

(2) THE CONSENT OF AN INDIVIDUAL TO BE ADOPTED OR OF A PERSON HAVING GUARDIANSHIP MAY BE REVOKED AT ANY TIME BEFORE A FINAL DECREE OF ADOPTION OR AN INTERLOCUTORY DECREE OF ADOPTION BARS THE RIGHT TO REVOKE CONSENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Article 16, §§ 72 and 74(c)(2).

Throughout this section, "individual" is substituted for the former word "person", for clarity.

In subsections (a) and (b) of this section, the word "valid", which formerly modified "judicial proceeding", is deleted as unnecessary.

In subsection (b)(1) of this section, the former word "director" is deleted as included in "executive head".

In subsection (c) of this section, the exception "when preceded by a final decree of guardianship" is revised to apply expressly to the consent of a natural parent only. This revision, which reflects administrative interpretation and apparent legislative intent, is called to the attention of the General Assembly.

The Commission to Revise the Annotated Code points out, for consideration by the General Assembly, that the language referring to the time before "a final decree of adoption or an interlocutory decree of adoption", which appears in subsection (c)(1) and (2) of this section and in former Article 16, § 74(c)(2), may create a substantive ambiguity. There are a considerable number of indicia that this language was intended to mean that an interlocutory decree of adoption cuts off the right to revoke consent: (i) an interlocutory decree of adoption has the effect of a final decree under § 5-308 of this subtitle; (ii) if an interlocutory decree does not cut off the right to revoke consent, then the reference to an interlocutory decree is surplusage, and established rules of statutory construction attempt to prevent that result; and (iii) a court could rescind an interlocutory decree if necessary. In this light, subsection (c) of this section is revised to clarify that an interlocutory decree cuts off the right to revoke consent before a subsequent final decree.

Defined terms: "Child placement agency" § 5-301
"Guardianship" § 5-301

5-312. WHEN PARENTAL CONSENT NOT REQUIRED -- INDEPENDENT ADOPTION.

(A) SCOPE OF SECTION.