

# **WEST VIRGINIA LEGISLATURE**

**2016 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 4586**

(BY DELEGATE COWLES)

[Passed on March 11, 2016; in effect ninety days from passage.]



1 AN ACT amend and reenact §54-2-4 of the Code of West Virginia, 1931, as amended, relating to  
2 representation in condemnation proceedings where a property owner or other party is  
3 under a legal disability; providing that the court shall protect the rights of any person who  
4 is under a legal disability because he or she is a protected person, incarcerated, or whose  
5 ownership interest, lien, or other claim to property requires them to be a party in a  
6 condemnation action; providing that a protected person who is a party in a condemnation  
7 action may be represented by a conservator or guardian or by a limited guardian appointed  
8 by the court; providing that an incarcerated person who is a party in a condemnation action  
9 and has an attorney or committee shall be represented by the attorney or committee;  
10 providing that an incarcerated person who is a party in a condemnation action who does  
11 not have an attorney or committee shall be represented by a court appointed attorney;  
12 providing that the court shall appoint a guardian ad litem to defend the interests of an  
13 unknown owner or owners of property subject to condemnation; clarifying that the statutory  
14 procedures for condemnation actions control; and authorizing payment for court appointed  
15 attorneys to be paid in an amount to be fixed by the court or judge, to be taxed as costs  
16 and paid by the applicant.

*Be it enacted by the Legislature of West Virginia:*

1 That §54-2-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted  
2 to read as follows:

**ARTICLE 2. PROCEDURE.**

**§54-2-4. Persons under disability.**

1 (a) The court shall protect the rights of any person who is under a legal disability because  
2 he or she is a protected person, as defined in section two (a), article one, chapter forty-four-a of  
3 this code, or incarcerated, and whose ownership interest, lien or other claim to property requires  
4 them to be a party in a condemnation action brought pursuant to the provisions of this chapter.

5           (b) A protected person who is a party in a condemnation action may be represented by a  
6 conservator or guardian or by a limited guardian appointed by the court to represent the protected  
7 person in the condemnation action.

8           (c) An incarcerated person who is a party in a condemnation action and who has an  
9 attorney or committee shall be represented by the attorney or committee. An incarcerated person  
10 who is a party in a condemnation action who does not have an attorney or committee shall be  
11 represented by an attorney appointed by the court.

12           (d) The court shall appoint a guardian ad litem to defend the interests of an unknown  
13 owner or owners of property subject to condemnation.

14           (e) Notwithstanding any other provisions of this code to the contrary, the provisions of this  
15 chapter regarding the procedure in condemnation actions shall be followed.

16           (f) The court may direct payment of a limited guardian, attorney or guardian ad litem  
17 appointed in an amount to be fixed by the court or judge, to be taxed as costs and paid by the  
18 applicant.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within ..... this the .....  
day of ....., 2016.

.....  
*Governor*