WEST VIRGINIA CODE: §44A-5-6

§44A-5-6. Further proceedings to determine permanent guardianship.

(a) If the triggering event was death of the qualified parent, the standby guardian shall within ninety days of such death, petition for appointment of a guardian for the child as otherwise provided by law or may initiate proceedings to determine legal and physical custody of the child pursuant to article four, chapter forty-eight, or both.

(b) In all other cases a standby guardian shall promptly after occurrence of the triggering event initiate such proceedings to determine guardianship and custody, absent objection by the qualified parent.

(c) The petition shall be accompanied by:

(1) The circuit court’s order approving the standby guardian or the qualified parent's written designation of the standby guardian; and

(2) (i) The attending physician's written determination of incompetence or debilitation; or (ii) certificate of death.

WV Legislature