

Appointment of standby guardian

Sec. 11a-3.1. Appointment of standby guardian.

(a) The guardian of a disabled person may designate in any writing, including a will, a person qualified to act under Section 11a-5 to be appointed as standby guardian of the person or estate, or both, of the disabled person.

The guardian may designate in any writing, including a will, a person qualified to act under Section 11a-5 to be appointed as successor standby guardian of the disabled person's person or estate, or both.

The designation must be witnessed by 2 or more credible witnesses at least 18 years of age, neither of whom is the person designated as the standby guardian.

The designation may be proved by any competent evidence.

If the designation is executed and attested in the same manner as a will, it shall have prima facie validity.

Prior to designating a proposed standby guardian, the guardian shall consult with the disabled person to determine the disabled person's preference as to the person who will serve as standby guardian.

The guardian shall give due consideration to the preference of the disabled person in selecting a standby guardian.

(b) Upon the filing of a petition for the appointment of a standby guardian, the court may appoint a standby guardian of the person or estate, or both, of the disabled person as the court finds to be in the best interest of the disabled person.

The court shall apply the same standards used in determining the suitability of a plenary or limited guardian in determining the suitability of a standby guardian, giving due consideration to the preference of the disabled person as to a standby guardian.

The court may not appoint the Office of State Guardian, pursuant to Section 30 of the Guardianship and Advocacy Act, or a public guardian, pursuant to Section 13-5 of this Act, as a standby guardian, without the written consent of the State Guardian or public guardian or an authorized representative of the State Guardian or public guardian.

(c) The standby guardian shall take and file an oath or affirmation that the standby guardian will faithfully discharge the duties of the office of standby guardian according to law, and shall file in and have approved by the court a bond binding the standby guardian so to do, but shall not be required to file a bond until the standby guardian assumes all duties as guardian of the disabled person under Section 11a-18.2.

(d) The designation of a standby guardian may, but need not, be in the following form:

DESIGNATION OF STANDBY GUARDIAN

(IT IS IMPORTANT TO READ THE FOLLOWING INSTRUCTIONS)

A **STANDBY GUARDIAN** is someone who has been **appointed by the court** as the person **who will act** as guardian of the disabled person **when the disabled person's guardian dies or is no longer willing or able to make and carry out day-to-day care decisions concerning the disabled person.**

By properly completing this form, a guardian is naming the person that the guardian wants to be appointed as the standby guardian of the disabled person.

Signing the form does not appoint the standby guardian; to be appointed, a petition must be filed in and approved by the court.

1. Guardian and Ward.

I, _____
(insert name of designating guardian),
currently residing at _____
(insert address of designating guardian),
am the guardian of the following disabled person: _____ (insert name of ward).

2. Standby Guardian.

I hereby designate the following person to be appointed as standby guardian for my ward listed above:

(insert name, telephone and address of person designated).

3. Successor Standby Guardian.

If the person named in item 2 above cannot or will not act as standby guardian, I designate the following person to be appointed as successor standby guardian for my ward:

(insert name and address of person designated).

4. Date and Signature.

This designation is made this _____ (insert day) day of _____ (insert month and year).

Signed: _____ (designating guardian)

5. Witnesses.

I saw the guardian sign this designation or the guardian told me that the guardian signed this designation. Then I signed the designation as a witness in the presence of the guardian. I am not designated in this instrument to act as a standby guardian for the guardian's ward.

(insert names, addresses, and signatures of 2 witnesses)