

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

# HOUSE BILL

## No. 2500

 Session of  
1994

INTRODUCED BY STURLA, FAJT, COY, LAUB, MUNDY, KUKOVICH, PRESTON,  
TRELLO, WILLIAMS, JOSEPHS, MELIO, PISTELLA, ROONEY, LAUGHLIN,  
STEELMAN, CURRY, BISHOP AND BLAUM, FEBRUARY 1, 1994

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF  
REPRESENTATIVES, AS AMENDED, JUNE 14, 1994

## AN ACT

1 ~~Providing for standby guardians for infants; regulating~~ <—  
2 ~~procedure; and providing for designation, for petitions and~~  
3 ~~approval by the court.~~

4 PROVIDING FOR STANDBY GUARDIANS FOR MINOR CHILDREN; REGULATING <—  
5 PROCEDURE; AND PROVIDING FOR DESIGNATION, PETITIONS AND  
6 APPROVAL BY THE COURT.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 ~~Section 1. Short title.~~ <—

10 ~~This act shall be known and may be cited as the Standby~~  
11 ~~Guardian Act.~~

12 ~~Section 2. Definitions.~~

13 ~~The following words and phrases when used in this act shall~~  
14 ~~have the meanings given to them in this section unless the~~  
15 ~~context clearly indicates otherwise:~~

16 ~~"Attending physician." A physician who has primary~~  
17 ~~responsibility for the treatment and care of the petitioner.~~  
18 ~~Where more than one physician shares responsibility or where a~~  
19 ~~physician is acting on the attending physician's behalf, any~~

~~physician may act as the attending physician pursuant to this act. Where no physician has responsibility, any physician who is familiar with the petitioner's medical condition may act as attending physician pursuant to this act.~~

~~"Debilitation."—A chronic and substantial inability, as a result of physically debilitating illness, disease or injury, to care for one's dependent infant. The term "debilitated" means the state of having a debilitation.~~

~~"Incapacity."—A chronic and substantial inability, as a result of mental impairment, to understand the nature and consequences of decisions concerning the care of one's dependent infant and a consequent inability to care for such infant. The term "incapacitated" means the state of having an incapacity.~~

~~"Standby guardian."~~

~~(1) A person judicially appointed pursuant to this act as standby guardian of the person or property of an infant and whose authority becomes effective upon the incapacity or death of the infant's parent or upon the consent of the parent.~~

~~(2) A person designated as standby guardian pursuant to this act whose authority becomes effective upon the incapacity of the infant's parent or upon the debilitation and consent of the parent.~~

~~Section 3.—Appointment.~~

~~(a) General rule.—A petition for judicial appointment of a standby guardian of the person and/or property of an infant pursuant to this act may be made by a parent of an infant upon petition to the court of common pleas.~~

~~(b) Petition contents.—A petition for the judicial appointment of a standby guardian of an infant shall:~~

~~(1) state whether the authority of the standby guardian is to become effective upon the petitioner's incapacity, upon the petitioner's death or upon whichever occurs first; and~~

~~(2) state that there is a significant risk that the petitioner will become incapacitated or die, as applicable, within two years of the filing of the petition and the basis for that statement.~~

~~(c) Court appearance. The petitioner's appearance in court shall not be required if the petitioner is medically unable to appear, except upon motion and for good cause shown.~~

~~(d) Decree.—~~

~~(1) If the court finds that there is a significant risk that the petitioner will become incapacitated or die within two years of the filing of the petition and that the interests of the infant will be promoted by the appointment of a standby guardian of the person and/or property, it shall make a decree accordingly.~~

~~(2) The decree shall specify whether the authority of the standby guardian is effective upon the receipt of a determination of the petitioner's incapacity, upon the receipt of the certificate of the petitioner's death or upon whichever occurs first and shall also provide that the authority of the standby guardian may earlier become effective upon written consent of the parent pursuant to subsection (c)(3). The decree shall also indicate that the authority of the standby guardian is effective upon the petitioner's consent.~~

~~(3) If, at any time prior to the commencement of the authority of the standby guardian, the court finds that the requirements of paragraph (1) are no longer satisfied, it may~~

1       ~~rescind the decree.~~

2       ~~(c) Commencement.—~~

3           ~~(1) Where the decree provides that the authority of the~~  
4       ~~standby guardian is effective upon receipt of the~~  
5       ~~determination of the petitioner's incapacity, the standby~~  
6       ~~guardian's authority shall commence upon the standby~~  
7       ~~guardian's receipt of a copy of a determination of~~  
8       ~~incapacity. The standby guardian shall file a copy of the~~  
9       ~~determination of incapacity with the court that issued the~~  
10       ~~decree within 90 days of the date of receipt of the~~  
11       ~~determination, or the standby guardian's authority may be~~  
12       ~~rescinded by the court.~~

13           ~~(2) Where the decree provides that the authority of the~~  
14       ~~standby guardian is effective upon receipt of a certificate~~  
15       ~~of the petitioner's death, the standby guardian's authority~~  
16       ~~shall commence upon the standby guardian's receipt of a~~  
17       ~~certificate of death. The standby guardian shall file the~~  
18       ~~certificate of death with the court that issued the decree~~  
19       ~~within 90 days of the date of the petitioner's death or the~~  
20       ~~standby guardian's authority may be rescinded by the court.~~

21           ~~(3) Notwithstanding paragraphs (1) and (2), a standby~~  
22       ~~guardian's authority shall commence upon the standby~~  
23       ~~guardian's receipt of the petitioner's written consent to~~  
24       ~~commencement, signed by the petitioner in the presence of two~~  
25       ~~witnesses at least 18 years of age, other than the standby~~  
26       ~~guardian, who shall also sign the writing. Another person may~~  
27       ~~sign the written consent on the petitioner's behalf and at~~  
28       ~~the petitioner's direction if the petitioner is physically~~  
29       ~~unable to do so, provided the consent is signed in the~~  
30       ~~presence of the petitioner and the witnesses. The standby~~

~~guardian shall file the written consent with the court that issued the decree within 90 days of the date of receipt of the written consent or the standby guardian's authority may be rescinded by the court.~~

~~(f) Revocation. The petitioner may revoke a standby guardianship created under this act by executing a written revocation, filing it with the court that issued the decree and promptly notifying the standby guardian of the revocation.~~

~~(g) Renouncing. A person judicially appointed standby guardian pursuant to this subsection may at any time before the commencement of his or her authority renounce the appointment by executing a written renunciation and filing it with the court that issued the decree and promptly notifying the petitioner of the revocation.~~

#### ~~Section 4. Designation.~~

~~(a) General rule. A parent may designate a standby guardian by means of a written designation, signed by the parent in the presence of two witnesses at least 18 years of age, other than the standby guardian, who shall also sign the document. Another person may sign the written designation on the parent's behalf and at the parent's direction if the parent is physically unable to do so, provided the designation is signed in the presence of the parent and the witnesses.~~

#### ~~(b) Contents.—~~

~~(1) A designation of a standby guardian shall identify the parent, the infant and the person designated to be the standby guardian and shall indicate that the parent intends for the standby guardian to become the infant's guardian in the event the parent either becomes incapacitated or becomes debilitated and consents to the commencement of the standby~~

1 ~~guardian's authority.~~

2 ~~(2) A parent may designate an alternate standby guardian~~  
3 ~~in the same document, and by the same manner, as the~~  
4 ~~designation of a standby guardian.~~

5 ~~(3) A designation may, but need not, be in the following~~  
6 ~~form:~~

7 ~~Designation of Standby Guardian~~

8 ~~I (name of parent) hereby designate (name, home~~  
9 ~~address and telephone number of standby guardian) as~~  
10 ~~standby guardian of the person and property of my~~  
11 ~~child(ren) (name of child(ren)).~~

12 ~~(You may, if you wish, provide that the standby~~  
13 ~~guardian's authority shall extend only to the person, or~~  
14 ~~only to the property, of your child, by crossing out~~  
15 ~~"person" or "property," whichever is inapplicable,~~  
16 ~~above.)~~

17 ~~The standby guardian's authority shall take effect if~~  
18 ~~and when either:~~

19 ~~(1) my doctor concludes I am mentally incapacitated, and~~  
20 ~~thus unable to care for my child(ren) or~~

21 ~~(2) my doctor concludes that I am physically~~  
22 ~~debilitated, and thus unable to care for my child(ren), and I~~  
23 ~~consent in writing before two witnesses to the standby~~  
24 ~~guardian's authority taking effect.~~

25 ~~In the event the person I designate above is unable~~  
26 ~~or unwilling to act as guardian for my child(ren), I~~  
27 ~~hereby designate (name, home address and telephone number~~  
28 ~~of alternate standby guardian), as standby guardian of my~~  
29 ~~child(ren).~~

30 ~~I also understand that my standby guardian's~~

~~authority will cease 60 days after commencing unless by  
such date he or she petitions the court for appointment  
as guardian.~~

~~I understand that I retain full parental rights even  
after the commencement of the standby guardian's  
authority and may revoke the standby guardianship at any  
time.~~

~~Signature.....~~

~~Address.....~~

~~Date.....~~

~~I declare that the person whose name appears above  
signed this document in my presence, or was physically  
unable to sign and asked another to sign this document,  
who did so in my presence. I further declare that I am at  
least 18 years of age and am not the person designated as  
standby guardian.~~

~~Witness Signature.....~~

~~Address.....~~

~~Date.....~~

~~Witness Signature.....~~

~~Address.....~~

~~Date.....~~

~~(c) Commencement. The authority of the standby guardian  
under a designation shall commence upon either:~~

~~(1) the standby guardian's receipt of a copy of a  
determination of incapacity; or~~

~~(2) the standby guardian's receipt of a copy of a  
determination of debilitation and a copy of the parent's  
written consent to the commencement, signed by the parent in  
the presence of two witnesses at least 18 years of age, other~~

1 ~~than the standby guardian, who shall also sign the document.~~

2 ~~Another person may sign the written consent on the parent's~~

3 ~~behalf and at the parent's direction if the parent is~~

4 ~~physically unable to do so, provided such consent is signed~~

5 ~~in the presence of the parent and the witnesses. The standby~~

6 ~~guardian shall file a petition pursuant to subsection (d)~~

7 ~~within 60 days of the date of its commencement or the standby~~

8 ~~guardian's authority shall cease after that date, but shall~~

9 ~~recommence upon such filing.~~

10 ~~(d) Filing petition. The standby guardian may file a~~

11 ~~petition for appointment as guardian after receipt of either a~~

12 ~~copy of a determination of incapacity or a copy of a~~

13 ~~determination of debilitation and a copy of the parent's written~~

14 ~~consent. The petition must:~~

15 ~~(1) append the written designation of the person as~~

16 ~~standby guardian; and~~

17 ~~(2) append a copy of either:~~

18 ~~(i) the determination of incapacity of the parent;~~

19 ~~or~~

20 ~~(ii) the determination of debilitation and the~~

21 ~~parental consent; and~~

22 ~~(3) if the petition is by a person designated as~~

23 ~~alternate standby guardian, state that the person designated~~

24 ~~as standby guardian is unwilling or unable to act as standby~~

25 ~~guardian, and the basis for such statement.~~

26 ~~(e) Decree. If the court finds that the person was duly~~

27 ~~designated as standby guardian, that a determination of~~

28 ~~incapacity or a determination of debilitation and parental~~

29 ~~consent has been made pursuant to this section, that the~~

30 ~~interests of the infant will be promoted by the appointment of a~~



~~standby guardian of the person and/or property and that, if the petition is by a person designated as alternate standby guardian, the person designated as standby guardian is unwilling or unable to act as standby guardian, it must make a decree accordingly.~~

~~(f) Revoker. The parent may revoke a standby guardianship created under this act:~~

~~(1) by notifying the standby guardian verbally or in writing or by any other act evidencing a specific intent to revoke the standby guardianship prior to the filing of a petition; and~~

~~(2) where the petition has already been filed, by executing a written revocation, filing it with the court where the petition was filed and promptly notifying the standby guardian of the revocation.~~

~~(g) Other petition. The standby guardian may also file a petition for appointment as guardian in any other manner permitted by law, on notice to the parent, and may append a designation of standby guardian to the petition for consideration by the court in the determination of the petition.~~

~~Section 5. Determination of incapacity.~~

~~(a) General rule. A determination of incapacity or debilitation must be made by the attending physician to a reasonable degree of medical certainty, be in writing and contain the attending physician's opinion regarding the cause and the nature of the petitioner's incapacity or debilitation as well as its extent and probable duration. The attending physician shall provide a copy of the determination of incapacity or debilitation to the standby guardian, if the standby guardian's identity is known to the physician.~~

~~(b) Request.— If requested by the standby guardian, an attending physician shall make a determination regarding the petitioner's incapacity or debilitation for purposes of this section.~~

~~(c) Notice.— The standby guardian shall ensure that the petitioner is informed of the commencement of the standby guardian's authority as a result of a determination of incapacity and of the petitioner's right to revoke that authority promptly after receipt of the determination of incapacity, provided there is any indication of the petitioner's ability to comprehend the information.~~

~~(d) Scope of determinations.— Commencement of the standby guardian's authority pursuant to a determination of incapacity, determination of debilitation or consent shall not, itself, divest the petitioner of any parental or guardianship rights, but shall confer upon the standby guardian concurrent authority with respect to the infant.~~

#### ~~Section 6.— Filing.~~

~~(a) County clerk.— The clerk of any county upon being paid the fees allowed therefore by law shall receive for filing any instrument appointing or designating a standby guardian made by a domiciliary of the county and shall give a written receipt therefor to the person delivering it. The filing of an appointment or designation of standby guardian shall be for the sole purpose of safekeeping and shall not affect the validity of the appointment or designation.~~

~~(b) Delivery.— The appointment or designation shall be delivered only to:~~

~~(1) the parent who appointed or designated the standby guardian;~~

~~(2) the standby guardian or alternate standby guardian;~~  
~~(3) the person designated as standby guardian or~~  
~~alternate standby guardian; or~~  
~~(4) any other person directed by the court.~~

~~Section 7. This act shall take effect in 60 days.~~

SECTION 1. SHORT TITLE.

THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE STANDBY  
GUARDIANSHIP ACT.

SECTION 2. LEGISLATIVE INTENT.

IT IS THE INTENT OF THE GENERAL ASSEMBLY TO CREATE AN  
EXPEDITIOUS MANNER OF ESTABLISHING A GUARDIANSHIP WHICH WILL  
ENABLE A PARENT WHO IS TERMINALLY ILL OR WHO IS PERIODICALLY  
INCAPABLE OF CARING FOR THE NEEDS OF A MINOR CHILD TO MAKE LONG-  
TERM PLANS FOR THE CARE OF A CHILD WITHOUT TERMINATING THE  
PARENT'S LEGAL RIGHTS.

SECTION 3. LEGISLATIVE FINDINGS.

THE GENERAL ASSEMBLY FINDS THAT THE NEEDS OF A PARENT WHO IS  
TERMINALLY ILL AND WHO DESIRES TO MAKE LONG-TERM PLANS FOR THE  
FUTURE OF A MINOR CHILD WITHOUT TERMINATING HIS LEGAL PARENTAL  
RIGHTS IS INADEQUATELY PROVIDED FOR IN CERTAIN CASES. A LARGE  
AND RAPIDLY GROWING NUMBER OF AMERICAN YOUTH ARE BEING ORPHANED  
DUE TO TERMINAL ILLNESS AND THE INCREASE OF SINGLE-PARENT  
FAMILIES. UNLESS INCREASED ATTENTION AND RESOURCES ARE DEVOTED  
TO THIS VULNERABLE POPULATION, A SOCIAL CATASTROPHE IS  
UNAVOIDABLE. IT IS ESTIMATED THAT BY THE END OF 1995, MATERNAL  
DEATHS WILL HAVE ORPHANED WELL OVER 45,000 AMERICAN YOUTHS, AND  
BY THE YEAR 2000, THE OVERALL NUMBER OF MOTHERLESS YOUTHS WILL  
EASILY EXCEED 125,000.

SECTION 4. DEFINITIONS.

THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL

1 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
2 CONTEXT CLEARLY INDICATES OTHERWISE:

3 "ALTERNATE STANDBY GUARDIAN." A PERSON WITH ALL THE RIGHTS,  
4 RESPONSIBILITIES AND QUALIFICATIONS OF A STANDBY GUARDIAN WHO  
5 SHALL BECOME A STANDBY GUARDIAN ONLY IN THE EVENT THAT THE NAMED  
6 STANDBY GUARDIAN IS UNABLE OR REFUSES TO FULFILL HIS OBLIGATION.

7 "ATTENDING PHYSICIAN." A PHYSICIAN WHO HAS PRIMARY  
8 RESPONSIBILITY FOR THE TREATMENT AND CARE OF THE DESIGNATOR.  
9 WHERE MORE THAN ONE PHYSICIAN SHARES RESPONSIBILITY OR WHERE A  
10 PHYSICIAN IS ACTING ON THE ATTENDING PHYSICIAN'S BEHALF, EACH  
11 PHYSICIAN MAY ACT AS THE ATTENDING PHYSICIAN AS DEFINED BY THIS  
12 ACT. WHERE NO PHYSICIAN HAS RESPONSIBILITY, ANY PHYSICIAN WHO IS  
13 FAMILIAR WITH THE DESIGNATOR'S MEDICAL CONDITION MAY ACT AS  
14 ATTENDING PHYSICIAN PURSUANT TO THIS ACT.

15 "COGUARDIAN." A STANDBY GUARDIAN WITH SHARED AUTHORITY TO  
16 ACT AS GUARDIAN OF A DESIGNATOR'S MINOR CHILD UPON THE  
17 OCCURRENCE OF A TRIGGERING EVENT.

18 "CONSENT." A WRITTEN AUTHORIZATION SIGNED BY A PARENT OF A  
19 MINOR CHILD IN THE PRESENCE OF TWO WITNESSES WHO SHALL ALSO SIGN  
20 THE DOCUMENT. THE WRITTEN CONSENT SHALL CONTAIN THE TERMS FOR  
21 THE ASSUMPTION OF COGUARDIAN DUTIES BY A STANDBY GUARDIAN.

22 "COURT." THE ORPHANS' COURT IN THE COUNTY IN WHICH THE MINOR  
23 RESIDES.

24 "DEBILITATION." A CHRONIC AND SUBSTANTIAL INABILITY, AS A  
25 RESULT OF A PHYSICALLY IMPAIRING DISEASE OR INJURY. THE TERM  
26 "DEBILITATED" MEANS THE STATE OF HAVING A DEBILITATION.

27 "DESIGNATION." A WRITTEN DOCUMENT NAMING A STANDBY GUARDIAN  
28 WHICH IS VOLUNTARILY EXECUTED BY THE DESIGNATOR IN ACCORDANCE  
29 WITH THIS ACT.

30 "DESIGNATOR." A PARENT WHO APPOINTS A STANDBY GUARDIAN AND

1 WHO IS LIKELY IN THE FORESEEABLE FUTURE TO BECOME DEBILITATED,  
2 INCAPACITATED OR DIE AS A RESULT OF A MENTAL OR PHYSICAL  
3 CONDITION IN ACCORDANCE WITH THIS ACT.

4 "DETERMINATION OF DEBILITATION." A WRITTEN FINDING MADE BY  
5 AN ATTENDING PHYSICIAN WHICH CONTAINS HIS OPINION REGARDING THE  
6 NATURE, CAUSE, EXTENT AND PROBABLE DURATION OF A DESIGNATOR'S  
7 PHYSICAL DEBILITATION.

8 "DETERMINATION OF INCAPACITY." A WRITTEN FINDING MADE BY AN  
9 ATTENDING PHYSICIAN WHICH CONTAINS HIS OPINION REGARDING THE  
10 NATURE, CAUSE, EXTENT AND PROBABLE DURATION OF A DESIGNATOR'S  
11 MENTAL OR ORGANIC INCAPACITY.

12 "DUTIES OF A COGUARDIAN." ALL THE POWERS AND DUTIES OF A  
13 GUARDIAN AS DETERMINED BY 20 PA.C.S. (RELATING TO DECEDENTS,  
14 ESTATES AND FIDUCIARIES).

15 "INCAPACITY." A CHRONIC AND SUBSTANTIAL INABILITY, AS A  
16 RESULT OF MENTAL OR ORGANIC IMPAIRMENT, TO UNDERSTAND THE NATURE  
17 AND CONSEQUENCES OF DECISIONS. THE TERM "INCAPACITATED" MEANS  
18 THE STATE OF HAVING AN INCAPACITY.

19 "MINOR CHILD." A CHILD UNDER 18 YEARS OF AGE.

20 "NONCUSTODIAL PARENT." A PARENT WITHOUT CUSTODY OVER THE  
21 PERSON OF A MINOR CHILD.

22 "PARENT." A PARENT OR LEGAL GUARDIAN WITH PHYSICAL CUSTODY  
23 OF A MINOR CHILD.

24 "PETITIONER." ANY PERSON, INCLUDING A PARENT OR DESIGNATED  
25 STANDBY GUARDIAN, WHO ACTING IN THE BEST INTERESTS OF A MINOR  
26 CHILD FILES A PETITION WITH THE COURT FOR APPOINTMENTS PROVIDED  
27 FOR BY THIS ACT.

28 "STANDBY GUARDIAN." A PERSON NAMED BY THE DESIGNATOR TO  
29 ASSUME THE DUTIES OF COGUARDIAN OVER THE PERSON AND WHERE  
30 APPLICABLE THE PROPERTY OF A MINOR CHILD UPON CONSENT, DEATH,

1 INCAPACITY OR DEBILITATION OF THE DESIGNATOR OR TO ASSUME THE  
2 DUTIES OF GUARDIAN IN THE EVENT OF THE DEATH OF THE DESIGNATOR.

3 "TRIGGERING EVENT." AN EVENT OR EVENTS STATED IN THE  
4 DESIGNATION OR DECREE WHICH EMPOWER A STANDBY GUARDIAN TO ASSUME  
5 THE DUTIES OF GUARDIAN OR COGUARDIAN. A TRIGGERING EVENT MAY  
6 INCLUDE, BUT IS NOT LIMITED TO, DEATH, INCAPACITY, DEBILITATION  
7 OR CONSENT OF THE DESIGNATOR OR WHICHEVER COMES FIRST.

8 SECTION 5. SCOPE.

9 THE PROVISIONS OF 20 PA.C.S. (RELATING TO DECEDENTS, ESTATES  
10 AND FIDUCIARIES) SHALL APPLY TO COGUARDIANS AND GUARDIANS UNLESS  
11 OTHERWISE SPECIFIED IN THIS ACT. NOTHING IN THIS ACT SHALL BE  
12 CONSTRUED TO DEPRIVE ANY PARENT, INCLUDING ANY NONCUSTODIAL  
13 PARENT, OF PARENTAL RIGHTS.

14 SECTION 6. DESIGNATION.

15 (A) GENERAL RULE.--A PARENT MAY DESIGNATE A STANDBY GUARDIAN  
16 BY MEANS OF A WRITTEN DESIGNATION, SIGNED BY THE PARENT IN THE  
17 PRESENCE OF TWO WITNESSES WHO ARE AT LEAST 18 YEARS OF AGE,  
18 OTHER THAN THE STANDBY GUARDIAN DESIGNEE. ANOTHER PERSON MAY  
19 SIGN THE WRITTEN DESIGNATION ON THE PARENT'S BEHALF AND AT THE  
20 PARENT'S DIRECTION IF THE PARENT IS PHYSICALLY UNABLE TO DO SO,  
21 PROVIDED THE DESIGNATION IS SIGNED IN THE PRESENCE OF THE PARENT  
22 AND WITNESSES AT THE EXPRESSED REQUEST OF THE PARENT.

23 (B) CONTENTS.--

24 (1) A DESIGNATION OF A STANDBY GUARDIAN SHALL IDENTIFY  
25 THE PARENT MAKING THE DESIGNATION, THE MINOR CHILD, THE  
26 STANDBY GUARDIAN, THE ALTERNATE STANDBY GUARDIAN IF DESIRED  
27 AND THE TRIGGERING EVENT OR EVENTS UPON WHICH A STANDBY  
28 GUARDIAN ASSUMES COGUARDIANSHIP, OR GUARDIANSHIP IN THE EVENT  
29 OF DEATH. A DESIGNATOR MAY NAME DIFFERENT STANDBY GUARDIANS  
30 WITH DIFFERENT TRIGGERING EVENTS WHICH ACTIVATE

COGUARDIANSHIP, OR GUARDIANSHIP IN THE EVENT OF DEATH.

(2) A DESIGNATION MAY, BUT NEED NOT, BE IN THE FOLLOWING FORM:

DESIGNATION OF STANDBY GUARDIAN

I (INSERT NAME OF PARENT MAKING THE DESIGNATION), HEREBY DESIGNATE (INSERT NAME, HOME ADDRESS AND TELEPHONE NUMBER OF PROPOSED STANDBY GUARDIAN) AS THE STANDBY GUARDIAN OF THE PERSON AND PROPERTY (CROSS OUT "PERSON" OR "PROPERTY" AS APPROPRIATE OR LEAVE AS IS IF BOTH ARE TO APPLY) OF MY MINOR CHILD OR CHILDREN, (INSERT NAME OF MINOR CHILD OR CHILDREN).

I HEREBY DESIGNATE (INSERT NAME, HOME ADDRESS AND TELEPHONE NUMBER OF PROPOSED ALTERNATE STANDBY GUARDIAN) AS THE ALTERNATE STANDBY GUARDIAN TO ASSUME THE DUTIES OF THE STANDBY GUARDIAN NAMED ABOVE IN THE EVENT THE STANDBY GUARDIAN IS UNABLE TO OR REFUSES TO ACT AS A STANDBY GUARDIAN.

THE TRIGGERING EVENT OR EVENTS WHICH CONFER AUTHORITY UPON THE STANDBY GUARDIAN NAMED IN THIS DESIGNATION SHALL BE (INSERT NUMBER OR NUMBERS OF EVENTS AS LISTED BELOW):

(1) A DETERMINATION OF MY INCAPACITY;

(2) A DETERMINATION OF MY PHYSICAL DEBILITATION WITH MY CONSENT;

(3) MY DEATH;

(4) MY WRITTEN CONSENT.

IF I HAVE INDICATED MORE THAN ONE TRIGGERING EVENT, IT IS MY INTENT THAT THE TRIGGERING EVENT WHICH OCCURS FIRST SHALL TAKE PRECEDENCE, AND, IF I HAVE INDICATED "MY DEATH" AS THE TRIGGERING EVENT, IT IS MY INTENT THAT THE PERSON NAMED IN THIS DESIGNATION SHALL BE APPOINTED AS GUARDIAN OF MY MINOR CHILD.

BY THIS DESIGNATION I AM GRANTING THE PERSON NAMED AS THE STANDBY GUARDIAN THE AUTHORITY TO ASSUME THE DUTIES AS

1 COGUARDIAN WITH ME UPON THE OCCURRENCE OF THE TRIGGERING EVENT  
2 FOR A PERIOD OF 60 DAYS.

3 IT IS MY INTENTION TO RETAIN FULL PARENTAL RIGHTS TO THE  
4 EXTENT CONSISTENT WITH MY CONDITION, TO RETAIN THE AUTHORITY TO  
5 REVOKE THE STANDBY GUARDIANSHIP AND/OR COGUARDIANSHIP AND TO BE  
6 REINSTATED AS SOLE GUARDIAN OF MY MINOR CHILD SHOULD MY  
7 CONDITION PERMIT AND IF I SO CHOOSE.

8 DESIGNATOR'S SIGNATURE.....

9 ADDRESS.....

10 DATE.....

11 I DECLARE THAT THE PERSON WHOSE NAME APPEARS ABOVE SIGNED  
12 THIS DOCUMENT IN MY PRESENCE OR WAS PHYSICALLY UNABLE TO SIGN  
13 AND DIRECTED ANOTHER TO SIGN THIS DOCUMENT, WHO DID SO IN MY  
14 PRESENCE. I FURTHER DECLARE THAT I AM AT LEAST 18 YEARS OF AGE  
15 AND AM NOT THE PERSON DESIGNATED AS A STANDBY GUARDIAN OR  
16 ALTERNATE STANDBY GUARDIAN.

17 WITNESS SIGNATURE.....

18 ADDRESS.....

19 DATE.....

20 WITNESS SIGNATURE.....

21 ADDRESS.....

22 DATE.....

23 (C) AUTHORITY.--A DESIGNATION SHALL CONFER UPON A NAMED  
24 STANDBY GUARDIAN THE AUTHORITY TO ACT AS COGUARDIAN OF THE  
25 PERSON WITH THE DESIGNATOR OR, IN THE CASE OF DEATH OF THE  
26 DESIGNATOR, AS GUARDIAN OF THE NAMED MINOR CHILD FOR A PERIOD OF  
27 60 DAYS. WITHIN 60 DAYS OF THE TRIGGERING EVENT, THE COURT SHALL  
28 ENTER A DECREE AUTHORIZING APPROVAL OR DISAPPROVAL OF THE NAMED  
29 PERSON AS COGUARDIAN OR GUARDIAN.

30 (D) RENOUNCING.--A PERSON DESIGNATED STANDBY GUARDIAN



1 PURSUANT TO THIS SECTION MAY AT ANY TIME BEFORE APPROVAL IS  
2 GRANTED TO ACT AS COGUARDIAN OR GUARDIAN RENOUNCE THE  
3 DESIGNATION BY EXECUTING A WRITTEN RENUNCIATION AND PROMPTLY  
4 NOTIFYING THE DESIGNATOR AND THE MINOR CHILD.

5 SECTION 7. DETERMINATIONS.

6 (A) GENERAL RULE.--A DETERMINATION OF INCAPACITY OR  
7 DEBILITATION MUST BE MADE BY THE ATTENDING PHYSICIAN TO A  
8 REASONABLE DEGREE OF MEDICAL CERTAINTY, BE IN WRITING AND  
9 CONTAIN THE ATTENDING PHYSICIAN'S OPINION REGARDING THE CAUSE  
10 AND THE NATURE OF THE DESIGNATOR'S INCAPACITY OR DEBILITATION AS  
11 WELL AS ITS EXTENT AND PROBABLE DURATION. THE IDENTITY OF THE  
12 ILLNESS SHALL NOT BE REQUIRED TO BE DOCUMENTED OR INDICATED. THE  
13 ATTENDING PHYSICIAN SHALL PROVIDE A COPY OF THE DETERMINATION OF  
14 INCAPACITY OR DEBILITATION TO THE DESIGNATED STANDBY GUARDIAN,  
15 IF THE STANDBY GUARDIAN'S IDENTITY IS KNOWN TO THE PHYSICIAN.  
16 THE DESIGNATOR'S DEATH CERTIFICATE SHALL BE THE DETERMINATION OF  
17 THE DESIGNATOR'S DEATH.

18 (B) REQUEST.--IF REQUESTED BY A PETITIONER, AN ATTENDING  
19 PHYSICIAN SHALL MAKE A DETERMINATION REGARDING THE DESIGNATOR'S  
20 INCAPACITY OR DEBILITATION FOR PURPOSES OF THIS ACT.

21 SECTION 8. COMMENCEMENT OF COGUARDIANSHIP.

22 (A) GENERAL RULE.--IF A DESIGNATION HAS BEEN MADE AND A  
23 TRIGGERING EVENT HAS OCCURRED, THE STANDBY GUARDIAN SHALL HAVE  
24 THE AUTHORITY TO ACT AS COGUARDIAN FOR 60 DAYS FROM THE  
25 TRIGGERING EVENT AND SHALL, WITHIN 60 DAYS OF THE TRIGGERING  
26 EVENT, FILE A PETITION FOR APPROVAL WITH THE COURT. IF NO  
27 PETITION IS FILED WITHIN 60 DAYS, THE STANDBY GUARDIAN SHALL  
28 LOSE ALL AUTHORITY TO ACT AS A COGUARDIAN. IF A DESIGNATION HAS  
29 NOT BEEN FILED, THE STANDBY GUARDIAN SHALL FILE THE DESIGNATION  
30 IN ACCORDANCE WITH SECTION 11 UPON COMMENCEMENT OF

1 COGUARDIANSHIP.

2 (B) NOTICE.--THE STANDBY GUARDIAN SHALL NOTIFY THE  
3 DESIGNATOR OF THE COMMENCEMENT OF THE COGUARDIAN DUTIES.

4 (C) TERMINATION.--UPON JUDICIAL APPROVAL, COGUARDIANSHIP OF  
5 A MINOR CHILD CONTINUES DURING THE NONAGE OF THE MINOR CHILD  
6 UNLESS IT IS SOONER TERMINATED BY A COURT OF COMPETENT  
7 JURISDICTION, REVOCATION OF DESIGNATION, RETURN TO CAPACITY OF  
8 THE DESIGNATOR, DEATH, RESIGNATION, REMOVAL OR ANY OTHER WAY  
9 AUTHORIZED BY LAW.

10 (D) REVOCATION.--A DESIGNATOR MAY REVOKE STANDBY GUARDIAN  
11 AUTHORITY UNDER THIS ACT BY EXECUTING A WRITTEN REVOCATION,  
12 FILING IT WITH THE COURT AND PROMPTLY NOTIFYING THE STANDBY  
13 GUARDIAN OF THE REVOCATION. UNWRITTEN REVOCATIONS MAY BE  
14 CONSIDERED BY THE COURT IF AN UNWRITTEN REVOCATION CAN BE PROVEN  
15 BY CLEAR AND CONVINCING EVIDENCE SUBMITTED TO THE COURT.

16 (E) BOND.--THE COURT SHALL NOT REQUIRE THE STANDBY GUARDIAN  
17 OF THE PERSON OF A MINOR CHILD TO POST A BOND. THE COURT IN ITS  
18 DISCRETION MAY REQUIRE A BOND IF THE STANDBY GUARDIAN IS  
19 DESIGNATED THE GUARDIAN OF THE PROPERTY OF THE MINOR CHILD.

20 (F) AUTHORITY.--A DESIGNATOR SHALL CONFER UPON THE STANDBY  
21 GUARDIAN SHARED AUTHORITY WITH RESPECT TO THE MINOR CHILD UNLESS  
22 IT STATES OTHERWISE. THE STANDBY GUARDIAN SHALL INVOLVE THE  
23 DESIGNATOR IN THE CARE OF THE MINOR CHILD TO THE FULLEST EXTENT  
24 POSSIBLE.

25 (G) RESTORED CAPACITY.--IN THE EVENT THAT THE DESIGNATOR IS  
26 RESTORED OR IS RETURNED TO FITNESS, COGUARDIANSHIP SHALL BE  
27 SUSPENDED.

28 SECTION 9. COMMENCEMENT OF GUARDIANSHIP.

29 IN THE EVENT OF DEATH THE STANDBY GUARDIAN WHO HAS BEEN  
30 DESIGNATED TO BECOME THE CHILD'S GUARDIAN UPON THE TRIGGERING

1 EVENT OF DEATH SHALL HAVE AUTHORITY TO ACT AS GUARDIAN FOR 60  
2 DAYS AND SHALL HAVE 60 DAYS FROM THE DATE OF DEATH TO FILE A  
3 PETITION FOR APPOINTMENT AS PERMANENT GUARDIAN WITH THE COURT OF  
4 COMMON PLEAS.

5 SECTION 10. PETITION FOR APPROVAL OF STANDBY GUARDIAN TO ACT AS  
6 COGUARDIAN OR GUARDIAN.

7 (A) GENERAL RULE.--A PETITION FOR JUDICIAL APPROVAL OF A  
8 STANDBY GUARDIAN TO ACT AS A COGUARDIAN OR GUARDIAN OF THE  
9 PERSON AND/OR PROPERTY OF A MINOR CHILD PURSUANT TO THIS ACT  
10 SHALL BE MADE BY A PETITIONER TO THE COURT OF COMMON PLEAS IN  
11 THE COUNTY IN WHICH THE MINOR RESIDES. THE PETITION MAY BE FILED  
12 NOT LATER THAN 60 DAYS AFTER THE TRIGGERING EVENT.

13 (B) PETITION CONTENTS.--A PETITION FOR JUDICIAL APPROVAL OF  
14 A STANDBY GUARDIAN TO ACT AS A COGUARDIAN OR GUARDIAN OF A MINOR  
15 CHILD SHALL APPEND THE WRITTEN DESIGNATION AND SHALL:

16 (1) STATE THE NAME, ADDRESS AND QUALIFICATIONS OF THE  
17 PROPOSED STANDBY GUARDIAN AND, IF APPLICABLE, THE NAME,  
18 ADDRESS AND QUALIFICATIONS OF THE ALTERNATE STANDBY GUARDIAN.

19 (2) STATE THE TRIGGERING EVENT OR EVENTS WHICH CAUSE THE  
20 STANDBY GUARDIAN TO BECOME THE COGUARDIAN OR GUARDIAN.

21 (3) APPEND THE DOCUMENTATION OF THE TRIGGERING EVENT.

22 (4) IN THE EVENT THE TRIGGERING EVENT IS DEBILITATION OR  
23 CONSENT, THE DESIGNATOR'S CONSENT SHALL ALSO BE APPENDED TO  
24 THE PETITION.

25 (C) ALTERNATE TO BE APPOINTED.--IF A PETITION IS SUBMITTED  
26 TO APPOINT AN ALTERNATE STANDBY GUARDIAN, IT SHALL ALSO CONTAIN  
27 A STATEMENT THAT THE PERSON DESIGNATED AS STANDBY GUARDIAN IS  
28 UNWILLING OR UNABLE TO ACT AS COGUARDIAN, AND THE BASIS FOR THAT  
29 STATEMENT.

30 (D) COURT APPEARANCE.--THE DESIGNATOR'S APPEARANCE IN COURT

1 SHALL NOT BE REQUIRED IF THE DESIGNATOR IS MEDICALLY UNABLE TO  
2 APPEAR, EXCEPT UPON MOTION AND FOR GOOD CAUSE SHOWN.

3 (E) REPRESENTATION OF MINOR CHILD.--THE COURT MAY APPOINT  
4 COUNSEL TO REPRESENT THE BEST INTERESTS AND THE WISHES OF THE  
5 MINOR CHILD.

6 (F) NOTICE.--WHEN A PETITION FOR APPROVAL OF A STANDBY  
7 GUARDIAN TO ACT AS COGUARDIAN OR GUARDIAN FOR A MINOR CHILD IS  
8 FILED, NOTICE SHALL BE SERVED ON THE DESIGNATOR, THE STANDBY  
9 GUARDIAN, ANY NONCUSTODIAL PARENT AND THE MINOR CHILD. IF THE  
10 PETITION ALLEGES THAT AFTER A DILIGENT SEARCH THE NONCUSTODIAL  
11 PARENT CANNOT BE LOCATED, THE NONCUSTODIAL PARENT SHALL BE  
12 SERVED BY NOTICE DELIVERED TO THE NONCUSTODIAL PARENT'S LAST  
13 KNOWN ADDRESS OR ADDRESSES AND BY PUBLICATION PURSUANT TO  
14 PA.R.C.P. NO. 440.

15 (G) DECREE.--IF THE COURT DETERMINES THAT A DESIGNATION HAS  
16 BEEN MADE IN ACCORDANCE WITH THIS ACT AND THAT THE FOLLOWING  
17 CONDITIONS ARE FACT, THE COURT SHALL MAKE A DECREE ACCORDINGLY:

18 (1) THE PROPOSED STANDBY GUARDIAN IS QUALIFIED TO SERVE  
19 AS A COGUARDIAN OR GUARDIAN UNDER 20 PA.C.S. (RELATING TO  
20 DECEDENTS, ESTATES AND FIDUCIARIES).

21 (2) THE PROPOSED STANDBY GUARDIAN IS FIT TO SERVE AS A  
22 COGUARDIAN OR GUARDIAN. AN INVESTIGATION TO DETERMINE FITNESS  
23 SHALL BE MADE WITHIN 20 DAYS OF FILING THE PETITION WITH THE  
24 COURT TO DETERMINE FITNESS, INCLUDING CLEARANCE THAT THE  
25 DESIGNATED COGUARDIAN OR GUARDIAN IS NOT INDICATED ON THE  
26 CHILD ABUSE HOT LINE REGISTRY.

27 (3) THE BEST INTERESTS OF THE MINOR CHILD WILL BE  
28 PROMOTED BY APPOINTMENT OF THE STANDBY GUARDIAN.

29 (H) DELIVERY.--THE APPOINTMENT DECREE SHALL BE DELIVERED TO:

30 (1) THE PARENT WHO DESIGNATED THE STANDBY GUARDIAN;

- 1           (2) THE STANDBY GUARDIAN OR ALTERNATE STANDBY GUARDIAN;  
2           (3) THE MINOR CHILD UPON THE REQUEST OF THE CHILD OR THE  
3 CHILD'S ATTORNEY; OR  
4           (4) ANY OTHER PERSON DIRECTED BY THE COURT.

5 SECTION 11. FILING.

6 THE REGISTER OF WILLS OF THE COUNTY IN WHICH THE MINOR CHILD  
7 RESIDES SHALL RECEIVE FOR FILING ANY INSTRUMENT DESIGNATING A  
8 STANDBY GUARDIAN MADE BY A DOMICILIARY OF THE COUNTY AND SHALL  
9 GIVE A WRITTEN RECEIPT THEREFOR TO THE PERSON DELIVERING IT. THE  
10 FILING OF A DESIGNATION OF STANDBY GUARDIAN SHALL BE FOR THE  
11 SOLE PURPOSE OF SAFEKEEPING AND SHALL NOT AFFECT THE VALIDITY OF  
12 THE APPOINTMENT OR DESIGNATION. THE REGISTER OF WILLS SHALL  
13 PROVIDE DIRECTIONS FOR FILING STANDBY GUARDIAN DOCUMENTS, WHICH  
14 SHALL INDICATE QUALIFICATIONS NECESSARY FOR APPROVAL FOR  
15 APPOINTMENT AS STANDBY GUARDIAN. THE REGISTER OF WILLS SHALL  
16 NOTIFY BY FIRST CLASS MAIL ALL INDIVIDUALS NAMED AS A STANDBY  
17 GUARDIAN OF ANY DESIGNATION FILED WITH THE OFFICE.

18 SECTION 12. EFFECTIVE DATE.

19 THIS ACT SHALL TAKE EFFECT IN 60 DAYS.