

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1539 Session of 2017

INTRODUCED BY PASHINSKI, DRISCOLL, THOMAS, FREEMAN, ROTHMAN, KINSEY, VAZQUEZ, MILLARD, READSHAW, SCHLOSSBERG, DAVIS, CALTAGIRONE, HILL-EVANS, TOOHIL, KORTZ, PHILLIPS-HILL, SAMUELSON, HARKINS, DeLUCA, WARREN, FARRY, MADDEN, ROZZI, SNYDER, SAINATO, BERNSTINE, WATSON AND DOWLING, JUNE 13, 2017

AS REPORTED FROM COMMITTEE ON CHILDREN AND YOUTH, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 10, 2018

AN ACT

1 ~~Amending Title 23 (Domestic Relations) of the Pennsylvania~~ <--
2 ~~Consolidated Statutes, in standby guardianship, providing for~~
3 ~~temporary guardianship; and, in child protective services,~~
4 ~~further providing for release of information in confidential~~
5 ~~reports.~~

6 AMENDING TITLE 23 (DOMESTIC RELATIONS) OF THE PENNSYLVANIA <--
7 CONSOLIDATED STATUTES, IN STANDBY GUARDIANSHIP, FURTHER
8 PROVIDING FOR DEFINITIONS AND FOR SCOPE AND PROVIDING FOR
9 TEMPORARY GUARDIANSHIP; IN CHILD PROTECTIVE SERVICES, FURTHER
10 PROVIDING FOR RELEASE OF INFORMATION IN CONFIDENTIAL REPORTS;
11 AND MAKING EDITORIAL CHANGES.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 ~~Section 1. The heading of Chapter 56 of Title 23 of the~~ <--
15 ~~Pennsylvania Consolidated Statutes is amended to read:~~

CHAPTER 56

STANDBY AND TEMPORARY GUARDIANSHIP

18 Subchapter

19 A. Preliminary Provisions

20 B. General Provisions

1 ~~C. Temporary Guardianship~~

2 ~~Section 2. Chapter 56 of Title 23 is amended by adding a~~  
3 ~~subchapter to read:~~

4 ~~SUBCHAPTER C~~

5 ~~TEMPORARY GUARDIANSHIP~~

6 ~~Sec.~~

7 ~~5630. Grounds for appointment.~~

8 ~~5631. Standard for appointment.~~

9 ~~5632. Duration.~~

10 ~~5633. Hearing required.~~

11 ~~5634. Mandatory considerations.~~

12 ~~5635. Investigation required.~~

13 ~~5636. Limits on temporary guardianship powers.~~

14 ~~5637. Costs.~~

15 ~~5638. Termination of temporary guardianship.~~

16 ~~5639. Onsite assessment.~~

17 ~~5640. Agreement for temporary guardianship.~~

18 ~~§ 5630. Grounds for appointment.~~

19 ~~When an individual who is a parent of a minor has entered a~~  
20 ~~rehabilitation facility for treatment of a drug or alcohol~~  
21 ~~addiction, or has been subject to emergency medical intervention~~  
22 ~~due to abuse of drugs or alcohol, a grandparent of the minor or~~  
23 ~~an individual who stands in loco parentis to the minor may file~~  
24 ~~a petition with the court of common pleas for temporary~~  
25 ~~guardianship of that minor.~~

26 ~~§ 5631. Standard for appointment.~~

27 ~~A court may appoint an individual under section 5630~~  
28 ~~(relating to grounds for appointment) as temporary guardian if,~~  
29 ~~upon petition, it is shown by clear and convincing evidence~~  
30 ~~that:~~

1 ~~(1) Grounds for appointment have been established under~~  
2 ~~section 5630 or a written agreement for temporary~~  
3 ~~guardianship has been executed by a parent of the minor and~~  
4 ~~an individual listed under section 5630.~~

5 ~~(2) The other parent of the child:~~

6 ~~(i) is unable or unwilling to assume physical~~  
7 ~~custody or make decisions regarding the child;~~

8 ~~(ii) consents to the temporary guardianship;~~

9 ~~(iii) after a good faith effort, cannot be located;~~

10 ~~or~~

11 ~~(iv) is deceased.~~

12 ~~§ 5632. Duration.~~

13 ~~Temporary guardianship under this section shall be limited in~~  
14 ~~duration to not more than 60 days from entry of the order of~~  
15 ~~temporary guardianship but, upon petition or by written~~  
16 ~~agreement of the temporary guardian and the parent who has~~  
17 ~~entered a rehabilitation facility, may be extended for periods~~  
18 ~~of up to 60 additional days. The total period of guardianship~~  
19 ~~under this section may not exceed 365 days.~~

20 ~~§ 5633. Hearing required.~~

21 ~~Upon petition for temporary guardianship of a minor, the~~  
22 ~~court shall hold a hearing, at which one or both parents and the~~  
23 ~~minor has the right to be present. The court may not hold a~~  
24 ~~hearing absent proof of personal service upon the parent or~~  
25 ~~documentary evidence that after a good faith effort the other~~  
26 ~~parent cannot be located.~~

27 ~~§ 5634. Mandatory considerations.~~

28 ~~Before granting a petition under this section, the court~~  
29 ~~shall consider whether granting temporary guardianship is in the~~  
30 ~~best interest of a minor. When determining whether to grant or~~

1 ~~extend temporary guardianship the court shall also consider the~~  
2 ~~following:~~

3 ~~(1) The existence of feasible alternatives to temporary~~  
4 ~~guardianship.~~

5 ~~(2) The effect on the emotional, social and educational~~  
6 ~~development of the minor.~~

7 ~~(3) Whether the temporary guardianship will have an~~  
8 ~~adverse effect on the minor's relationship with the parent.~~

9 ~~(4) The wishes of either parent regarding the temporary~~  
10 ~~guardianship.~~

11 ~~(5) The expressed preference of an age appropriate~~  
12 ~~minor.~~

13 ~~(6) The physical and behavioral health of the temporary~~  
14 ~~guardian and any treatment rendered to the temporary guardian~~  
15 ~~by health care providers.~~

16 ~~(7) Other relevant factors regarding the effect of the~~  
17 ~~temporary guardianship.~~

18 ~~§ 5635. Investigation required.~~

19 ~~A court may not enter or extend an order of temporary~~  
20 ~~guardianship unless:~~

21 ~~(1) A search of the ChildLine database maintained by the~~  
22 ~~Department of Human Services indicates no record of the~~  
23 ~~temporary guardian or a person who resides in the same~~  
24 ~~household as the temporary guardian as being a perpetrator of~~  
25 ~~child abuse or neglect.~~

26 ~~(2) A search of criminal history records in this~~  
27 ~~Commonwealth and criminal history records maintained by~~  
28 ~~Federal agencies indicates no record of the temporary~~  
29 ~~guardian or a person who resides in the same household as the~~  
30 ~~temporary guardian as being convicted of a crime of violence,~~

1 ~~as defined in 42 Pa.C.S. § 9714(g) (relating to sentences for~~  
2 ~~second and subsequent offenses).~~

3 ~~§ 5636. Limits on temporary guardianship powers.~~

4 ~~In addition to any other restrictions on the power of a~~  
5 ~~guardian or temporary guardian, a temporary guardian may not~~  
6 ~~have the power to:~~

7 ~~(1) Remove the minor from the United States either~~  
8 ~~permanently or temporarily or permit the minor to be removed~~  
9 ~~from the United States either permanently or temporarily.~~

10 ~~(2) Remove the minor from this Commonwealth absent a~~  
11 ~~court order, which may only be issued after a hearing at~~  
12 ~~which both parents and the child shall have the right to be~~  
13 ~~present.~~

14 ~~§ 5637. Costs.~~

15 ~~A court may waive filing fees and other costs upon~~  
16 ~~application when the temporary guardian demonstrates the fees~~  
17 ~~and other costs would constitute a financial burden upon the~~  
18 ~~temporary guardian and the family of the temporary guardian.~~  
19 ~~There shall be a presumption of a financial burden if the income~~  
20 ~~from all sources of the temporary guardian is less than 300% of~~  
21 ~~the poverty level set by the Federal Government.~~

22 ~~§ 5638. Termination of temporary guardianship.~~

23 ~~A court may terminate a temporary guardianship upon a showing~~  
24 ~~that the basis for the temporary guardianship no longer exists~~  
25 ~~or that the parent and temporary guardian agree upon~~  
26 ~~termination. A party to the temporary guardianship may file a~~  
27 ~~petition with the court seeking termination.~~

28 ~~§ 5639. Onsite assessment.~~

29 ~~Within 15 days of termination of a temporary guardianship,~~  
30 ~~the court shall direct a county children and youth agency to do~~

1 ~~an onsite assessment of the home of the parent of the minor.~~

2 ~~§ 5640. Agreement for temporary guardianship.~~

3 ~~A parent and a temporary guardian may agree on a temporary~~  
4 ~~guardianship. In the case of more than one agreement for~~  
5 ~~temporary guardianship, the last executed agreement shall be~~  
6 ~~given effect. A designation of temporary guardianship may, but~~  
7 ~~need not, be in the following form:~~

8 ~~.....~~

9 ~~(Insert name of designator) do hereby appoint~~

10 ~~.....~~

11 ~~(Insert name, address and telephone number of temporary~~  
12 ~~guardian) as the temporary guardian of~~

13 ~~.....~~

14 ~~(Insert name(s) of minor(s) to take effect upon~~

15 ~~..... (Date).~~

16 ~~I am the mother/father/other to.....~~

17 ~~.....~~

18 ~~(Insert name(s) of minor(s)).~~

19 ~~.....~~

20 ~~(Insert name(s) of other parent(s) of minor(s)) is the~~  
21 ~~father/mother/other of .....~~

22 ~~.....~~

23 ~~(Insert name(s) of minor(s)).~~

24 ~~By this designation, I am granting .....~~

25 ~~(insert name of temporary guardian) the authority to act for~~  
26 ~~45 days following the occurrence of .....~~  
27 ~~as a coguardian with me or as guardian of my minor~~  
28 ~~child(ren).~~

29 ~~It is my intention to retain full parental rights to the~~  
30 ~~extent consistent with my condition and to retain the~~

1 ~~authority to revoke the temporary guardianship if I so~~  
2 ~~choose.~~

3 ~~This designation is made after careful reflection, while I am~~  
4 ~~of sound mind.~~

5 .....

6 \_\_\_\_\_ (Date) \_\_\_\_\_ (Designator's signature)

7 .....

8 \_\_\_\_\_ (Witness's signature) \_\_\_\_\_ (Witness's signature)

9 .....

10 \_\_\_\_\_ (Number and Street) \_\_\_\_\_ (Number and Street)

11 .....

12 \_\_\_\_\_ (City, State and Zip Code) \_\_\_\_\_ (City, State and Zip Code)

13 ~~If applicable: I, .....~~  
14 \_\_\_\_\_ (Insert name of other parent)

15 ~~hereby consent to this designation.~~

16 .....

17 \_\_\_\_\_ (Date) \_\_\_\_\_ (Signature of other parent)

18 .....

19 ~~(Address of other parent)~~

20 ~~I, .....~~

21 ~~(Insert name of temporary guardian) hereby accept my~~  
22 ~~nomination as temporary guardian of .....~~  
23 .....

24 ~~(Insert minor(s)'s name(s)). I understand that my rights and~~  
25 ~~responsibilities toward the minor child(ren) named above will~~  
26 ~~become effective upon ..... (Date)~~

27 ~~I further understand that in order to continue as temporary~~  
28 ~~guardian for the child(ren), I must file a petition with the~~  
29 ~~court of common pleas within 30 days of the order granting~~  
30 ~~the petition for temporary guardianship.~~

1 .....  
2 \_\_\_\_\_ (Date) \_\_\_\_\_ (Signature of temporary guardian)

3 NOTARY SEAL

4 I hereby revoke the above temporary guardianship agreement.

5 ..... (Parent signature)

6 ..... (Date)

7 NOTARY SEAL

8 Section 3. Section 6340(a)(5.1) of Title 23 is amended to  
9 read:

10 § 6340. Release of information in confidential reports.

11 (a) General rule. Reports specified in section 6339  
12 (relating to confidentiality of reports) shall only be made  
13 available to:

14 \* \* \*

15 (5.1) A court of common pleas in connection with any  
16 matter involving custody of a child as set forth in sections  
17 5328 (relating to factors to consider when awarding custody)  
18 and 5329.1 (relating to consideration of child abuse and  
19 involvement with protective services) or temporary  
20 guardianship of a child under Chapter 56 (relating to standby  
21 and temporary guardianship).

22 \* \* \*

23 Section 4. This act shall take effect in 60 days.

24 SECTION 1. THE HEADING OF CHAPTER 56 OF TITLE 23 OF THE <--  
25 PENNSYLVANIA CONSOLIDATED STATUTES IS AMENDED TO READ:

26 CHAPTER 56  
27 STANDBY AND TEMPORARY GUARDIANSHIP

28 SECTION 2. SECTIONS 5602 AND 5603 OF TITLE 23 ARE AMENDED TO  
29 READ:

30 § 5602. DEFINITIONS.



1 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER  
2 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
3 CONTEXT CLEARLY INDICATES OTHERWISE:

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

8 "ATTENDING PHYSICIAN." A PHYSICIAN WHO HAS PRIMARY  
9 RESPONSIBILITY FOR THE TREATMENT AND CARE OF THE DESIGNATOR. IF  
10 PHYSICIANS SHARE RESPONSIBILITY, ANOTHER PHYSICIAN IS ACTING ON  
11 THE ATTENDING PHYSICIAN'S BEHALF OR NO PHYSICIAN HAS PRIMARY  
12 RESPONSIBILITY, ANY PHYSICIAN WHO IS FAMILIAR WITH THE  
13 DESIGNATOR'S MEDICAL CONDITION MAY ACT AS AN ATTENDING PHYSICIAN  
14 UNDER THIS CHAPTER.

15 "COGUARDIAN." A PERSON WHO ALONG WITH A PARENT SHARES  
16 PHYSICAL OR LEGAL CUSTODY, OR BOTH, OF A CHILD.

17 "CONSENT." A WRITTEN AUTHORIZATION SIGNED BY THE DESIGNATOR  
18 IN THE PRESENCE OF TWO WITNESSES WHO SHALL ALSO SIGN THE  
19 WRITING. THE WITNESSES MUST BE 18 YEARS OF AGE OR OLDER AND NOT  
20 NAMED IN THE DESIGNATION.

21 "COURT." FAMILY COURT DIVISION OR DOMESTIC RELATIONS SECTION  
22 OF A COURT OF COMMON PLEAS UNLESS OTHERWISE PROVIDED BY LOCAL  
23 RULES OF COURT.

24 "DEBILITATION." A PERSON'S CHRONIC AND SUBSTANTIAL INABILITY  
25 AS A RESULT OF A PHYSICALLY INCAPACITATING DISEASE OR INJURY TO  
26 CARE FOR A DEPENDENT MINOR.

27 "DESIGNATION." A WRITTEN DOCUMENT NAMING THE STANDBY  
28 GUARDIAN OR TEMPORARY GUARDIAN. A PARENT, A LEGAL CUSTODIAN OR A  
29 LEGAL GUARDIAN MAY DESIGNATE AN ALTERNATE STANDBY GUARDIAN IN  
30 THE SAME WRITING.

1 "DESIGNATOR." A PARENT, A LEGAL CUSTODIAN OR A LEGAL  
2 GUARDIAN WHO APPOINTS A STANDBY GUARDIAN OR TEMPORARY GUARDIAN.

3 "DETERMINATION OF DEBILITATION." A WRITTEN FINDING MADE BY  
4 AN ATTENDING PHYSICIAN WHICH STATES THAT THE DESIGNATOR SUFFERS  
5 FROM A PHYSICALLY INCAPACITATING DISEASE OR INJURY. NO  
6 IDENTIFICATION OF THE ILLNESS IN QUESTION IS REQUIRED.

7 "DETERMINATION OF INCAPACITY." A WRITTEN FINDING MADE BY AN  
8 ATTENDING PHYSICIAN WHICH STATES THE NATURE, EXTENT AND PROBABLE  
9 DURATION OF THE DESIGNATOR'S MENTAL OR ORGANIC INCAPACITY.

10 "FAMILY MEMBER." A GRANDPARENT, AUNT, UNCLE OR ADULT SIBLING  
11 OF A MINOR.

12 "INCAPACITY." A CHRONIC AND SUBSTANTIAL INABILITY, RESULTING  
13 FROM A MENTAL OR ORGANIC IMPAIRMENT, TO UNDERSTAND THE NATURE  
14 AND CONSEQUENCES OF DECISIONS CONCERNING THE CARE OF THE  
15 DESIGNATOR'S DEPENDENT MINOR AND A CONSEQUENT INABILITY TO CARE  
16 FOR THE MINOR.

17 "STANDBY GUARDIAN." A PERSON NAMED BY A DESIGNATOR TO ASSUME  
18 THE DUTIES OF COGUARDIAN OR GUARDIAN OF A MINOR AND WHOSE  
19 AUTHORITY BECOMES EFFECTIVE UPON THE INCAPACITY, DEBILITATION  
20 AND CONSENT, OR DEATH OF THE MINOR'S PARENT.

21 "TEMPORARY GUARDIAN." A FAMILY MEMBER, APPOINTED BY A COURT  
22 FOR A LIMITED PERIOD AS A GUARDIAN OF THE MINOR WHEN THE MINOR'S  
23 CUSTODIAL PARENT HAS ENTERED A REHABILITATION FACILITY FOR  
24 TREATMENT OF DRUG OR ALCOHOL ADDICTION OR HAS BEEN SUBJECT TO  
25 EMERGENCY MEDICAL INTERVENTION DUE TO ABUSE OF DRUGS OR ALCOHOL.

26 "TRIGGERING EVENT." A SPECIFIED OCCURRENCE STATED IN THE  
27 DESIGNATION WHICH EMPOWERS A STANDBY GUARDIAN TO ASSUME THE  
28 POWERS, DUTIES AND RESPONSIBILITIES OF GUARDIAN OR COGUARDIAN.  
29 § 5603. SCOPE.

30 THE PROVISIONS OF CHAPTER 53 (RELATING TO CUSTODY) AND 20

1 PA.C.S. CH. 25 (RELATING TO WILLS) SHALL APPLY TO STANDBY  
2 GUARDIANS, COGUARDIANS, GUARDIANS, TEMPORARY GUARDIANS AND ANY  
3 ALTERNATES UNLESS OTHERWISE SPECIFIED IN THIS CHAPTER. NOTHING  
4 IN THIS CHAPTER SHALL BE CONSTRUED TO DEPRIVE ANY PARENT,  
5 CUSTODIAL OR NONCUSTODIAL, OF LEGAL PARENTAL RIGHTS. NOTHING IN  
6 THIS CHAPTER SHALL BE CONSTRUED TO RELIEVE ANY PARENT, CUSTODIAL  
7 OR NONCUSTODIAL, OF A DUTY TO SUPPORT A CHILD UNDER THE  
8 PROVISIONS OF CHAPTER 43 (RELATING TO SUPPORT MATTERS  
9 GENERALLY).

10 SECTION 3. THE HEADING OF SUBCHAPTER B OF CHAPTER 56 OF  
11 TITLE 23 IS AMENDED TO READ:

12 SUBCHAPTER B

13 [GENERAL PROVISIONS] STANDBY GUARDIANSHIP

14 SECTION 4. CHAPTER 56 OF TITLE 23 IS AMENDED BY ADDING A  
15 SUBCHAPTER TO READ:

16 SUBCHAPTER C

17 TEMPORARY GUARDIANSHIP

18 SEC.

19 5621. DESIGNATION.

20 5622. PETITION FOR APPROVAL OF DESIGNATION.

21 5623. AUTHORITY OF TEMPORARY GUARDIAN.

22 5624. PERIOD OF TEMPORARY GUARDIANSHIP.

23 5625. TERMINATION OF TEMPORARY GUARDIANSHIP.

24 § 5621. DESIGNATION.

25 (A) GENERAL RULE.--EXCEPT AS PROVIDED IN SUBSECTION (B), A  
26 CUSTODIAL PARENT MAY DESIGNATE A TEMPORARY GUARDIAN BY MEANS OF  
27 A WRITTEN DESIGNATION UNLESS THE MINOR HAS ANOTHER PARENT OR  
28 ADOPTIVE PARENT:

29 (1) WHOSE PARENTAL RIGHTS HAVE NOT BEEN TERMINATED OR  
30 RELINQUISHED;

1           (2) WHOSE WHEREABOUTS ARE KNOWN; AND

2           (3) WHO IS WILLING AND ABLE TO MAKE AND CARRY OUT THE  
3           DAY-TO-DAY CHILD-CARE DECISIONS CONCERNING THE MINOR.

4           (B) EXCEPTION WHERE OTHER PARENT CONSENTS.--NOTWITHSTANDING  
5           SUBSECTION (A), A PARENT, LEGAL CUSTODIAN OR LEGAL GUARDIAN MAY  
6           DESIGNATE A TEMPORARY GUARDIAN WITH THE CONSENT OF THE OTHER  
7           PARENT.

8           (C) CONTENTS.--

9           (1) A DESIGNATION OF A TEMPORARY GUARDIANSHIP SHALL  
10           IDENTIFY THE CUSTODIAL PARENT, THE MINOR OR MINORS, ANY OTHER  
11           PARENT, THE TEMPORARY GUARDIAN AND THE TRIGGERING EVENT OR  
12           EVENTS UPON WHICH A NAMED TEMPORARY GUARDIAN SHALL BECOME A  
13           COGUARDIAN OR GUARDIAN. THE DESIGNATION SHALL ALSO INCLUDE  
14           THE SIGNED CONSENT OF THE TEMPORARY GUARDIAN AND THE SIGNED  
15           CONSENT OF ANY OTHER PARENT OR AN INDICATION WHY THE OTHER  
16           PARENT'S CONSENT IS NOT NECESSARY.

17           (2) THE DESIGNATION SHALL BE SIGNED BY THE DESIGNATING  
18           PARENT IN THE PRESENCE OF TWO WITNESSES WHO ARE 18 YEARS OF  
19           AGE OR OLDER AND NOT OTHERWISE NAMED IN THE DESIGNATION, WHO  
20           SHALL ALSO SIGN THE DESIGNATION.

21           (3) A PARENT MAY ALSO BUT NEED NOT DESIGNATE AN  
22           ALTERNATE IN THE DESIGNATION.

23           (4) A DESIGNATION MAY BUT NEED NOT BE IN THE FOLLOWING  
24           FORM:

25           .....

26           (INSERT NAME OF DESIGNATOR) DO HEREBY APPOINT

27           .....

28           (INSERT NAME, ADDRESS AND TELEPHONE NUMBER OF TEMPORARY  
29           GUARDIAN) AS THE TEMPORARY GUARDIAN OF

30           .....

1 (INSERT NAME(S) OF MINOR(S) TO TAKE EFFECT UPON  
2 ..... (DATE) .  
3 I AM THE MOTHER/FATHER/OTHER TO.....

4 .....  
5 (INSERT NAME(S) OF MINOR(S)) .

6 .....  
7 (INSERT NAME(S) OF OTHER PARENT(S) OF MINOR(S)) IS THE  
8 FATHER/MOTHER/OTHER OF .....

9 .....  
10 (INSERT NAME(S) OF MINOR(S)) .

11 BY THIS DESIGNATION, I AM GRANTING .....  
12 (INSERT NAME OF TEMPORARY GUARDIAN) THE AUTHORITY TO ACT FOR  
13 90 DAYS FOLLOWING THE OCCURRENCE OF .....  
14 AS A COGUARDIAN WITH ME OR AS GUARDIAN OF MY MINOR  
15 CHILD(REN) .

16 IT IS MY INTENTION TO RETAIN FULL PARENTAL RIGHTS TO THE  
17 EXTENT CONSISTENT WITH MY CONDITION AND TO RETAIN THE  
18 AUTHORITY TO REVOKE THE TEMPORARY GUARDIANSHIP IF I SO  
19 CHOOSE.

20 THIS DESIGNATION IS MADE AFTER CAREFUL REFLECTION, WHILE I AM  
21 OF SOUND MIND.

22 .....  
23 (DATE) (DESIGNATOR'S SIGNATURE)

24 .....  
25 (WITNESS'S SIGNATURE) (WITNESS'S SIGNATURE)

26 .....  
27 (NUMBER AND STREET) (NUMBER AND STREET)

28 .....  
29 (CITY, STATE AND ZIP CODE) (CITY, STATE AND ZIP CODE)

30 IF APPLICABLE: I, .....

1 (INSERT NAME OF OTHER PARENT)

2 HEREBY CONSENT TO THIS DESIGNATION.

3 .....

4 (DATE)

(SIGNATURE OF OTHER PARENT)

5 .....

6 (ADDRESS OF OTHER PARENT)

7 I, .....

8 (INSERT NAME OF TEMPORARY GUARDIAN), HEREBY ACCEPT MY

9 NOMINATION AS TEMPORARY GUARDIAN OF .....

10 .....

11 (INSERT MINOR(S)'S NAME(S)). I UNDERSTAND THAT MY RIGHTS AND

12 RESPONSIBILITIES TOWARD THE MINOR CHILD(REN) NAMED ABOVE WILL

13 BECOME EFFECTIVE UPON ..... (DATE)

14 I FURTHER UNDERSTAND THAT IN ORDER TO CONTINUE AS TEMPORARY

15 GUARDIAN FOR THE CHILD(REN), I MUST FILE A PETITION WITH THE

16 COURT OF COMMON PLEAS WITHIN 30 DAYS OF THE ORDER GRANTING

17 THE PETITION FOR TEMPORARY GUARDIANSHIP.

18 .....

19 (DATE)

(SIGNATURE OF TEMPORARY GUARDIAN)

20 NOTARY SEAL

21 I HEREBY REVOKE THE ABOVE TEMPORARY GUARDIANSHIP AGREEMENT.

22 ..... (PARENT SIGNATURE)

23 ..... (DATE)

24 NOTARY SEAL

25 § 5622. PETITION FOR APPROVAL OF DESIGNATION.

26 (A) GENERAL RULE.--EXCEPT AS PROVIDED IN SUBSECTION (B), A

27 PETITION FOR COURT APPROVAL OF A DESIGNATION UNDER THIS CHAPTER

28 MAY BE MADE WHEN AN INDIVIDUAL WHO IS A CUSTODIAL PARENT OF A

29 MINOR HAS ENTERED A REHABILITATION FACILITY FOR TREATMENT OF A

30 DRUG OR ALCOHOL ADDICTION OR HAS BEEN SUBJECT TO EMERGENCY

1 MEDICAL INTERVENTION DUE TO ABUSE OF DRUGS OR ALCOHOL BY FILING  
2 WITH THE COURT A COPY OF THE DESIGNATION.

3 (B) EXCEPTION WHERE DESIGNATION HAS NOT BEEN ENTERED.--IF A  
4 CUSTODIAL PARENT HAS BEEN SUBJECT TO EMERGENCY MEDICAL  
5 INTERVENTION DUE TO ABUSE OF DRUGS OR ALCOHOL AND A WRITTEN  
6 DESIGNATION HAS NOT BEEN EXECUTED, A FAMILY MEMBER SHALL  
7 PETITION THE COURT TO HOLD A HEARING TO BE DESIGNATED TEMPORARY  
8 GUARDIAN.

9 (C) NOTICE.--

10 (1) THE COURT SHALL NOTIFY A PERSON NAMED IN THE  
11 DESIGNATION WITHIN 10 DAYS OF THE FILING OF THE PETITION AND  
12 OF ANY HEARING ON THE PETITION.

13 (2) IF A DESIGNATION HAS NOT BEEN EXECUTED, THE  
14 PETITIONER SHALL NOTIFY THE CUSTODIAL PARENT OR PARENTS,  
15 NONCUSTODIAL PARENT OR ADOPTIVE PARENT WITHIN 10 DAYS OF THE  
16 FILING OF THE PETITION AND OF ANY HEARING ON THE PETITION.

17 (3) IF THE PETITION ALLEGES THAT A NONCUSTODIAL PARENT  
18 CANNOT BE LOCATED, THAT PARENT SHALL BE NOTIFIED IN  
19 ACCORDANCE WITH THE NOTICE PROVISIONS OF THE PENNSYLVANIA  
20 RULES OF CIVIL PROCEDURE IN CUSTODY MATTERS. NO NOTICE IS  
21 NECESSARY TO A PARENT WHOSE PARENTAL RIGHTS HAVE PREVIOUSLY  
22 BEEN TERMINATED OR RELINQUISHED.

23 (D) JURISDICTION.--FOR PURPOSES OF DETERMINING JURISDICTION  
24 UNDER THIS CHAPTER, THE PROVISIONS OF CHAPTER 54 (RELATING TO  
25 UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT) SHALL APPLY.

26 (E) PRESUMPTIONS.--IN A PROCEEDING FOR JUDICIAL APPOINTMENT  
27 OF A TEMPORARY GUARDIAN, A DESIGNATION SHALL CONSTITUTE A  
28 REBUTTABLE PRESUMPTION THAT THE DESIGNATED TEMPORARY GUARDIAN IS  
29 CAPABLE OF SERVING AS COGUARDIAN OR GUARDIAN. WHEN THE  
30 DESIGNATOR IS THE SOLE SURVIVING PARENT AND WHEN THE PARENTAL

1 RIGHTS OF ANY NONCUSTODIAL PARENT HAVE BEEN TERMINATED OR  
2 RELINQUISHED OR WHEN ALL PARTIES CONSENT TO THE DESIGNATION  
3 THERE SHALL BE A REBUTTABLE PRESUMPTION THAT ENTRY OF THE  
4 APPROVAL ORDER IS IN THE BEST INTEREST OF THE CHILD. IN ANY  
5 CASE, IF THE COURT FINDS ENTRY OF THE APPROVAL ORDER TO BE IN  
6 THE BEST INTERESTS OF THE CHILD, THE COURT SHALL ENTER AN ORDER  
7 APPROVING THE DESIGNATION PETITION.

8 (F) APPROVAL WITHOUT HEARING.--APPROVAL OF THE DESIGNATION  
9 WITHOUT A HEARING IS PERMITTED WHEN THE DESIGNATOR IS THE SOLE  
10 SURVIVING PARENT, WHEN THE PARENTAL RIGHTS OF A NONCUSTODIAL  
11 PARENT HAVE BEEN TERMINATED OR RELINQUISHED OR WHEN ALL PARTIES  
12 CONSENT TO ENTRY OF THE APPROVAL ORDER.

13 (G) HEARING.--IF A HEARING IS REQUIRED, IT SHALL BE  
14 CONDUCTED IN ACCORDANCE WITH THE PROCEEDINGS UNDER CHAPTERS 53  
15 (RELATING TO CHILD CUSTODY) AND 54.

16 (H) COURT APPEARANCE.--IF A DESIGNATION HAS NOT BEEN  
17 EXECUTED AND A PETITION FOR TEMPORARY GUARDIANSHIP HAS BEEN  
18 FILED WITH THE COURT BY A FAMILY MEMBER, THE CUSTODIAL PARENT  
19 AND NONCUSTODIAL PARENT OR ADOPTIVE PARENT SHALL APPEAR IN COURT  
20 IN ORDER TO CONSENT TO OR OPPOSE THE DESIGNATION. IF NOTICE HAS  
21 BEEN GIVEN UNDER SUBSECTION (C) (3) AND A NONCUSTODIAL PARENT  
22 DOES NOT APPEAR IN COURT, IT IS PRESUMED THAT CONSENT TO THE  
23 DESIGNATION HAS BEEN GRANTED.

24 (I) COSTS.--A COURT MAY WAIVE FILING FEES AND OTHER COSTS  
25 UPON APPLICATION WHEN THE PETITIONER DEMONSTRATES THE FEES AND  
26 OTHER COSTS WOULD CONSTITUTE A FINANCIAL BURDEN UPON THE  
27 PETITIONER AND THE PETITIONER'S FAMILY. THERE SHALL BE A  
28 PRESUMPTION OF A FINANCIAL BURDEN IF THE INCOME FROM ALL SOURCES  
29 OF THE PETITIONER IS LESS THAN 300% OF THE POVERTY LEVEL SET BY  
30 THE FEDERAL GOVERNMENT.



1 § 5623. AUTHORITY OF TEMPORARY GUARDIAN.

2 (A) AUTHORITY.--

3 (1) THE TEMPORARY GUARDIAN SHALL HAVE THE AUTHORITY TO  
4 ACT AS COGUARDIAN OR GUARDIAN UPON A CUSTODIAL PARENT  
5 ENTERING INTO AN ALCOHOL OR DRUG TREATMENT FACILITY OR UPON A  
6 COURT ORDERING THE DESIGNATION PURSUANT TO HEARING UNDER  
7 SUBSECTION 5622(B) (RELATING TO PETITION FOR APPROVAL OF  
8 DESIGNATION).

9 (2) THE COMMENCEMENT OF THE TEMPORARY GUARDIAN'S  
10 AUTHORITY TO ACT AS COGUARDIAN SHALL NOT ITSELF DIVEST THE  
11 CUSTODIAL PARENT OF PARENTAL RIGHTS BUT SHALL CONFER UPON THE  
12 TEMPORARY GUARDIAN CONCURRENT OR SHARED CUSTODY OF THE CHILD.

13 (3) A COGUARDIAN SHALL ASSURE FREQUENT AND CONTINUING  
14 CONTACT WITH AND PHYSICAL ACCESS TO THE CHILD AND SHALL  
15 FURTHER ASSURE THE INVOLVEMENT OF THE CUSTODIAL PARENT, TO  
16 THE GREATEST EXTENT POSSIBLE, IN THE DECISION MAKING ON  
17 BEHALF OF THE CHILD.

18 (4) THE COMMENCEMENT OF A TEMPORARY GUARDIAN'S AUTHORITY  
19 UNDER THIS SUBCHAPTER SHALL NOT ITSELF DIVEST A PARENT OR  
20 LEGAL GUARDIAN OF PARENTAL OR GUARDIANSHIP RIGHTS.

21 (B) LIMITATIONS ON AUTHORITY.--IN ADDITION TO ANY OTHER  
22 RESTRICTIONS PLACED ON A TEMPORARY GUARDIAN BY THE COURT, THE  
23 TEMPORARY GUARDIAN MAY NOT:

24 (1) REMOVE THE MINOR OR PERMIT THE MINOR TO BE REMOVED  
25 FROM THE UNITED STATES EITHER PERMANENTLY OR TEMPORARILY  
26 WITHOUT THE CONSENT OF THE CUSTODIAL PARENT AND THE APPROVAL  
27 OF THE COURT; OR

28 (2) REMOVE THE MINOR FROM THIS COMMONWEALTH ABSENT A  
29 COURT ORDER, WHICH MAY ONLY BE ISSUED AFTER A HEARING AT  
30 WHICH BOTH PARENTS AND THE MINOR SHALL HAVE THE RIGHT TO BE

1       PRESENT.

2       § 5624. PERIOD OF TEMPORARY GUARDIANSHIP.

3       (A) INITIAL PERIOD.--TEMPORARY GUARDIANSHIP UNDER THIS  
4 SUBCHAPTER SHALL BE LIMITED TO NOT MORE THAN 90 DAYS FROM ENTRY  
5 OF THE ORDER OF TEMPORARY GUARDIANSHIP.

6       (B) EXTENSION OF GUARDIANSHIP.--UPON APPROVAL BY THE COURT  
7 OR BY WRITTEN AGREEMENT OF THE TEMPORARY GUARDIAN AND THE PARENT  
8 WHO HAS ENTERED A REHABILITATION FACILITY, TEMPORARY  
9 GUARDIANSHIP SHALL BE EXTENDED FOR PERIODS OF UP TO 90  
10 ADDITIONAL DAYS.

11       (C) TOTAL PERIOD.--THE TOTAL PERIOD OF GUARDIANSHIP UNDER  
12 THIS SECTION SHALL NOT EXCEED 365 DAYS.

13       § 5625. TERMINATION OF TEMPORARY GUARDIANSHIP.

14       (A) CONDITIONS.--A COURT SHALL TERMINATE A TEMPORARY  
15 GUARDIANSHIP IF ANY OF THE FOLLOWING EXISTS:

16               (1) THE CUSTODIAL PARENT DEMONSTRATES THE BASIS FOR THE  
17 TEMPORARY GUARDIANSHIP NO LONGER EXISTS.

18               (2) THE CUSTODIAL PARENT AND TEMPORARY GUARDIAN AGREE  
19 UPON TERMINATION.

20               (3) THE TEMPORARY GUARDIAN FILES A PETITION WITH THE  
21 COURT SEEKING TERMINATION.

22               (4) SUBJECT TO SUBSECTION (B), A NONCUSTODIAL OR  
23 ADOPTIVE PARENT FILES A PETITION WITH THE COURT SEEKING  
24 TERMINATION OF THE GUARDIANSHIP.

25               (5) THE TEMPORARY GUARDIAN OR AN INDIVIDUAL WHO RESIDES  
26 WITH THE TEMPORARY GUARDIAN COMMITS AN OFFENSE THAT RESULTS  
27 IN THE TEMPORARY GUARDIAN OR AN INDIVIDUAL WHO RESIDES WITH  
28 THE TEMPORARY GUARDIAN BEING IDENTIFIED AS A PERPETRATOR AS  
29 DEFINED IN SECTION 6303 (RELATING TO DEFINITIONS).

30       (B) MANDATORY CONSIDERATIONS.--BEFORE TERMINATING AN ORDER

1 FOR TEMPORARY GUARDIANSHIP UNDER SUBSECTION (A) (4), THE COURT  
2 SHALL CONSIDER IF TERMINATION OF THE TEMPORARY GUARDIANSHIP IS  
3 IN THE BEST INTERESTS OF THE MINOR IF THE INDIVIDUAL'S PARENTAL  
4 RIGHTS WERE PREVIOUSLY TERMINATED.

5 SECTION 5. SECTION 6340(A) (5.1) OF TITLE 23 IS AMENDED TO  
6 READ:

7 § 6340. RELEASE OF INFORMATION IN CONFIDENTIAL REPORTS.

8 (A) GENERAL RULE.--REPORTS SPECIFIED IN SECTION 6339  
9 (RELATING TO CONFIDENTIALITY OF REPORTS) SHALL ONLY BE MADE  
10 AVAILABLE TO:

11 \* \* \*

12 (5.1) A COURT OF COMMON PLEAS IN CONNECTION WITH ANY  
13 MATTER INVOLVING CUSTODY OF A CHILD AS SET FORTH IN SECTIONS  
14 5328 (RELATING TO FACTORS TO CONSIDER WHEN AWARDING CUSTODY)  
15 AND 5329.1 (RELATING TO CONSIDERATION OF CHILD ABUSE AND  
16 INVOLVEMENT WITH PROTECTIVE SERVICES) OR TEMPORARY  
17 GUARDIANSHIP OF A CHILD UNDER CHAPTER 56 (RELATING TO STANDBY  
18 AND TEMPORARY GUARDIANSHIP).

19 \* \* \*

20 SECTION 6. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.