

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4586

BY DELEGATE COWLES

[Introduced February 17, 2016; Referred
to the Committee on the Judiciary.]

1 A BILL 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; requiring representation for protected persons, incarcerated
4 persons and unknown parties; clarifying that the statutory procedures for condemnation
5 actions control; and authorizing payment for representatives.

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 accordance with this section.

NOTE: The purpose of this bill is ensure that the interest of protected persons, incarcerated persons and unknown owners are protected in condemnation actions filed by the Division of Highways. The bill requires the appointment of a limited guardian if a protected person is not otherwise represented and an attorney to represent an incarcerated person who is not otherwise represented in a condemnation action. It also clarifies that the process set out in the eminent domain statute must be followed rather than other requirements related to disposition of a protected person's or inmate's real property.

This section has been completely rewritten; therefore it has been entirely underscored.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.