

# WEST VIRGINIA CODE: §44A-2-2

## **§44A-2-2. Who may file petition; contents.**

(a) A petition for the appointment of a guardian, a conservator, or both, may be filed by the individual alleged to be a protected person, by a person who is responsible for the individual's care or custody, by the facility providing care to the individual, by the person that the individual has nominated as guardian or conservator, by a person acting as a de facto guardian or de facto conservator or by any other interested person, including, but not limited to, the Department of Human Services.

(b) A petition for the appointment of a guardian, a conservator, or both, shall state the petitioner's name, place of residence, post office address, and relationship to the alleged protected person, and shall, to the extent known as of the date of filing, include the following:

(1) The alleged protected person's name, date of birth, place of residence or location and post office address;

(2) The names and post office addresses of the alleged protected person's nearest relatives, in the following order:

(i) The spouse and children, if any; or if none

(ii) The parents and brothers and sisters, if any; or if none

(iii) The nearest known relatives who would be entitled to succeed to the person's estate by intestate succession as set forth in article one, chapter forty-two of this code.

Once a relative or several relatives have been identified in one of the aforementioned categories, relatives in a lower category do not have to be listed in the petition;

(3) The name, place of residence or location and post office address of the individual or facility that is responsible for the person's care or custody, any person acting as a de facto guardian or de facto conservator or any medical power of attorney representative or appointed surrogate, and a detailed list of the acts performed by such person on behalf of the protected person;

(4) The name, place of residence or location and post office address of any person designated as a surrogate decisionmaker for the alleged protected person, or of any representative or representatives designated under a durable power of attorney, medical power of attorney or living will, of which the alleged protected person is the principal, and the petitioner shall attach a copy of any of those documents, if available;

(5) The name, post office address and phone number of the attorney representing the

petitioner in the petition and appointment proceedings;

(6) Whether the person's incapacity will prevent attendance at the hearing and the reasons therefor;

(7) The type of guardianship or conservatorship requested and the reasons for the request;

(8) The proposed guardian or conservator's name, post office address and, if the proposed guardian or conservator is an individual, the individual's age, occupation, criminal history and relationship to the alleged protected person;

(9) The name and post office address of a guardian nominated by the alleged protected person if different from the proposed guardian or conservator, and, if the person nominated as a guardian or conservator is an individual, the individual's age, occupation, criminal history and relationship to the alleged protected person;

(10) The name and post office address of any guardian or conservator currently acting, whether in this state or elsewhere;

(11) If the appointment of a limited guardian is requested, the specific areas of protection and assistance to be included in the order of appointment;

(12) If the appointment of a limited conservator is requested, the specific areas of management and assistance to be included in the order of appointment; and

(13) If the appointment of a conservator is requested for a missing person, the specific circumstances under which the person is considered missing.