

2004 SESSION

INTRODUCED

043499328

HOUSE BILL NO. 494

Offered January 14, 2004

Prefiled January 13, 2004

A BILL to amend and reenact § 37.1-134.17 of the Code of Virginia, relating to standby guardianship.

Patron—Kilgore

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That § 37.1-134.17 of the Code of Virginia is amended and reenacted as follows:

§ 37.1-134.17. Standby guardianship or conservatorship for incapacitated persons.

On petition of one or both parents, *one or more children* or the legal guardian of an incapacitated ~~child~~*person* made to the circuit court in which such parent, parents, *child, children* or legal guardian resides, the court may appoint a standby guardian of the person or a standby conservator of the property, or both, of the incapacitated ~~child~~*person*. The appointment of the standby fiduciary shall be affirmed biennially by the parent, parents, *child, children*, or legal guardian of the ~~child~~*person* and by the standby fiduciary prior to his assuming his position as fiduciary by filing with the court an affidavit which states that the appointee remains available and capable to fulfill his duties.

Such standby fiduciary shall without further proceedings be empowered to assume the duties of his office immediately upon the death or adjudication of incapacity of the last surviving of the parents *or children* of such incapacitated person or of his legal guardian, subject to confirmation of his appointment by the circuit court within ~~sixty~~*60* days following assumption of his duties. If the incapacitated person is ~~eighteen~~*18* years of age or older, the court, before confirming the appointment of the standby fiduciary, shall conduct a hearing pursuant to this article. The requirements of the court and the powers, duties and liabilities which pertain to guardians and conservators govern the confirmation of the standby fiduciary and shall apply to the standby fiduciary upon the assumption of his duties.

For the purposes of this section, the term "~~child of the petitioners person~~" includes ~~the child of biological parents,~~*a child or a parent sharing a biological relationship with one another or having a relationship established by adoption, a relationship established pursuant to Chapter 9 (§ 20-156 et seq.) of Title 20, or a relationship established by a judicial proceeding which establishes parentage or orders legal guardianship. The term includes persons* ~~eighteen~~*18* years of age and over.

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