

## Chapter 749

## (Senate Bill 1239)

AN ACT concerning

**Appointment or Designation of Standby Guardian – ~~Immigration Action Against a Parent~~ Adverse Immigration Action**

FOR the purpose of ~~authorizing a parent of a minor to file a petition for the judicial appointment of a standby guardian of the person or property of the minor if there is a significant risk that the petitioner will be detained by immigration officials, be granted voluntary departure in lieu of removal under certain federal law, or be removed from the United States within a certain period of time after the filing of the petition; requiring a court to issue a certain decree for the appointment of a standby guardian of the person or property of a minor if the court finds that there is a significant risk that the petitioner will be detained by immigration officials, be granted voluntary departure in lieu of removal under certain federal law, or be removed from the United States within a certain period of time after the filing of the petition under certain circumstances; specifying certain procedures for the appointment or designation of a standby guardian of the person or property of a minor in the case of detainment by immigration officials, voluntary departure in lieu of removal under certain federal law, or removal from the United States of a parent; specifying when the authority of a standby guardian under this Act begins under certain circumstances; requiring a standby guardian to take certain actions; making certain provisions relating to the appointment or designation of a standby guardian of the person or property of a minor in cases of incapacity, debilitation, or death of a parent applicable to the appointment or designation of a standby guardian of the person or property of a minor in the case of detainment by immigration officials, voluntary departure in lieu of removal under certain federal law, or removal from the United States of~~ event of an adverse immigration action against a parent; authorizing a parent to designate a standby guardian by means of a written designation in the event that of an adverse immigration action against the parent is detained by immigration officials, granted voluntary departure in lieu of removal under certain federal law, or removed from the United States under certain circumstances; providing that a standby guardian may file a petition without the consent of certain persons under certain circumstances; requiring the court to appoint a person to be a standby guardian if the court finds that notice of detainment by immigration officials, notice or an order of voluntary departure in lieu of removal under certain federal law, or an order of removal from the United States has been issued there is evidence of an adverse immigration action and specified parental consent has been given; specifying that a standby guardian's authority under certain provisions may not, itself, divest a parent of any parental or guardianship rights; providing for the construction of this Act; making certain conforming changes; altering certain definitions; defining a certain term; making this Act an emergency measure; and generally relating to official adverse immigration actions taken against a parent and standby guardianship of the person or property of a minor.

~~BY repealing and reenacting, without amendments,  
 Article – Estates and Trusts  
 Section 13-901(a) and 13-902  
 Annotated Code of Maryland  
 (2017 Replacement Volume)~~

BY repealing and reenacting, with amendments,  
 Article – Estates and Trusts  
 Section ~~13-901(e)~~ 13-901, ~~13-903~~, 13-904, and 13-907  
 Annotated Code of Maryland  
 (2017 Replacement Volume)

BY repealing and reenacting, without amendments,  
 Article – Estates and Trusts  
 Section 13-902  
 Annotated Code of Maryland  
 (2017 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
 That the Laws of Maryland read as follows:

#### Article – Estates and Trusts

13-901.

(a) In this subtitle the following words have the meanings indicated.

(b) **“ADVERSE IMMIGRATION ACTION” INCLUDES:**

**(1) ARREST OR APPREHENSION BY A LAW ENFORCEMENT OFFICER FOR AN ALLEGED VIOLATION OF FEDERAL IMMIGRATION LAW;**

**(2) DETENTION OR CUSTODY BY THE DEPARTMENT OF HOMELAND SECURITY OR A FEDERAL, STATE, OR LOCAL AGENCY AUTHORIZED OR ACTING ON BEHALF OF THE DEPARTMENT OF HOMELAND SECURITY;**

**(3) DEPARTURE FROM THE UNITED STATES UNDER AN ORDER OF REMOVAL, DEPORTATION, EXCLUSION, VOLUNTARY DEPARTURE, OR EXPEDITED REMOVAL, OR A STIPULATION OF VOLUNTARY DEPARTURE;**

**(4) THE DENIAL, REVOCATION, OR DELAY OF THE ISSUANCE OF A VISA OR TRANSPORTATION LETTER BY THE DEPARTMENT OF STATE;**

**(5) THE DENIAL, REVOCATION, OR DELAY OF THE ISSUANCE OF A PAROLE DOCUMENT OR REENTRY PERMIT BY THE DEPARTMENT OF HOMELAND SECURITY; OR**

**(6) THE DENIAL OF ADMISSION OR ENTRY INTO THE UNITED STATES BY THE DEPARTMENT OF HOMELAND SECURITY.**

**(C) (1) “Attending physician” means a physician who has primary responsibility for the treatment and care of a parent described under this subtitle.**

**(2) If more than one physician shares the responsibility for the treatment and care of a parent or if another physician is acting on the attending physician’s behalf, any physician described in this paragraph may act as the attending physician under this subtitle.**

**(3) If no physician has responsibility for the treatment and care of a parent, any physician who is familiar with the parent’s medical condition may act as the attending physician under this subtitle.**

**[(c)] (D) (1) “Debilitation” means a person’s chronic and substantial inability, as a result of a physically incapacitating illness, disease, or injury, to care for the person’s dependent minor child.**

**(2) “Debilitated” means the state of having a debilitation.**

**[(d)] (E) (1) “Incapacity” means a person’s chronic and substantial inability, as a result of mental impairment, to understand the nature and consequences of decisions concerning the care of the person’s dependent minor child, and a consequent inability to care for the child.**

**(2) “Incapacitated” means the state of having an incapacity.**

**[(e)] (F) “Standby guardian” means a person:**

**(1) Appointed by a court under § 13–903 of this subtitle as standby guardian of the person or property of a minor, whose authority becomes effective on the incapacity, ~~DETAINMENT BY IMMIGRATION OFFICIALS, VOLUNTARY DEPARTURE UNDER THE IMMIGRATION AND NATIONALITY ACT, REMOVAL FROM THE UNITED STATES,~~ or death of the minor’s parent, or on the consent of the parent; or**

**(2) Designated under § 13–904 of this subtitle as standby guardian of the person or property of a minor, whose authority becomes effective on the incapacity of the minor’s parent, [or] ~~ON THE DETAINMENT BY IMMIGRATION OFFICIALS AND CONSENT OF THE PARENT, ON THE VOLUNTARY DEPARTURE UNDER THE IMMIGRATION AND NATIONALITY ACT AND CONSENT OF THE PARENT, ON THE REMOVAL FROM THE~~**

~~UNITED STATES AND CONSENT OF THE PARENT, OR~~ on the debilitation and consent of the parent, ~~OR IN THE EVENT OF AN ADVERSE IMMIGRATION ACTION AGAINST THE PARENT AND THE CONSENT OF THE PARENT.~~

13-902.

Except as otherwise provided in this subtitle, the provisions of this title concerning a guardian of the person or property of a minor shall apply to standby guardians.

~~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 DETAINMENT BY IMMIGRATION OFFICIALS, ON THE PETITIONER'S VOLUNTARY DEPARTURE UNDER THE IMMIGRATION AND NATIONALITY ACT, ON THE PETITIONER'S REMOVAL FROM THE UNITED STATES,** on the petitioner's death, or on whichever occurs first; and~~

~~(3) That there is a significant risk that the petitioner will become incapacitated, **BE DETAINED BY IMMIGRATION OFFICIALS, BE GRANTED VOLUNTARY DEPARTURE IN LIEU OF REMOVAL UNDER THE IMMIGRATION AND NATIONALITY ACT, BE REMOVED FROM THE UNITED STATES,** 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, **BE DETAINED BY IMMIGRATION OFFICIALS, BE GRANTED**~~

~~VOLUNTARY DEPARTURE IN LIEU OF REMOVAL UNDER THE IMMIGRATION AND NATIONALITY ACT, OR BE REMOVED FROM THE UNITED STATES, 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 OFFICIAL NOTICE OF DETAINMENT OF THE PETITIONER BY IMMIGRATION OFFICIALS, ON THE RECEIPT OF AN ORDER OR OTHER OFFICIAL NOTICE OF A GRANT OF VOLUNTARY DEPARTURE IN LIEU OF REMOVAL UNDER THE IMMIGRATION AND NATIONALITY ACT, ON THE RECEIPT OF AN ORDER OF REMOVAL FROM THE UNITED STATES ENTERED AGAINST THE PETITIONER, 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 [(c)(3)] (E)(4) 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.~~

~~(c) (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) IF A DECREE UNDER SUBSECTION (D) OF THIS SECTION PROVIDES THAT THE AUTHORITY OF THE STANDBY GUARDIAN IS EFFECTIVE ON RECEIPT OF OFFICIAL NOTICE OF DETAINMENT OF THE PETITIONER BY IMMIGRATION OFFICIALS, ON THE RECEIPT OF AN ORDER OR OTHER OFFICIAL NOTICE OF A GRANT OF VOLUNTARY DEPARTURE IN LIEU OF REMOVAL UNDER THE IMMIGRATION AND NATIONALITY ACT, ON THE RECEIPT OF AN ORDER OF REMOVAL FROM THE UNITED STATES OF THE PETITIONER, THE STANDBY GUARDIAN'S AUTHORITY SHALL BEGIN ON THE STANDBY GUARDIAN'S RECEIPT OF A COPY OF OFFICIAL NOTICE OF DETAINMENT OF THE PETITIONER BY IMMIGRATION OFFICIALS, ON THE RECEIPT OF AN ORDER OR OTHER OFFICIAL NOTICE OF A GRANT OF VOLUNTARY DEPARTURE IN LIEU OF REMOVAL UNDER THE IMMIGRATION AND NATIONALITY ACT, OR ON THE RECEIPT OF AN ORDER OF REMOVAL.~~

~~(ii) THE STANDBY GUARDIAN SHALL FILE A COPY OF THE ORDER OF REMOVAL WITH THE COURT THAT ISSUED THE DECREE WITHIN 90 DAYS OF THE DATE OF RECEIPT OF THE ORDER.~~

~~(iii) IF THE STANDBY GUARDIAN FAILS TO COMPLY WITH SUBPARAGRAPH (ii) OF THIS PARAGRAPH, THE COURT MAY RESCIND THE STANDBY GUARDIAN'S AUTHORITY.~~

~~[(3)](4) (i) Notwithstanding paragraphs (1) [and], (2), AND (3) 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.~~

13-904.

(a) (1) A parent may designate a standby guardian by means of a written designation:

(i) Signed in the presence of two witnesses, at least 18 years old, neither of whom is the standby guardian; and

(ii) Signed by the standby guardian.

(2) (i) If a parent is physically unable to sign a written designation, another person may sign the designation on the parent's behalf and at the parent's direction.

(ii) 1. A designation under this paragraph shall be signed in the presence of the parent and two witnesses at least 18 years of age, neither of whom may be the standby guardian.

2. The standby guardian also shall sign a designation under this paragraph.

(b) (1) A designation of a standby guardian shall identify the parent, the minor, and the person designated to be the standby guardian, state the duties of the standby guardian, and indicate that the parent intends for the standby guardian to become the minor's guardian in the event the parent [either]:

(i) Becomes incapacitated; [or]

~~(ii) IS DETAINED BY IMMIGRATION OFFICIALS, IS GRANTED VOLUNTARY DEPARTURE, OR IS REMOVED FROM THE UNITED STATES AND CONSENTS TO THE BEGINNING OF THE STANDBY GUARDIAN'S AUTHORITY; OR~~

~~{(ii)} (iii)~~ Becomes debilitated and consents to the beginning of the standby guardian's authority; OR

(iii) IS SUBJECT TO AN ADVERSE IMMIGRATION ACTION AND CONSENTS TO THE BEGINNING OF THE STANDBY GUARDIAN'S AUTHORITY.

(2) A parent may designate an alternate standby guardian in the same writing and by the same manner as the designation of a standby guardian.

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

#### Designation of Standby Guardian

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

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

The standby guardian's authority shall take effect if and when [either]:

(1) My doctor concludes I am mentally incapacitated, and thus unable to care for my child(ren); [or]

(2) My doctor concludes that I am physically debilitated, and thus unable to care for my child(ren) and I consent in writing, before two witnesses, to the standby guardian's authority taking effect; **OR**

**(3) I HAVE BEEN DETAINED BY IMMIGRATION OFFICIALS, GRANTED VOLUNTARY DEPARTURE IN LIEU OF REMOVAL UNDER THE IMMIGRATION AND NATIONALITY ACT, OR REMOVED FROM THE UNITED STATES AM SUBJECT TO AN ADVERSE IMMIGRATION ACTION, AND I AM THUS UNABLE TO CARE FOR MY CHILD(REN) AND I CONSENT IN WRITING, BEFORE TWO WITNESSES, TO THE STANDBY GUARDIAN'S AUTHORITY TAKING EFFECT.**

If the person I designate above is unable or unwilling to act as guardian for my child(ren), I hereby designate (name, home address, and telephone number of alternate standby guardian), as standby guardian of my child(ren).

I also understand that my standby guardian's authority will cease 180 days after

beginning unless by that date my standby guardian petitions the court for appointment as guardian.

I understand that I retain full parental rights even after the beginning of the standby guardian’s authority, and may revoke the standby guardianship at any time.

Parent’s 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 old and am not the person designated as standby guardian.

Witness’s Signature: \_\_\_\_\_

Address: \_\_\_\_\_

Date: \_\_\_\_\_

Witness’s Signature: \_\_\_\_\_

Address: \_\_\_\_\_

Date: \_\_\_\_\_

Standby Guardian’s Signature: \_\_\_\_\_

Address: \_\_\_\_\_

Date: \_\_\_\_\_

(4) A consent by another person with parental rights to a designation of a standby guardian by a parent may, but need not be, in the following form:

Consent to Designation of Standby Guardian

I (name of person with parental rights) agree with the designation by (name of parent) of (name, home address, and telephone number of standby guardian) as standby guardian of the person and property of my child(ren) (name of child(ren)).

I agree also to the terms stated above and understand that I retain full parental rights even after the beginning of the standby guardian’s authority, and may revoke my consent to the standby guardianship at any time.

Signature of Person with Parental Rights: \_\_\_\_\_

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 old and am not the person designated as standby guardian.

Witness’s Signature: \_\_\_\_\_

Address: \_\_\_\_\_

Date: \_\_\_\_\_

Witness’s Signature: \_\_\_\_\_

Address: \_\_\_\_\_

Date: \_\_\_\_\_

Standby Guardian’s Signature: \_\_\_\_\_

Address: \_\_\_\_\_

Date: \_\_\_\_\_

(c) The authority of the standby guardian under a designation shall begin on:

(1) The standby guardian's receipt of a copy of a determination of incapacity under § 13–906 of this subtitle; [or]

(2) The standby guardian's receipt of:

(i) A copy of a determination of debilitation under § 13–906 of this subtitle;

(ii) A copy of the parent's written consent to the beginning of the standby guardianship, signed by the parent in the presence of two witnesses at least 18 years of age, neither of whom is the standby guardian, and signed by the standby guardian; and

(iii) A copy of the birth certificate for each child for whom the standby guardian is designated; **OR**

**(3) THE STANDBY GUARDIAN'S RECEIPT OF:**

~~(I) A COPY OF OFFICIAL NOTICE OF THE PARENT'S DETAINMENT BY IMMIGRATION OFFICIALS, A COPY OF AN ORDER OR OTHER OFFICIAL NOTICE GRANTING VOLUNTARY DEPARTURE IN LIEU OF REMOVAL UNDER THE IMMIGRATION AND NATIONALITY ACT, OR AN ORDER OF REMOVAL FROM THE UNITED STATES;~~

**(I) EVIDENCE OF AN ADVERSE IMMIGRATION ACTION AGAINST THE PARENT; AND**

**(II) A COPY OF THE PARENT'S WRITTEN CONSENT TO THE BEGINNING OF THE STANDBY GUARDIANSHIP, SIGNED BY THE PARENT IN THE PRESENCE OF TWO WITNESSES AT LEAST 18 YEARS OF AGE, NEITHER OF WHOM IS THE STANDBY GUARDIAN, AND SIGNED BY THE STANDBY GUARDIAN;**~~AND~~

~~**(III) A COPY OF THE BIRTH CERTIFICATE FOR EACH CHILD FOR WHOM THE STANDBY GUARDIAN IS DESIGNATED.**~~

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

(2) A consent under this subsection to the beginning of the standby guardianship shall be signed in the presence of the parent and two witnesses at least 18 years of age, neither of whom may be the standby guardian.

(3) The standby guardian also shall sign a consent to the beginning of the standby guardianship under this subsection.

(e) (1) A standby guardian shall file a petition for judicial appointment within 180 days of the date of the beginning of the standby guardianship under this section.

(2) If the standby guardian fails to file the petition within the time specified in this subsection, the standby guardian’s authority shall terminate 180 days from the date of the beginning of the standby guardianship.

(3) The standby guardian’s authority shall begin again on the filing of the petition.

(f) (1) A standby guardian shall file a petition for appointment as guardian after receipt of:

(i) A copy of a determination of incapacity made under § 13–906 of this subtitle; [or]

(ii) Copies of:

1. A determination of debilitation made under § 13–906 of this subtitle; and

2. The parent’s written consent to the beginning of the standby guardianship under this section; OR

~~(iii) COPIES OF:~~

~~1. OFFICIAL NOTICE OF THE PARENT’S DETAINMENT BY IMMIGRATION OFFICIALS, AN ORDER OR OTHER OFFICIAL NOTICE GRANTING VOLUNTARY DEPARTURE IN LIEU OF REMOVAL UNDER THE IMMIGRATION AND NATIONALITY ACT, OR AN ORDER OF REMOVAL FROM THE UNITED STATES; AND~~

**(iii) 1. EVIDENCE OF AN ADVERSE IMMIGRATION ACTION AGAINST THE PARENT; AND**

**2. THE COPIES OF THE PARENT’S WRITTEN CONSENT TO THE BEGINNING OF THE STANDBY GUARDIANSHIP UNDER THIS SECTION.**

(2) Subject to the provisions of paragraphs (3) and (4) of this subsection, the petition shall be accompanied by:

(i) The written designation of the standby guardian signed, or consented to, by each person having parental rights over the child;

(ii) **1.** A copy of:

~~1. A.~~ The determination of incapacity of the parent; ~~{or}~~

~~2. B.~~ The determination of debilitation and the parental consent to the beginning of the standby guardianship; **OR**

~~3. 2. THE OFFICIAL NOTICE OF THE PARENT'S DETAINMENT BY IMMIGRATION OFFICIALS, THE ORDER OR OTHER OFFICIAL NOTICE GRANTING VOLUNTARY DEPARTURE IN LIEU OF REMOVAL UNDER THE IMMIGRATION AND NATIONALITY ACT, OR THE ORDER OF REMOVAL FROM THE UNITED STATES AND THE PARENTAL CONSENT TO THE BEGINNING OF THE STANDBY GUARDIANSHIP EVIDENCE OF AN ADVERSE IMMIGRATION ACTION AGAINST THE PARENT, THE PARENTAL CONSENT TO THE BEGINNING OF THE GUARDIANSHIP, AND A COPY OF THE BIRTH CERTIFICATE OR OTHER EVIDENCE OF PARENTAGE FOR EACH CHILD FOR WHOM THE STANDBY GUARDIAN IS DESIGNATED;~~ and

(iii) If the petition is filed by a person designated as alternate standby guardian, a statement that the person designated as standby guardian is unwilling or unable to act as standby guardian, and the basis for the statement.

(3) **(I)** If a person who has parental rights cannot be located after reasonable efforts have been made to locate the person, the standby guardian may file a petition under this section without the consent of the person to the designation of the standby guardian.

**(II) IF A PETITION INVOLVES AN ADVERSE IMMIGRATION ACTION AGAINST A PARENT AND A PERSON WHO HAS PARENTAL RIGHTS RESIDES OUTSIDE THE UNITED STATES, THE STANDBY GUARDIAN MAY FILE A PETITION UNDER THIS SECTION WITHOUT THE CONSENT OF THE PERSON WHO HAS PARENTAL RIGHTS TO THE DESIGNATION OF THE STANDBY GUARDIAN.**

(4) If the standby guardian submits documentation, satisfactory to the court, of the reasonable efforts to locate the person who has parental rights, the court may appoint a standby guardian under this section.

(g) The court shall appoint a person to be a standby guardian under this section if the court finds that:

(1) The person was duly designated as standby guardian;

(2) (I) A determination of incapacity, or a determination of debilitation and parental consent to the beginning of the standby guardianship, has been made under this section; OR

(II) ~~NOTICE OF DETENTION BY IMMIGRATION OFFICIALS, AN ORDER OR OTHER NOTICE OF VOLUNTARY DEPARTURE IN LIEU OF REMOVAL UNDER THE IMMIGRATION AND NATIONALITY ACT, OR AN ORDER OF REMOVAL FROM THE UNITED STATES HAS BEEN ISSUED~~ THERE IS EVIDENCE OF AN ADVERSE IMMIGRATION ACTION AND PARENTAL CONSENT TO THE BEGINNING OF THE STANDBY GUARDIANSHIP HAS BEEN GIVEN UNDER THIS SECTION;

(3) The interests of the minor will be promoted by the appointment of a standby guardian of the person or property of the minor; and

(4) 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.

(h) A parent may revoke a standby guardianship created under this section:

(1) Before the filing of a petition, by notifying the standby guardian verbally or in writing or by any other act that is evidence of a specific intent to revoke the standby guardianship; and

(2) If a petition has been filed by:

(i) Executing a written revocation;

(ii) Filing the revocation with the court in which the petition was filed; and

(iii) Promptly notifying the standby guardian of the revocation.

(i) 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 parent of the revocation.

(a) [The beginning of a standby guardian's authority in accordance with a determination of incapacity, determination of debilitation, or consent] **A STANDBY GUARDIAN'S AUTHORITY UNDER THIS SUBTITLE** may not, itself, divest a parent of any parental or guardianship rights.

(b) The authority of a standby guardian with respect to the minor is limited to the express authority granted to the standby guardian by a court under this subtitle.

**(C) THE APPOINTMENT OF A STANDBY GUARDIAN OF A MINOR UNDER THIS SUBTITLE MAY NOT BE CONSTRUED TO REQUIRE THE TERMINATION OF PARENTAL RIGHTS WITH RESPECT TO THE MINOR UNDER TITLE 5 OF THE FAMILY LAW ARTICLE.**

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, May 15, 2018.**