

Article - Estates and Trusts

[Previous][Next]

§13–903.

(a) (1) Subject to the provisions of paragraphs (2) and (3) of this subsection, a petition for the judicial appointment of a standby guardian of the person or property of a minor under this section may be filed only by a parent of the minor, and if filed, shall be joined by each person having parental rights over the minor.

(2) If a person who has parental rights cannot be located after reasonable efforts have been made to locate the person, the parent may file a petition for the judicial appointment of a standby guardian.

(3) If the petitioner submits documentation, satisfactory to the court, of the reasonable efforts to locate the person who has parental rights, the court may issue a decree under this section.

(b) A petition for the judicial appointment of a standby guardian shall state:

(1) The duties of the standby guardian;

(2) Whether the authority of the standby guardian is to become effective on the petitioner's incapacity, on the petitioner's death, or on whichever occurs first; and

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

(c) If the petitioner is medically unable to appear, the petitioner's appearance in court may not be required, except on a motion and for good cause shown.

(d) (1) If the court finds that there is a significant risk that the petitioner will become incapacitated or die within 2 years of the filing of the petition and that the interests of the minor will be promoted by the appointment of a standby guardian of the person or property of the minor, the court shall issue a decree accordingly.

(2) A decree under this subsection shall:

(i) Specify whether the authority of the standby guardian is effective on the receipt of a determination of the petitioner's incapacity, on the receipt of the certificate of the petitioner's death, or on whichever occurs first; and

(ii) Provide that the authority of the standby guardian may become effective earlier on written consent of the petitioner in accordance with subsection (e)(3) of this section.

(3) If at any time before the beginning of the authority of the standby guardian the court finds that the requirements of paragraph (1) of this subsection are no longer satisfied, the court may rescind the decree.

(e) (1) (i) If a decree under subsection (d) of this section provides that the authority of the standby guardian is effective on receipt of a determination of the petitioner's incapacity, the standby guardian's authority shall begin on the standby guardian's receipt of a copy of a determination of incapacity made under § 13-906 of this subtitle.

(ii) A standby guardian shall file a copy of the determination of incapacity with the court that issued the decree within 90 days of the date of receipt of the determination.

(iii) If a standby guardian fails to comply with subparagraph (ii) of this paragraph, the court may rescind the standby guardian's authority.

(2) (i) If a decree under subsection (d) of this section provides that the authority of the standby guardian is effective on receipt of a certificate of the petitioner's death, the standby guardian's authority shall begin on the standby guardian's receipt of a certificate of death.

(ii) The standby guardian shall file a copy of the certificate of death with the court that issued the decree within 90 days of the date of the petitioner's death.

(iii) If the standby guardian fails to comply with subparagraph (ii) of this paragraph, the court may rescind the standby guardian's authority.

(3) (i) Notwithstanding paragraphs (1) and (2) of this subsection, a standby guardian's authority shall begin on the standby guardian's receipt of the petitioner's written consent to the beginning of the standby guardian's authority signed by:

1. The petitioner in the presence of two witnesses at least 18 years of age, neither of whom may be the standby guardian; and

2. The standby guardian.

(ii) 1. If the petitioner is physically unable to sign a written consent to the beginning of the standby guardian's authority, another person may sign the consent on the petitioner's behalf and at the petitioner's direction.

2. A consent under this subparagraph to the beginning of the standby guardian's authority shall be signed in the presence of the petitioner and two witnesses at least 18 years of age, neither of whom may be the standby guardian.

3. A standby guardian also shall sign a written consent to the beginning of the standby guardian's authority under this subparagraph.

(iii) 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.

(iv) If the standby guardian fails to comply with subparagraph (iii) of this paragraph, the court may rescind the standby guardian's authority.

(f) The petitioner may revoke a standby guardianship created under this section by:

- (1) Executing a written revocation;
- (2) Filing the revocation with the court that issued the decree; and
- (3) Promptly notifying the standby guardian of the revocation.

(g) A person who is judicially appointed as a standby guardian under this section may at any time before the beginning of the person's authority renounce the appointment by:

- (1) Executing a written renunciation;
- (2) Filing the renunciation with the court that issued the decree; and
- (3) Promptly notifying in writing the petitioner of the revocation.

[Previous][Next]