WEST VIRGINIA CODE: §44A-1-2

§44A-1-2. Determinations and appointments under prior law.

(a) Any person determined to be "mentally incompetent", "intellectually disabled" or "mentally handicapped" and for such reason deemed to be in need of a guardian or committee pursuant to any order entered and in effect before the effective date of this chapter is deemed to be a "protected person" within the meaning of this chapter, after its effective date, unless any such determination be revoked or otherwise modified.

(b) Any person heretofore appointed to serve as a committee for an incompetent person and any person appointed to serve as a guardian for an individual with an intellectual disability or for a mentally handicapped person, is, as of the effective date of this chapter, deemed to be: (1) A guardian, within the meaning of this chapter, if the order appointing such person provides that the person so appointed has responsibility only for the personal affairs of a mentally incompetent, intellectually disabled or mentally handicapped person; (2) a conservator, within the meaning of this chapter, if the order appointing such person provides that the person so appointed had responsibility only for managing the estate and financial affairs of a mentally incompetent intellectually disabled or mentally handicapped person; or (3) a guardian and a conservator, within the meaning of this chapter, if the order appointing such person does not set forth limitations of responsibility for both the personal affairs and the financial affairs of a mentally incompetent intellectually disabled, or mentally handicapped person.

(c) After the effective date of this chapter, the circuit courts have exclusive jurisdiction of all matters involving determinations of mental incompetency, intellectual disability or mental handicap, including the jurisdiction of any proceedings pending as of that effective date. All orders entered before the effective date of this chapter in those cases shall remain in full force and effect until terminated, revoked or modified as provided herein.

(d) All persons heretofore appointed to serve as a committee or as a guardian retain their authority, powers and duties in that capacity, except to the extent that their authority, powers and duties as guardian or conservator under the provisions of this chapter are more specifically enumerated, in which event the committee or guardian has the authority, powers and duties so enumerated.

Wherever in the Constitution, the Code of West Virginia, Acts of the Legislature or elsewhere in law a reference is made to a committee for an incompetent person, such reference shall be read, construed and understood to mean guardian and/or conservator as defined in this chapter.

(e) The provisions of this chapter providing for the presentation of reports by guardians and the presentation of accountings by conservators may not be retroactively applied, and applicable law in effect before the effective date of this chapter controls as to any reports or

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accountings to be made or filed for any period before the effective date of this chapter.

(f) As used in this section, "prior law" refers to article eleven, chapter twenty-seven of this code, relating to the appointment of committees for mentally incompetent persons, and to article ten-a, chapter forty-four, relating to the appointment of guardians for individuals with an intellectual disability and mentally handicapped persons, as those articles were in effect before the effective date of this chapter.

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