

# WEST VIRGINIA CODE: §44-11-8A

## **§44-11-8a. Removal of property of resident infant, incompetent or insane person from this state by nonresident testamentary guardian or nonresident committee.**

(a) No property or money in this state belonging to a resident infant, incompetent or insane person may be removed from this state by a nonresident testamentary guardian or nonresident committee appointed or qualified in this state unless:

(1) Such nonresident testamentary guardian or nonresident committee files a petition to remove such property or money in the circuit court of the county wherein such guardian or committee was appointed or qualified, or in which the property or money, or some part thereof, is located;

(2) The infant, incompetent or insane person is made a party defendant to such petition;

(3) Notice of the petition is filed as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication is the county in which the petition is filed; and

(4) The court determines, after a hearing, that the removal of such property or money will not impair the rights of or be prejudicial to the interests of such infant, incompetent or insane person, or of any other person.

(b) If any nonresident testamentary guardian or nonresident committee removes from this state property or money belonging to a resident infant, incompetent or insane person without obtaining an order entered pursuant to the provisions of subsection (a) of this section, the same shall work a forfeiture of his bond, and the liability of such nonresident guardian or committee and of his surety shall be joint and several, and a civil action on any such bond may be instituted and maintained against the surety, notwithstanding any other provision of this code to the contrary, even though no civil action has been instituted against the nonresident testamentary guardian or nonresident committee.

(c) Notwithstanding any provision of section nine of this article to the contrary, any nonresident testamentary guardian or nonresident committee who obtains an order described in subsection (a) of this section shall remain accountable to the county commission of the county in which he was appointed or qualified.