

SENATE BILL 508

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2lr2626
CF 2lr2625

By: **Senator West**

Introduced and read first time: January 28, 2022

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Estates and Trusts – Guardianship of Minors – Appointment by Court**

3 FOR the purpose of altering the circumstances under which a court may appoint a guardian
4 of the person of a minor; providing that the appointment of a guardian of the person
5 of a minor does not require the termination of parental rights; and generally relating
6 to the appointment of a guardian of the person of a minor.

7 BY repealing and reenacting, without amendments,
8 Article – Estates and Trusts
9 Section 13–701
10 Annotated Code of Maryland
11 (2017 Replacement Volume and 2021 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article – Estates and Trusts
14 Section 13–702(a)
15 Annotated Code of Maryland
16 (2017 Replacement Volume and 2021 Supplement)

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

19 **Article – Estates and Trusts**

20 13–701.

21 (a) Unless prohibited by agreement or court order, the surviving parent of a minor
22 may appoint by will one or more guardians and successor guardians of the person of an
23 unmarried minor.

24 (b) The guardian need not be approved by or qualify in any court.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 13-702.

2 (a) (1) [If neither parent is serving as guardian of the person and no
3 testamentary appointment has been made, on] **ON** petition by any person interested in the
4 welfare of the minor, and after notice and hearing **AS PRESCRIBED BY THE MARYLAND**
5 **RULES**, the court may appoint a guardian of the person of an unmarried minor **IF THE**
6 **COURT FINDS, BY A PREPONDERANCE OF THE EVIDENCE, THAT:**

7 (I) **THE APPOINTMENT IS IN THE BEST INTERESTS OF THE**
8 **MINOR;**

9 (II) **NO TESTAMENTARY APPOINTMENT HAS BEEN MADE; AND**

10 (III) 1. **NO PARENT IS WILLING OR ABLE TO SERVE AS**
11 **GUARDIAN OF THE PERSON OF THE MINOR;**

12 2. **EACH PARENT CONSENTS TO THE APPOINTMENT OF**
13 **THE GUARDIAN OF THE PERSON; OR**

14 3. **NO PARENT FILES AN OBJECTION TO THE**
15 **APPOINTMENT OF THE GUARDIAN OF THE PERSON.**

16 (2) If the minor is at least 14 years old, and if the person otherwise is
17 qualified, the court shall appoint a person designated by the minor, unless the decision is
18 not in the best interests of the minor.

19 (3) This section may not be construed to require court appointment of a
20 guardian of the person of a minor if there is no good reason, such as a dispute, for a court
21 appointment.

22 (4) **THIS SUBSECTION MAY NOT BE CONSTRUED TO PROVIDE THAT**
23 **THE APPOINTMENT OF A GUARDIAN OF THE PERSON OF A MINOR REQUIRES THE**
24 **TERMINATION OF ANY PARENTAL RIGHTS WITH RESPECT TO THE MINOR UNDER**
25 **TITLE 5 OF THE FAMILY LAW ARTICLE.**

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2022.