



West Virginia Immigrant Safety Plan for Youth and Children

See Appleseed's **Deportation Preparation Manual for Immigrant Families: Make a Plan to Protect Your Kids and Finances in the Face of Deportation** for more, available at www.deportationpreparation.org.

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To see the most current version of Appleseed's deportation preparation resources, as well as translations, visit deportationpreparation.org.

Custodial Options for Family Planning in West Virginia

If you live in West Virginia and need someone else to have the authority to care for your child when you cannot be there, you have two main choices. Each choice gives the person caring for your child different rights and responsibilities. Here's a guide to help you understand your options:

Option 1: Power of Attorney¹

When should this option be considered?

Use this option when you need another adult to assist in handling everyday matters for your child. The power of attorney is only valid for up to one year and does not involve the courts. Additionally, the parent does not lose any rights during the delegation.

What is it and what powers will it give the caregiver?

This option allows the parent to delegate to another person the care and custody of a child. It does not delegate the power to consent to marriage, adoption, or termination of parental rights to the child.

How does this option affect my parental rights and authority?

This option does not modify any parental or legal rights of the parent or deprive the parent of any parental or legal rights or authority regarding the custody and care of the child. Further, the power of attorney may be revoked or withdrawn by the parent at any time.

Who needs to sign the form? Does it need to be notarized?

You and the caregiver both need to sign the form, and the form must be notarized. The form is required to be completed with the assistance of a qualified nonprofit organization.

How can parents and caregivers use the form?

Give a copy to the child's school, doctor, or clinic. Keep a copy with you and give one to anyone else who needs to trust the caregiver's decisions.

For how long is the form valid?

Up to one year from the date it is signed.

¹ [West Virginia Code: §49-8-3](#)



Can this option be canceled or changed by the parent?

Yes. The power of attorney can be revoked or withdrawn at any time.

Are there any costs associated with this option?

There may be fees to have the form notarized. In addition, the form is required to be completed with the assistance of a qualified nonprofit organization. The qualified nonprofit organization is required to conduct a criminal history and federal and state background check on the caregiver prior to you and the caregiver signing the form. The fees for the background check may be paid for by the qualified nonprofit organization, or otherwise by you or the caregiver.

Any other considerations?

Some schools, doctors or other institutions may not accept the form. The qualified nonprofit organization is required to train the caregiver in the rights, duties, and limitations associated with providing care for a child, including the prevention and reporting of suspected child abuse or neglect.

Link to form: [West Virginia Code: §49-8-4](#)

Option 2: Court-Ordered Guardianship²

When should this option be considered?

Use this option if you need someone to care for your child for a potentially longer period of time. This is a court-ordered option that transfers guardianship from yourself to another person for the period of time approved by a court. Guardianships can last until the child turns 18 years of age.

What is it and what powers will it give the caregiver?

This is a court ordered remedy which gives the legal guardian decision-making authority over the child's upbringing. This includes medical treatment, schooling, and overall welfare.

How does this option affect my parental rights and authority?

This option transfers parental rights from the parent to a legal guardian during the guardianship period. Guardianship can be later removed if approved by a court.

² [West Virginia Code: §44-10-3](#)

Who needs to sign? Does it need to be notarized?

A petition for guardianship of a minor must be filed in the circuit court of the county in which the child resides.

For how long is the form valid?

Guardianship generally can last until the child turns 18 (or for any shorter period of time approved by a court). A court may appoint a temporary guardian upon a finding that an immediate need exists. A temporary guardianship expires after six months but may be extended for up to six months by a court.

Can this option be canceled or changed by the parent?

A parent may file a petition to end the guardianship stating that the child is no longer in need of the assistance or protection of a guardian due to changed circumstances and the termination of the guardianship would be in the child's best interest. The petition must be approved by a court.

Are there any costs associated with this option?

Yes, there may be costs and fees associated with filing the petitions mentioned above. If you have a low income and cannot afford this fee, you may be able to request a fee waiver from the court.

Any other considerations?

Yes, appointing a legal guardian is a serious process that transfers your rights to another person and must go through the courts. This is a potentially time-consuming process, which includes a hearing before a court, but it can be beneficial if your child needs care for more than a year.

Link to forms:

- [Petition for Guardian/Conservator](#)
- [Petition for Termination, Revocation, or Modification of Guardianship / Conservatorship](#)
- [Court Forms – Fee Waiver Forms | West Virginia Judiciary](#)



Sample Forms and Petitions

Samples of the form or petition for each of these custodial arrangements appear on the following pages.



Power of Attorney

STATE OF WEST VIRGINIA

STATUTORY FORM FOR POWER OF ATTORNEY TO DELEGATE PARENTAL OR LEGAL CUSTODIAN POWERS

(1) I, _____, certify that I am the parent or legal custodian of:

(Full name of minor child)

(Date of birth)

(Full name of minor child)

(Date of birth)

(Full name of minor child)

(Date of birth)

who is/are minor children.

(2) I designate _____,

(Full name of designee)

(Street address, city, state and zip code of designee)

(Home phone of designee)

(Work phone of designee)

as the designee of each minor child named above.

(3) I delegate to the designee all of my power and authority regarding the care, custody and property of each minor child named above, including but not limited to the right to enroll the child in school, inspect and obtain copies of education records and other records concerning the child, the right to attend school activities and other functions concerning the child, and the right to give or withhold any consent or waiver with respect to school activities, medical and dental treatment, and any other activity, function or treatment that may concern the child. This delegation does not include the power or authority to consent to marriage or adoption of the child, the performance or inducement of an abortion on or for the child, or the termination of parental rights to the child.



Or

(4) I delegate to the designee the following specific powers and responsibilities:

(write in the specific powers and responsibilities)

(In the event paragraph four is completed paragraph three does not apply).

This delegation does not include the power or authority to consent to marriage or adoption of the child, the performance or inducement of an abortion on or for the child, or the termination of parental rights to the child.

(5) This power of attorney is effective for a period not to exceed one year, beginning, _____, ____, and ending _____, _____. I reserve the right to revoke this authority at any time.

By: _____ (Parent/Legal Custodian signature)

(6) I hereby accept my designation as designee for the minor child/children specified in this power of attorney.

By: _____ (Designee signature)

State of _____

County of _____

ACKNOWLEDGMENT

Before me, the undersigned, a Notary Public, in and for said County and State on this ____ day of _____, ____, personally appeared _____ (Name of Parent/Legal Custodian) and _____ (Name of designee), to me known to be the identical persons who executed this instrument and acknowledged to me that each executed the same as his or her free and voluntary act and deed for the uses and purposes set forth in the instrument.

Witness my hand and official seal the day and year above written.

_____ (Signature of notarial officer)

_____ (Title and Rank)

My commission expires: _____



Petition for the Appointment of a Guardian

There are many lengthy forms involved in seeking to appoint a guardianship for a child. They can be accessed here:

- [Petition for Guardian/Conservator](#)
- [Petition for Termination, Revocation, or Modification of Guardianship / Conservatorship](#)
- [Court Forms – Fee Waiver Forms | West Virginia Judiciary](#)

Obtaining Birth Certificates³

West Virginia's vital records are housed at the Vital Registration Officer of the Department of Health and Human Resources.

Who can order a birth certificate?

- The person named on the birth certificate, if 18 years or older (or an emancipated minor)
- The current spouse of the person named on the birth certificate
- Mother or father of the person named on document
- Sibling of person named on the document
- Grandparent of person named on document
- Attorney representing one of the above with proof of representation.

Where can you obtain a birth certificate?

- In Person
 - Vital Records Central Office – 350 Capitol Street, Room 165, Charleston, WV 25301-3701
- Mail
 - Vital Records Central Office – 350 Capitol Street, Room 165, Charleston, WV 25301-3701
 - Link to Application Form: [Application for Certified Copy of West Virginia Birth Certificate](#)
- Internet, Fax, Telephone
 - Internet: Vitalchek.com
 - Fax: 866-870-8723
 - [Phone](tel:1-877-448-3953): 1-877-448-3953

³ [West Virginia: Certificate Requests](#)

Immunizations⁴

You can register for “[MyIRMobileWebsite](#)” and it allows West Virginia Residents to access, review and print official vaccination records without requesting them from a doctor.

⁴ [West Virginia Department of Health Offers New Portal to Help West Virginians Access Vaccine Record; West Virginia Office of Epidemiology & Prevention Services: Immunizations](#)



Consulates in West Virginia

Please note that there are no foreign consular offices in West Virginia. Please review foreign consular information in the state guide for the neighboring state closest to you or otherwise for Washington, DC.

