WEST VIRGINIA CODE: §44A-2-10

§44A-2-10. Factors to be considered by court.

(a) The court alone shall determine whether a guardian or conservator should be appointed, the type of guardian or conservator and the specific areas of protection, management and assistance to be granted. Any determination that the individual is a protected person shall contain a specific finding that the person meets the definition set forth in section four, article one of this chapter. In making the determination, the court shall consider the suitability of the proposed guardian or conservator, the limitations of the alleged protected person, the development of the person's maximum self-reliance and independence, the availability of less restrictive alternatives including advance directives and the extent to which it is necessary to protect the person from neglect, exploitation, or abuse.

(b) Except as provided in section eight of this article, the selection of the guardian or conservator is in the discretion of the court. The court shall select the individual or entity best qualified to act in the best interest of the protected person, after consideration of the proposed guardian's or conservator's geographic location, familial or other relationship with such person, ability to carry out the powers and duties of the office, commitment to promoting such person's welfare, any potential conflicts of interest, the criminal history of the proposed guardian or conservator and the recommendations of the spouse, the parents, children or other interested relatives, whether made by will or otherwise. The court may only appoint one guardian and one conservator and it need not appoint the same individual or entity to serve as both guardian and conservator.

(c) A guardianship or conservatorship appointed under this article shall be the least restrictive possible, and the powers shall not extend beyond what is absolutely necessary for the protection of the individual.

WV Legislature