

No. 2000-59

## AN ACT

SB 1275

Amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for persons qualified to solemnize marriages and for the definitions of "designation" and "designator"; and providing for the designation of a standby guardian.

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

Section 1. Section 1503(a) of Title 23 of the Pennsylvania Consolidated Statutes is amended to read:

§ 1503. Persons qualified to solemnize marriages.

(a) General rule.—The following are authorized to solemnize marriages between persons that produce a marriage license issued under this part:

(1) A justice, judge or district justice of this Commonwealth.

(2) A former or retired justice, judge or district justice of this Commonwealth who is serving as a senior judge or senior district justice as provided or prescribed by law.

(3) An active or senior judge or full-time magistrate of the District Courts of the United States for the Eastern, Middle or Western District of Pennsylvania.

(4) An active, *retired* or senior judge of the United States Court of Appeals for the Third Circuit who is a resident of this Commonwealth.

(5) A mayor of any city or borough of this Commonwealth.

(6) A minister, priest or rabbi of any regularly established church or congregation.

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Section 2. The definitions of "designation" and "designator" in section 5602 of Title 23 are amended to read:

§ 5602. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

\* \* \*

"Designation." A written document naming the standby guardian. A parent, *a legal custodian or a legal guardian* may designate an alternate standby guardian in the same writing.

"Designator." A parent, *a legal custodian* or a legal guardian who appoints a standby guardian.

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Section 3. Section 5611 of Title 23 is amended to read:

§ 5611. Designation.

(a) General rule.—A custodial parent, a *legal custodian* or legal guardian may designate a standby guardian by means of a written designation unless the minor has another parent or adoptive parent:

- (1) whose parental rights have not been terminated or relinquished;
- (2) whose whereabouts are known; and
- (3) who is willing and able to make and carry out the day-to-day child-care decisions concerning the minor.

(b) Exception where other parent consents.—Notwithstanding subsection (a), a parent, *legal custodian* or legal guardian may designate a standby guardian with the consent of the other parent.

(c) Contents.—

(1) A designation of a standby guardianship shall identify the custodial parent, *legal custodian* or legal guardian making the designation, the minor or minors, any other parent, the standby guardian and the triggering event or events upon which a named standby guardian shall become a coguardian or guardian. If desired, different standby guardians may be designated for different triggering events. The designation shall also include the signed consent of the standby guardian and the signed consent of any other parent or an indication why the other parent's consent is not necessary.

(2) The designation shall be signed by the designating parent, *legal custodian* or legal guardian in the presence of two witnesses who are 18 years of age or older and not otherwise named in the designation, who shall also sign the designation. If the parent, *legal custodian* or legal guardian is physically unable to sign the designation, the parent, *legal custodian* or legal guardian may direct another person not named in the designation to sign on the parent's, *the legal custodian's* or the legal guardian's behalf in the presence of the parent, *legal custodian* or legal guardian and the witnesses.

(3) A parent, *legal custodian* or legal guardian may also but need not designate an alternate in the designation.

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

I (insert name of designator) do hereby appoint (insert name, address and telephone number of standby guardian) as the standby guardian of (insert name(s) of minor(s)) to take effect upon the occurrence of the following triggering event or events (insert specific triggering events).

I hereby revoke all former wills and codicils to the extent that there is a conflict between those formerly executed documents and this, my duly executed standby guardian designation.

I am the (insert designator's relationship to minor(s)) of (insert name(s) of minor(s)).

(Insert name(s) of minor(s)'s other parent(s)) is the father/mother of (insert name(s) of minor(s)).

His/her address is: \_\_\_\_\_

(Check all that apply):

\_\_\_\_\_ He/she died on (insert date of death).

\_\_\_\_\_ His/her parental rights were terminated or relinquished on (insert date of termination or relinquishment).

\_\_\_\_\_ His/her whereabouts are unknown. I understand that all living parents whose rights have not been terminated must be given notice of this designation pursuant to the Pennsylvania Rules of Civil Procedure or a petition to approve this designation may not be granted by the court.

\_\_\_\_\_ He/she is unwilling and unable to make and carry out day-to-day child-care decisions concerning the minor.

\_\_\_\_\_ He/she consents to this designation and has signed this form below.

By this designation I am granting (insert name of standby guardian) the authority to act for 60 days following the occurrence of the triggering event as a coguardian with me or, in the event of my death, as guardian of my minor child(ren).

Optional: I hereby nominate (insert name, address and telephone number of alternate standby guardian) as the alternate standby guardian to assume the duties of the standby guardian named above in the event the standby guardian is unable or refuses to act as a standby guardian.

If I have indicated more than one triggering event, it is my intent that the triggering event which occurs first shall take precedence. If I have indicated "my death" as the triggering event, it is my intent that the person named in the designation to be standby guardian for my minor child(ren) in the event of my death shall be appointed as guardian of my minor child(ren) when I die.

It is my intention to retain full parental rights to the extent consistent with my condition and to retain the authority to revoke the standby guardianship if I so choose.

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

\_\_\_\_\_  
(Date)

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

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

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

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

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

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

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

If applicable: I (insert name of other parent) hereby consent to this designation.

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 (Date)

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 (Signature of other parent)

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 (Address of other parent)

I, (insert name of standby guardian) hereby accept my nomination as standby guardian of (insert minor(s)'s name(s)). I understand that my rights and responsibilities toward the minor child(ren) named above will become effective upon the occurrence of the above-stated triggering event or events. I further understand that in order to continue caring for the child(ren), I must file a petition with the court within 60 days of the occurrence of the triggering event.

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 (Date)

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 (Signature of standby guardian)

Section 4. This act shall take effect as follows:

- (1) This section shall take effect immediately.
- (2) The amendment of 23 Pa.C.S. § 1503 shall take effect immediately.
- (3) The remainder of this act shall take effect in 60 days.

APPROVED—The 22nd day of June, A.D. 2000.

THOMAS J. RIDGE