STAND-BY GUARDIANSHIP
ILLINOIS STATUTORY FORM

January 2008

WARNING!

Before you proceed with using this packet, you should ask yourself the following questions:

1. Have I tried to consult a private attorney?

NO self-help publication, packet, or form can replace the advice and experience of a licensed attorney. An attorney may not cost as much as you think, especially if you just need to ask questions. Before you proceed on your own, call several local attorneys, compare prices, and find out whether you can pay an attorney or not.

2. If I cannot afford an attorney, have I tried to find a free source of legal assistance?

There are some agencies which provide legal assistance for free to certain groups of individuals. While they may not be able to help you with a particular problem, it does not hurt to call them to find out before you proceed on your own. What follows is a list of legal service agencies that may or may not be available to help with your case:

Land Of Lincoln Legal Assistance

Serves the 65 southernmost counties in Illinois

Toll free: 877-342-7891

For additional information, you may visit their website at:

Http://www.lollaf.org

Prairie State Legal Services

Serves most of northern and north central Illinois outside of Cook County

815-965-2134

800-331-0617

http://www.pslegal.org/

Coordinated Advice and Referral Program for Legal Service

serving Cook County, 312-738-9200

and Will County

815-727-5123

§ 11-5.3. Appointment of standby guardian.

(a) A parent, adoptive parent, or adjudicated parent whose parental rights have not been terminated, or the guardian of the person of a minor may designate in any writing, including a will, a person qualified to act under Section 11-3 to be appointed as standby guardian of the person or estate, or both, of an unmarried minor or of a child likely to be born. A parent, adoptive parent, or adjudicated parent whose parental rights have not been terminated, or the guardian of the person of a minor or a standby guardian of an unmarried minor or of a child likely to be born may designate in any writing, including a will, a person qualified to act under Section 11-3 to be appointed as successor standby guardian of the minor'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. The designation of a standby guardian or successor standby guardian does not affect the rights of the other parent in the minor.

(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 a minor as the court finds to be in the best interest of the minor.

(c) The court lacks jurisdiction to proceed on a petition for the appointment of a standby guardian of a minor if the minor has a living parent, adoptive parent or adjudicated parent, whose

parental rights have not been terminated, whose whereabouts are known, and who is willing and able to make and carry out day-to-day child care decisions concerning the minor, unless the parent or parents consent to the appointment or, after receiving notice of the hearing under Section 11-10.1, fail to object to the appointment at the hearing on the petition. There shall be a rebuttable presumption that a parent of a minor is willing and able to make and carry out day-to-day child care decisions concerning the minor, but the presumption may be rebutted by a preponderance of the evidence.

(d) 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 minor under Section 11-13.1.

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

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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 child when the child's parents or the guardian of the person of the child die or are no longer willing or able to make and carry out day-to-day child care decisions concerning the child. By properly completing this form, a parent or the guardian of the person of the child is naming the person that the parent or the guardian wants to be appointed as the standby guardian of the child or children. Both parents of a child may join together and co-sign this form. Signing the form does not appoint the standby guardian; to be appointed, a petition must be filed in and approved by the court.

1. Parent (or guardian) and Children. I,_____ (insert name of designating parent or guardian), currently residing at _____ _____(insert address of designating parent or guardian), am a parent (or the guardian of the person) of the following child or children (or of a child likely to be born): _____(insert name and date of birth of each child, or insert the words "not yet born" to designate a standby guardian for a child likely to be born and the child's expected date of birth).

2. Standby Guardian. I hereby designate the following person to be appointed as standby guardian for the child or children listed above_____ _____(insert name 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 the child or children:_____ _____ (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 parent or guardian)

5. Witnesses. I saw the parent (or the guardian of the person of the child) sign this designation or the parent (or the guardian of the person of the child) told me that (he or she) signed this designation. Then I signed the designation as a witness in the presence of the parent (or the guardian). I am not designated in this instrument to act as a standby guardian for the child or children. (insert names, addresses, and signatures of 2 witnesses).

_____ _____

_____ _____

_____ _____

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