WEST VIRGINIA CODE: §44A-5-4

§44A-5-4. Circuit court's order approving standby guardianship; authority; when effective.

(a) When a petition is filed by a person other than a parent having custody of the child, the standby guardian may be appointed only with the consent of the qualified parent unless the circuit court finds that such consent cannot be given for medical reasons.

(b) Upon consideration of the factors set out in subsection (b), section three of this article and finding that: (i) The child's parent is a qualified parent; and (ii) appointment of a standby guardian is in the best interest of the child, the circuit court shall appoint the person requested in the petition as standby guardian, and, if requested, the requested alternate standby guardian. However, when a petition is filed by a person other than a parent having custody of the child, the standby guardian shall be appointed only with the consent of the qualified parent unless the court finds that such consent cannot be given for medical reasons.

(c) The order shall specify the triggering event and shall provide that the authority of the standby guardian is effective: (i) Upon receipt of either a determination of incompetence or a certificate of death; or (ii) if so requested in the petition, upon receipt by the standby guardian of the qualified parent's written consent and filing of this consent with the circuit court. The written consent shall be executed after the entry of the court order and signed by the qualified parent, or by another in his or her presence and on his or her behalf.

(d) As soon as practicable after entry of the order, a copy shall be served on the standby guardian.

(e) A standby guardian shall have the powers and duties of a guardian of the person and guardian of the property of a minor, unless otherwise specified in the order.

(f) The standby guardian shall file with the circuit court as soon as practicable but in no event later than thirty days following a parent's death, determination of incompetence or consent, a copy of the certificate of death, determination of incompetence or consent of the qualified parent upon which the standby authority is based and a determination of debilitation. Failure to file within the time specified shall be grounds for the circuit court to rescind the authority of the standby guardian upon petition of any person, but all acts undertaken by the standby guardian on behalf of and in the interests of the child be valid and enforceable until authority is rescinded.

WV Legislature