257B.06 CUSTODIAN'S AUTHORITY.

Subdivision 1. **Generally.** A standby or temporary custodian may act as co-custodian or custodian upon the occurrence of the triggering event. The commencement of the standby or temporary custodian's authority to act as co-custodian pursuant to a determination of incapacity, a determination of debilitation and consent, or the receipt of consent alone does not itself divest the designator of any parental rights but confers on the standby or temporary custodian concurrent or shared custody of the child.

Subd. 2. **Death of designator.** The commencement of the standby custodian's authority to act as custodian because of the death of the designator does not confer upon the standby custodian more than legal and physical custody of the child as defined in chapter 518. On the death of the designator, the standby custodian shall be appointed a guardian pursuant to sections 524.5-201 to 524.5-317. No separate petition is required. No bond or accounting is required except as specified in this chapter.

Subd. 3. **Involvement of designator.** A co-custodian shall assure frequent and continuing contact with and physical access by the designator with the child and shall assure the involvement of the parents, to the greatest extent possible, in decision making on behalf of the child.

Subd. 4. **Effect of filing.** The designator may file a petition for approval of a designation with the court at any time. If the petition is approved by the court before the occurrence of the triggering event, the standby or temporary custodian's authority commences automatically upon the occurrence of the triggering event. No further petition or confirmation is required. If a designation has been made but the petition for approval of the designation has not been filed and a triggering event has occurred, the standby custodian has temporary legal authority to act as a co-custodian or custodian of the child(ren) without the direction of the court for a period of 60 days. The standby custodian must, within that period, file a petition for approval in accordance with this chapter. If no petition is filed within 60 days, the standby custodian loses all authority to act as co-custodian or custodian. If a petition is filed but the court does not act upon it within the 60-day period, the temporary legal authority to act as co-custodian or custodian continues until the court orders otherwise.

Subd. 5. **Parental rights.** The commencement of a co-custodian's or custodian's authority under this chapter does not, by itself, divest a parent or legal custodian of any parental or custodial rights.

Subd. 6. **Modification of appointment.** Once a court has confirmed the designation of a standby custodian, the appointment may be modified only under section 518.18, except that the designator may revoke the designation under section 257B.07.

Subd. 7. **Restored capacity.** If a licensed physician, an advanced practice registered nurse, or a physician assistant determines that the designator has regained capacity, the co-custodian's authority that commenced on the occurrence of a triggering event becomes inactive. Failure of a co-custodian to immediately return the child(ren) to the designator's care entitles the designator to an emergency hearing within five days of a request for a hearing.

History: *2000 c 404 s 7; 2004 c 146 art 3 s 29; 2020 c 115 art 4 s 139; 2022 c 58 s 164*