
27 protection of a guardian.

28 (d) A guardianship may not be terminated by the court  
29 if there are any assets in the estate due and payable to the  
30 minor: *Provided*, That another guardian may be appointed  
31 upon the resignation of a guardian whenever there are  
32 assets in the estate due and payable to the minor.

33 (e) Records of a guardian proceeding involving a minor  
34 are confidential and shall not be disclosed to anyone who  
35 is not a party to the proceeding, counsel of record for the  
36 proceeding or presiding over the proceeding, absent a  
37 court order permitting examination of such records.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Candy White*  
.....  
Chairman Senate Committee

*R. Berry*  
.....  
Chairman House Committee

Originated in the Senate.

In effect from passage.

*Darrell Holmes*  
.....  
Clerk of the Senate

*Bruce M. Smith*  
.....  
Clerk of the House of Delegates

*Carl Ray Tomblin*  
.....  
President of the Senate

*Robert L. Williams*  
.....  
Speaker House of Delegates

The within *is approved* ..... this the *4th* .....  
Day of *April* ..... , 2006.

*Paul Hancock*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 31 2006

Time 10:30am