

AN ACT concerning civil law.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

Section 5. The Probate Act of 1975 is amended by changing Sections 11a-1, 11a-3, 11a-3.1, 11a-3.2, 11a-4, 11a-5, 11a-8, 11a-10, 11a-10.1, 11a-12, 11a-17, 11a-17.1, 11a-18, 11a-18.3, 11a-19, 11a-20, 13-1, 18-10, 19-2, 25-4, and 27-1 and by adding Section 11a-13.5 as follows:

(755 ILCS 5/11a-1) (from Ch. 110 1/2, par. 11a-1)

Sec. 11a-1. "Developmental disability" defined.→  
"Developmental disability" means a disability which is attributable to: (a) an intellectual disability, cerebral palsy, epilepsy or autism; or to (b) any other condition which results in impairment similar to that caused by an intellectual disability and which requires services similar to those required by persons with intellectual disabilities. Such disability must originate before the age of 18 years, be expected to continue indefinitely, and constitute a substantial disability.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-3) (from Ch. 110 1/2, par. 11a-3)

Sec. 11a-3. Adjudication of disability; Power to appoint

guardian.

(a) Upon the filing of a petition by a reputable person or by the alleged person with a disability himself or on its own motion, the court may adjudge a person to be a person with a disability, but only if it has been demonstrated by clear and convincing evidence that the person is a person with a disability as defined in Section 11a-2. If the court adjudges a person to be a person with a disability, the court may appoint (1) a guardian of his person, if it has been demonstrated by clear and convincing evidence that because of his disability he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning the care of his person, or (2) a guardian of his estate, if it has been demonstrated by clear and convincing evidence that because of his disability he is unable to manage his estate or financial affairs, or (3) a guardian of his person and of his estate. The court may appoint co-guardians in accordance with Section 11a-15.

(b) Guardianship shall be utilized only as is necessary to promote the well-being of the person with a disability, to protect him from neglect, exploitation, or abuse, and to encourage development of his maximum self-reliance and independence. Guardianship shall be ordered only to the extent necessitated by the individual's actual mental, physical and adaptive limitations. The order shall conform with Sections 11a-12 and 11a-14.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-3.1)

Sec. 11a-3.1. Appointment of standby guardian.

(a) The guardian of a person with a disability may designate in any writing, including a will, a person qualified to act under Section 11a-5 to be appointed as standby guardian of the person or estate, or both, of the person with a disability. The guardian may designate in any writing, including a will, a person qualified to act under Section 11a-5 to be appointed as successor standby guardian of the person or estate of the person with a disability, or both. The designation must be witnessed by 2 or more credible witnesses at least 18 years of age, neither of whom is the person designated as the standby guardian. The designation may be proved by any competent evidence. If the designation is executed and attested in the same manner as a will, it shall have prima facie validity. Prior to designating a proposed standby guardian, the guardian shall consult with the person with a disability to determine the preference of the person with a disability as to the person who will serve as standby guardian. The guardian shall give due consideration to the preference of the person with a disability in selecting a standby guardian.

(b) Upon the filing of a petition for the appointment of a standby guardian, the court may appoint a standby guardian of

the person or estate, or both, of the person with a disability as the court finds to be in the best interests ~~interest~~ of the person with a disability. The court shall apply the same standards used in determining the suitability of a plenary or limited guardian in determining the suitability of a standby guardian, giving due consideration to the preference of the person with a disability as to a standby guardian. The court may not appoint the Office of State Guardian, pursuant to Section 30 of the Guardianship and Advocacy Act, or a public guardian, pursuant to Section 13-5 of this Act, as a standby guardian, without the written consent of the State Guardian or public guardian or an authorized representative of the State Guardian or public guardian.

(c) The standby guardian shall take and file an oath or affirmation that the standby guardian will faithfully discharge the duties of the office of standby guardian according to law, and shall file in and have approved by the court a bond binding the standby guardian so to do, but shall not be required to file a bond until the standby guardian assumes all duties as guardian of the person with a disability under Section 11a-18.2.

(d) The designation of a standby guardian may, but need not, be in the following form:

DESIGNATION OF STANDBY GUARDIAN

[IT IS IMPORTANT TO READ THE FOLLOWING INSTRUCTIONS:

A standby guardian is someone who has been appointed

by the court as the person who will act as guardian of the person with a disability when the guardian of the person with a disability dies or is no longer willing or able to make and carry out day-to-day care decisions concerning the person with a disability. By properly completing this form, a guardian is naming the person that the guardian wants to be appointed as the standby guardian of the person with a disability. Signing the form does not appoint the standby guardian; to be appointed, a petition must be filed in and approved by the court.]

1. Guardian and Ward. I, (insert name of designating guardian), currently residing at (insert address of designating guardian), am the guardian of the following person with a disability: (insert name of ward).

2. Standby Guardian. I hereby designate the following person to be appointed as standby guardian for my ward listed above: (insert name and address of person designated).

3. Successor Standby Guardian. If the person named in item 2 above cannot or will not act as standby guardian, I designate the following person to be appointed as successor standby guardian for my ward: (insert name and address of person designated).

4. Date and Signature. This designation is made this (insert day) day of (insert month and year).

Signed: (designating guardian)

5. Witnesses. I saw the guardian sign this designation or the guardian told me that the guardian signed this designation. Then I signed the designation as a witness in the presence of the guardian. I am not designated in this instrument to act as a standby guardian for the guardian's ward. (insert space for names, addresses, and signatures of 2 witnesses)

[END OF FORM]

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-3.2)

Sec. 11a-3.2. Short-term guardian.

(a) The guardian of a person with a disability may appoint in writing, without court approval, a short-term guardian of the person with a disability to take over the guardian's duties, to the extent provided in Section 11a-18.3, each time the guardian is unavailable or unable to carry out those duties. The guardian shall consult with the person with a disability to determine the preference of the person with a disability concerning the person to be appointed as short-term guardian and the guardian shall give due consideration to the preference of the person with a disability in choosing a short-term guardian. The written instrument appointing a short-term guardian shall be dated and shall identify the appointing guardian, the person with a disability, the person appointed to be the short-term guardian, and the termination

date of the appointment. The written instrument shall be signed by, or at the direction of, the appointing guardian in the presence of at least 2 credible witnesses at least 18 years of age, neither of whom is the person appointed as the short-term guardian. The person appointed as the short-term guardian shall also sign the written instrument, but need not sign at the same time as the appointing guardian. A guardian may not appoint the Office of State Guardian or a public guardian as a short-term guardian, without the written consent of the State Guardian or public guardian or an authorized representative of the State Guardian or public guardian.

(b) The appointment of the short-term guardian is effective immediately upon the date the written instrument is executed, unless the written instrument provides for the appointment to become effective upon a later specified date or event. A short-term guardian appointed by the guardian shall have authority to act as guardian of the person with a disability for a cumulative total of 60 days during any 12-month ~~12-month~~ period. Only one written instrument appointing a short-term guardian may be in force at any given time.

(c) Every appointment of a short-term guardian may be amended or revoked by the appointing guardian at any time and in any manner communicated to the short-term guardian or to any other person. Any person other than the short-term guardian to whom a revocation or amendment is communicated or

delivered shall make all reasonable efforts to inform the short-term guardian of that fact as promptly as possible.

(d) The appointment of a short-term guardian or successor short-term guardian does not affect the rights in the person with a disability of any guardian other than the appointing guardian.

(e) The written instrument appointing a short-term guardian may, but need not, be in the following form:

APPOINTMENT OF SHORT-TERM GUARDIAN

[IT IS IMPORTANT TO READ THE FOLLOWING INSTRUCTIONS:

By properly completing this form, a guardian is appointing a short-term guardian of the person with a disability for a cumulative total of up to 60 days during any 12-month ~~12-month~~ period. A separate form shall be completed each time a short-term guardian takes over guardianship duties. The person or persons appointed as the short-term guardian shall sign the form, but need not do so at the same time as the guardian.]

1. Guardian and Ward. I, (insert name of appointing guardian), currently residing at (insert address of appointing guardian), am the guardian of the following person with a disability: (insert name of ward).

2. Short-term Guardian. I hereby appoint the following person as the short-term guardian for my ward: (insert name and address of appointed person).

3. Effective date. This appointment becomes effective:  
(check one if you wish it to be applicable)

On the date that I state in writing that I am no longer either willing or able to make and carry out day-to-day care decisions concerning my ward.

On the date that a physician familiar with my condition certifies in writing that I am no longer willing or able to make and carry out day-to-day care decisions concerning my ward.

On the date that I am admitted as an in-patient to a hospital or other health care institution.

On the following date: (insert date).

Other: (insert other).

[NOTE: If this item is not completed, the appointment is effective immediately upon the date the form is signed and dated below.]

4. Termination. This appointment shall terminate on: (enter a date corresponding to 60 days from the current date, less the number of days within the past 12 months that any short-term guardian has taken over guardianship duties), unless it terminates sooner as determined by the event or date I have indicated below: (check one if you wish it to be applicable)

On the date that I state in writing that I am willing and able to make and carry out day-to-day care decisions concerning my ward.

( ) On the date that a physician familiar with my condition certifies in writing that I am willing and able to make and carry out day-to-day care decisions concerning my ward.

( ) On the date that I am discharged from the hospital or other health care institution where I was admitted as an in-patient, which established the effective date.

( ) On the date which is (state a number of days) days after the effective date.

( ) Other: (insert other).

[NOTE: If this item is not completed, the appointment will be effective until the 60th day within the past year during which time any short-term guardian of this ward had taken over guardianship duties from the guardian, beginning on the effective date.]

5. Date and signature of appointing guardian. This appointment is made this (insert day) day of (insert month and year).

Signed: (appointing guardian)

6. Witnesses. I saw the guardian sign this instrument or I saw the guardian direct someone to sign this instrument for the guardian. Then I signed this instrument as a witness in the presence of the guardian. I am not appointed in this instrument to act as the short-term guardian for the guardian's ward. (insert space for names, addresses, and signatures of 2 witnesses)

7. Acceptance of short-term guardian. I accept this appointment as short-term guardian on this (insert day) day of (insert month and year).

Signed: (short-term guardian)

[END OF FORM]

(f) Each time the guardian appoints a short-term guardian, the guardian shall: (i) provide the person with a disability with the name, address, and telephone number of the short-term guardian; (ii) advise the person with a disability that he has the right to object to the appointment of the short-term guardian by filing a petition in court; and (iii) notify the person with a disability when the short-term guardian will be taking over guardianship duties and the length of time that the short-term guardian will be acting as guardian.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-4) (from Ch. 110 1/2, par. 11a-4)

Sec. 11a-4. Temporary guardian.

(a) Prior to the appointment of a guardian under this Article, pending an appeal in relation to the appointment, or pending the completion of a citation proceeding brought pursuant to Section 23-3 of this Act, or upon a guardian's death, incapacity, or resignation, the court may appoint a temporary guardian upon a showing of the necessity therefor for the immediate welfare and protection of the alleged person with a disability or his or her estate on such notice and

subject to such conditions as the court may prescribe. In determining the necessity for temporary guardianship, the immediate welfare and protection of the alleged person with a disability and his or her estate shall be of paramount concern, and the interests of the petitioner, any care provider, or any other party shall not outweigh the interests of the alleged person with a disability. The temporary guardian shall have the limited powers and duties of a guardian of the person or of the estate which are specifically enumerated by court order. The court order shall state the actual harm identified by the court that necessitates temporary guardianship or any extension thereof.

(b) The temporary guardianship shall expire within 60 days after the appointment or whenever a guardian is regularly appointed, whichever occurs first. No extension shall be granted except:

(1) In a case where there has been an adjudication of disability, an extension shall be granted:

(i) pending the disposition on appeal of an adjudication of disability;

(ii) pending the completion of a citation proceeding brought pursuant to Section 23-3;

(iii) pending the appointment of a successor guardian in a case where the former guardian has resigned, has become incapacitated, or is deceased; or

(iv) where the guardian's powers have been

suspended pursuant to a court order.

(2) In a case where there has not been an adjudication of disability, an extension shall be granted pending the disposition of a petition brought pursuant to Section 11a-8 so long as the court finds it is in the best interests ~~interest~~ of the alleged person with a disability to extend the temporary guardianship so as to protect the alleged person with a disability from any potential abuse, neglect, self-neglect, exploitation, or other harm and such extension lasts no more than 120 days from the date the temporary guardian was originally appointed.

The ward shall have the right any time after the appointment of a temporary guardian is made to petition the court to revoke the appointment of the temporary guardian.

(Source: P.A. 99-70, eff. 1-1-16; 99-143, eff. 7-27-15; 99-642, eff. 7-28-16.)

(755 ILCS 5/11a-5) (from Ch. 110 1/2, par. 11a-5)

Sec. 11a-5. Who may act as guardian.

(a) A person is qualified to act as guardian of the person and as guardian of the estate of a person with a disability if the court finds that the proposed guardian is capable of providing an active and suitable program of guardianship for the person with a disability and that the proposed guardian:

- (1) has attained the age of 18 years;
- (2) is a resident of the United States;

(3) is not of unsound mind;

(4) is not an adjudged person with a disability as defined in this Act; and

(5) has not been convicted of a felony, unless the court finds appointment of the person convicted of a felony to be in the best interests of the person with a disability, and as part of the best interests ~~interest~~ determination, the court has considered the nature of the offense, the date of offense, and the evidence of the proposed guardian's rehabilitation. No person shall be appointed who has been convicted of a felony involving harm or threat to a minor or an elderly person or a person with a disability, including a felony sexual offense.

(b) Any public agency, or not-for-profit corporation found capable by the court of providing an active and suitable program of guardianship for the person with a disability, taking into consideration the nature of such person's disability and the nature of such organization's services, may be appointed guardian of the person or of the estate, or both, of the person with a disability. The court shall not appoint as guardian an agency or employee of an agency that is directly providing residential services to the ward. One person or agency may be appointed guardian of the person and another person or agency appointed guardian of the estate.

(b-5)(1) The court may appoint separate individuals or entities to act as the guardian of the person and the guardian

of the estate of a person with a disability if the court finds it is in the best interests of the person with a disability that separate guardians be appointed. The court shall not appoint a separate person or entity to act as guardian of the person or guardian of the estate with a public guardian or the Office of State Guardian unless the public guardian or the Office of State Guardian agrees to such an appointment.

(2) The court may appoint co-guardians to act as guardian of the person, guardian of the estate, or both the guardian of the person and the guardian of the estate if the court finds it is in the best interests of the person with a disability. When considering appointing co-guardians, the court shall consider the proposed co-guardians' history of cooperating and working together on behalf of the person with a disability. The court shall appoint only co-guardians who agree to serve together. The court shall not appoint a public guardian or the Office of State Guardian as a co-guardian for a person with a disability.

(c) Any corporation qualified to accept and execute trusts in this State may be appointed guardian or limited guardian of the estate of a person with a disability.

(Source: P.A. 99-143, eff. 7-27-15; 100-756, eff. 1-1-19.)

(755 ILCS 5/11a-8) (from Ch. 110 1/2, par. 11a-8)

Sec. 11a-8. Petition. The petition for adjudication of disability and for the appointment of a guardian of the estate

or the person or both of an alleged person with a disability must state, if known or reasonably ascertainable: (a) the relationship and interest of the petitioner to the respondent; (b) the name, date of birth, and place of residence of the respondent; (c) the reasons for the guardianship; (d) the name and post office address of the respondent's guardian, if any, or of the respondent's agent or agents appointed under the Illinois Power of Attorney Act, if any; (e) the name and post office addresses of the nearest relatives of the respondent in the following order: (1) the spouse and adult children, parents and adult brothers and sisters, if any; if none, (2) nearest adult kindred known to the petitioner; (f) the name and address of the person with whom or the facility in which the respondent is residing; (g) the approximate value of the personal and real estate; (h) the amount of the anticipated annual gross income and other receipts; (i) the name, post office address and in case of an individual, the age, relationship to the respondent and occupation of the proposed guardian. In addition, if the petition seeks the appointment of a previously appointed standby guardian as guardian of the person with a disability, the petition must also state: (j) the facts concerning the standby guardian's previous appointment and (k) the date of death of the guardian of the person with a disability or the facts concerning the consent of the guardian of the person with a disability to the appointment of the standby guardian as guardian, or the

willingness and ability of the guardian of the person with a disability to make and carry out day-to-day care decisions concerning the person with a disability. A petition for adjudication of disability and the appointment of a guardian of the estate or the person or both of an alleged person with a disability may not be dismissed or withdrawn without leave of the court. A petitioner who seeks to revoke or construe a power of attorney for the alleged person with a disability, or review the agent's conduct, shall do so in conformity with the Illinois Power of Attorney Act, and as set forth in subsection (c) of Section 11a-17 and subsection (e) of Section 11a-18 of this Act.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-10) (from Ch. 110 1/2, par. 11a-10)

Sec. 11a-10. Procedures preliminary to hearing.

(a) Upon the filing of a petition pursuant to Section 11a-8, the court shall set a date and place for hearing to take place within 30 days. The court shall appoint a guardian ad litem to report to the court concerning the respondent's best interests consistent with the provisions of this Section, except that the appointment of a guardian ad litem shall not be required when the court determines that such appointment is not necessary for the protection of the respondent or a reasonably informed decision on the petition. If the guardian ad litem is not a licensed attorney, he or she shall be

qualified, by training or experience, to work with or advocate for persons with developmental disabilities, the mentally ill, persons with physical disabilities, the elderly, or persons with a disability due to mental deterioration, depending on the type of disability that is alleged in the petition. The court may allow the guardian ad litem reasonable compensation. The guardian ad litem may consult with a person who by training or experience is qualified to work with persons with a developmental disability, persons with mental illness, persons with physical disabilities, or persons with a disability due to mental deterioration, depending on the type of disability that is alleged. The guardian ad litem shall personally observe the respondent prior to the hearing and shall inform him orally and in writing of the contents of the petition and of his rights, including providing a copy of the notice of rights required under subsection (e) under Section 11a-11. The guardian ad litem shall also attempt to elicit the respondent's position concerning the adjudication of disability, the proposed guardian, a proposed change in residential placement, changes in care that might result from the guardianship, and other areas of inquiry deemed appropriate by the court. Notwithstanding any provision in the Mental Health and Developmental Disabilities Confidentiality Act or any other law, a guardian ad litem shall have the right to inspect and copy any medical or mental health record of the respondent which the guardian ad litem deems necessary,

provided that the information so disclosed shall not be utilized for any other purpose nor be redisclosed except in connection with the proceedings. At or before the hearing, the guardian ad litem shall file a written report detailing his or her observations of the respondent, the responses of the respondent to any of the inquiries detailed in this Section, the opinion of the guardian ad litem or other professionals with whom the guardian ad litem consulted concerning the appropriateness of guardianship, and any other material issue discovered by the guardian ad litem. The guardian ad litem shall appear at the hearing and testify as to any issues presented in his or her report.

(b) The court (1) may appoint counsel for the respondent, if the court finds that the interests of the respondent will be best served by the appointment, and (2) shall appoint counsel upon respondent's request or if the respondent takes a position adverse to that of the guardian ad litem. The respondent shall be permitted to obtain the appointment of counsel either at the hearing or by any written or oral request communicated to the court prior to the hearing. The summons shall inform the respondent of this right to obtain appointed counsel. The court may allow counsel for the respondent reasonable compensation.

(c) If the respondent is unable to pay the fee of the guardian ad litem or appointed counsel, or both, the court may enter an order for the petitioner to pay all such fees or such

amounts as the respondent or the respondent's estate may be unable to pay. However, in cases where the Office of State Guardian is the petitioner, consistent with Section 30 of the Guardianship and Advocacy Act, where the public guardian is the petitioner, consistent with Section 13-5 of this Act, where an adult protective services agency is the petitioner, pursuant to Section 9 of the Adult Protective Services Act, or where the Department of Children and Family Services is the petitioner under subparagraph (d) of subsection (1) of Section 2-27 of the Juvenile Court Act of 1987, no guardian ad litem or legal fees shall be assessed against the Office of State Guardian, the public guardian, the adult protective services agency, or the Department of Children and Family Services.

(d) The hearing may be held at such convenient place as the court directs, including at a facility in which the respondent resides.

(e) Unless he is the petitioner, the respondent shall be personally served with a copy of the petition and a summons not less than 14 days before the hearing. The summons shall be printed in large, bold type and shall include the following ~~notice~~:

NOTICE OF RIGHTS OF RESPONDENT

You have been named as a respondent in a guardianship petition asking that you be declared a person with a disability. If the court grants the petition, a guardian will be appointed for you. A copy of the guardianship petition is

attached for your convenience.

The date and time of the hearing are:

The place where the hearing will occur is:

The Judge's name and phone number is:

If a guardian is appointed for you, the guardian may be given the right to make all important personal decisions for you, such as where you may live, what medical treatment you may receive, what places you may visit, and who may visit you. A guardian may also be given the right to control and manage your money and other property, including your home, if you own one. You may lose the right to make these decisions for yourself.

You have the following legal rights:

(1) You have the right to be present at the court hearing.

(2) You have the right to be represented by a lawyer, either one that you retain, or one appointed by the Judge.

(3) You have the right to ask for a jury of six persons to hear your case.

(4) You have the right to present evidence to the court and to confront and cross-examine witnesses.

(5) You have the right to ask the Judge to appoint an independent expert to examine you and give an opinion about your need for a guardian.

(6) You have the right to ask that the court hearing be closed to the public.

(7) You have the right to tell the court whom you

prefer to have for your guardian.

(8) You have the right to ask a judge to find that although you lack some capacity to make your own decisions, you can make other decisions, and therefore it is best for the court to appoint only a limited guardian for you.

You do not have to attend the court hearing if you do not want to be there. If you do not attend, the Judge may appoint a guardian if the Judge finds that a guardian would be of benefit to you. The hearing will not be postponed or canceled if you do not attend. If you are unable to attend the hearing in person or you will suffer harm if you attend, the Judge can decide to hold the hearing at a place that is convenient. The Judge can also follow the rule of the Supreme Court of this State, or its local equivalent, and decide if a video conference is appropriate.

IT IS VERY IMPORTANT THAT YOU ATTEND THE HEARING IF YOU DO NOT WANT A GUARDIAN OR IF YOU WANT SOMEONE OTHER THAN THE PERSON NAMED IN THE GUARDIANSHIP PETITION TO BE YOUR GUARDIAN. IF YOU DO NOT WANT A GUARDIAN OR IF YOU HAVE ANY OTHER PROBLEMS, YOU SHOULD CONTACT AN ATTORNEY OR COME TO COURT AND TELL THE JUDGE.

Service of summons and the petition may be made by a private person 18 years of age or over who is not a party to the action.

[END OF FORM].

(f) Notice of the time and place of the hearing shall be given by the petitioner by mail or in person to those persons, including the proposed guardian, whose names and addresses appear in the petition and who do not waive notice, not less than 14 days before the hearing.

(Source: P.A. 99-143, eff. 7-27-15; 99-642, eff. 7-28-16; 100-201, eff. 8-18-17; 100-427, eff. 1-1-18.)

(755 ILCS 5/11a-10.1) (from Ch. 110 1/2, par. 11a-10.1)

Sec. 11a-10.1. Domestic Violence: Order of Protection. An order of protection, as defined in the Illinois Domestic Violence Act of 1986, ~~as amended~~, may be issued in conjunction with a proceeding for adjudication of disability and appointment of guardian if the petition for an order of protection alleges that a person who is party to or the subject of the proceeding has been abused by or has abused a family or household member or has been neglected or exploited as defined in the Illinois Domestic Violence Act of 1986, ~~as amended~~.

If the subject of the order of protection is a high-risk adult with disabilities for whom a guardian has been appointed, the court may appoint a temporary substitute guardian under the provisions of this Act. The court shall appoint a temporary substitute guardian if the appointed guardian is named as a respondent in a petition for an order of protection under the Illinois Domestic Violence Act of 1986, ~~as amended~~. The Illinois Domestic Violence Act of 1986 shall

govern the issuance, enforcement and recording of orders of protection issued under this Section.

(Source: P.A. 86-542.)

(755 ILCS 5/11a-12) (from Ch. 110 1/2, par. 11a-12)

Sec. 11a-12. Order of appointment.†

(a) If basis for the appointment of a guardian as specified in Section 11a-3 is not found, the court shall dismiss the petition.

(b) If the respondent is adjudged to be a person with a disability and to lack some but not all of the capacity as specified in Section 11a-3, and if the court finds that guardianship is necessary for the protection of the person with a disability, his or her estate, or both, the court shall appoint a limited guardian for the respondent's person or estate or both. The court shall enter a written order stating the factual basis for its findings and specifying the duties and powers of the guardian and the legal disabilities to which the respondent is subject.

(c) If the respondent is adjudged to be a person with a disability and to be totally without capacity as specified in Section 11a-3, and if the court finds that limited guardianship will not provide sufficient protection for the person with a disability, his or her estate, or both, the court shall appoint a plenary guardian for the respondent's person or estate or both. The court shall enter a written order

stating the factual basis for its findings.

(d) The selection of the guardian shall be in the discretion of the court, which shall give due consideration to the preference of the person with a disability as to a guardian, as well as the qualifications of the proposed guardian, in making its appointment. However, the paramount concern in the selection of the guardian is the best interests ~~interest~~ and well-being of the person with a disability.

One person or agency may be appointed a limited or plenary guardian of the person and another person or corporate trustee appointed as a limited or plenary guardian of the estate. If different persons are appointed, the court shall consider the factors set forth in subsection (b-5) of Section 11a-5. The court shall enter a written order stating the factual basis for its findings.

(e) The order of appointment of a guardian of the person in any county with a population of less than 3 million shall include the requirement that the guardian of the person complete the training program as provided in Section 33.5 of the Guardianship and Advocacy Act that outlines the responsibilities of the guardian of the person and the rights of the person under guardianship and file with the court a certificate of completion one year from the date of issuance of the letters of guardianship, except that: (1) the chief judge of any circuit may order implementation of another training program by a suitable provider containing

substantially similar content; (2) employees of the Office of the State Guardian, public guardians, attorneys currently authorized to practice law, corporate fiduciaries, and persons certified by the Center for Guardianship Certification are exempt from this training requirement; and (3) the court may, for good cause shown, exempt from this requirement an individual not otherwise listed in item (2). For the purposes of this subsection (e), good cause may be proven by affidavit. If the court finds good cause to exempt an individual from the training requirement, the order of appointment shall so state. (Source: P.A. 99-143, eff. 7-27-15; 100-483, eff. 9-8-18.)

(755 ILCS 5/11a-13.5 new)

Sec. 11a-13.5. Guardian fees. A guardian is entitled to reasonable and appropriate compensation for services related to guardianship duties, but all fees must be reviewed and approved by the court pursuant to a fee petition. In considering the reasonableness of any fee petition brought by a guardian under this Section, the court shall consider the following:

(1) the powers and duties assigned to the guardian by the court;

(2) the necessity of any services provided;

(3) the time required, the degree of difficulty, and the experience needed to complete the task;

(4) the needs of the ward and the costs of

alternatives; and

(5) other facts and circumstances material to the best interests of the ward or his or her estate.

Upon the death of the ward, fees and costs awarded under this Section shall be considered as a first-class claim for administrative expenses as set forth in Section 18-10 and may be paid from the guardianship estate or from the decedent's estate.

(755 ILCS 5/11a-17) (from Ch. 110 1/2, par. 11a-17)

Sec. 11a-17. Duties of personal guardian.

(a) To the extent ordered by the court and under the direction of the court, the guardian of the person shall have custody of the ward and the ward's minor and adult dependent children and shall procure for them and shall make provision for their support, care, comfort, health, education and maintenance, and professional services as are appropriate, but the ward's spouse may not be deprived of the custody and education of the ward's minor and adult dependent children, without the consent of the spouse, unless the court finds that the spouse is not a fit and competent person to have that custody and education. The guardian shall assist the ward in the development of maximum self-reliance and independence. The guardian of the person may petition the court for an order directing the guardian of the estate to pay an amount periodically for the provision of the services specified by

the court order. If the ward's estate is insufficient to provide for education and the guardian of the ward's person fails to provide education, the court may award the custody of the ward to some other person for the purpose of providing education. If a person makes a settlement upon or provision for the support or education of a ward, the court may make an order for the visitation of the ward by the person making the settlement or provision as the court deems proper. A guardian of the person may not admit a ward to a mental health facility except at the ward's request as provided in Article IV of the Mental Health and Developmental Disabilities Code and unless the ward has the capacity to consent to such admission as provided in Article IV of the Mental Health and Developmental Disabilities Code.

(a-3) If a guardian of an estate has not been appointed, the guardian of the person may, without an order of court, open, maintain, and transfer funds to an ABLE account on behalf of the ward and the ward's minor and adult dependent children as specified under Section 16.6 of the State Treasurer Act.

(a-5) If the ward filed a petition for dissolution of marriage under the Illinois Marriage and Dissolution of Marriage Act before the ward was adjudicated a person with a disability under this Article, the guardian of the ward's person and estate may maintain that action for dissolution of marriage on behalf of the ward. Upon petition by the guardian

of the ward's person or estate, the court may authorize and direct a guardian of the ward's person or estate to file a petition for dissolution of marriage or to file a petition for legal separation or declaration of invalidity of marriage under the Illinois Marriage and Dissolution of Marriage Act on behalf of the ward if the court finds by clear and convincing evidence that the relief sought is in the ward's best interests. In making its determination, the court shall consider the standards set forth in subsection (e) of this Section.

(a-10) Upon petition by the guardian of the ward's person or estate, the court may authorize and direct a guardian of the ward's person or estate to consent, on behalf of the ward, to the ward's marriage pursuant to Part II of the Illinois Marriage and Dissolution of Marriage Act if the court finds by clear and convincing evidence that the marriage is in the ward's best interests. In making its determination, the court shall consider the standards set forth in subsection (e) of this Section. Upon presentation of a court order authorizing and directing a guardian of the ward's person and estate to consent to the ward's marriage, the county clerk shall accept the guardian's application, appearance, and signature on behalf of the ward for purposes of issuing a license to marry under Section 203 of the Illinois Marriage and Dissolution of Marriage Act.

(b) If the court directs, the guardian of the person shall

file with the court at intervals indicated by the court, a report that shall state briefly: (1) the current mental, physical, and social condition of the ward and the ward's minor and adult dependent children; (2) their present living arrangement, and a description and the address of every residence where they lived during the reporting period and the length of stay at each place; (3) a summary of the medical, educational, vocational, and other professional services given to them; (4) a resume of the guardian's visits with and activities on behalf of the ward and the ward's minor and adult dependent children; (5) a recommendation as to the need for continued guardianship; (6) any other information requested by the court or useful in the opinion of the guardian. The Office of the State Guardian shall assist the guardian in filing the report when requested by the guardian. The court may take such action as it deems appropriate pursuant to the report.

(c) Absent court order pursuant to the Illinois Power of Attorney Act directing a guardian to exercise powers of the principal under an agency that survives disability, the guardian has no power, duty, or liability with respect to any personal or health care matters covered by the agency. This subsection (c) applies to all agencies, whenever and wherever executed.

(d) A guardian acting as a surrogate decision maker under the Health Care Surrogate Act shall have all the rights of a surrogate under that Act without court order including the

right to make medical treatment decisions such as decisions to forgo or withdraw life-sustaining treatment. Any decisions by the guardian to forgo or withdraw life-sustaining treatment that are not authorized under the Health Care Surrogate Act shall require a court order. Nothing in this Section shall prevent an agent acting under a power of attorney for health care from exercising his or her authority under the Illinois Power of Attorney Act without further court order, unless a court has acted under Section 2-10 of the Illinois Power of Attorney Act. If a guardian is also a health care agent for the ward under a valid power of attorney for health care, the guardian acting as agent may execute his or her authority under that act without further court order.

(e) Decisions made by a guardian on behalf of a ward shall be made in accordance with the following standards for decision making. Decisions made by a guardian on behalf of a ward may be made by conforming as closely as possible to what the ward, if competent, would have done or intended under the circumstances, taking into account evidence that includes, but is not limited to, the ward's personal, philosophical, religious and moral beliefs, and ethical values relative to the decision to be made by the guardian. Where possible, the guardian shall determine how the ward would have made a decision based on the ward's previously expressed preferences, and make decisions in accordance with the preferences of the ward. If the ward's wishes are unknown and remain unknown

after reasonable efforts to discern them, the decision shall be made on the basis of the ward's best interests as determined by the guardian. In determining the ward's best interests, the guardian shall weigh the reason for and nature of the proposed action, the benefit or necessity of the action, the possible risks and other consequences of the proposed action, and any available alternatives and their risks, consequences and benefits, and shall take into account any other information, including the views of family and friends, that the guardian believes the ward would have considered if able to act for herself or himself.

(f) Upon petition by any interested person (including the standby or short-term guardian), with such notice to interested persons as the court directs and a finding by the court that it is in the best interests ~~interest~~ of the person with a disability, the court may terminate or limit the authority of a standby or short-term guardian or may enter such other orders as the court deems necessary to provide for the best interests ~~interest~~ of the person with a disability. The petition for termination or limitation of the authority of a standby or short-term guardian may, but need not, be combined with a petition to have another guardian appointed for the person with a disability.

(g) (1) Unless there is a court order to the contrary, the guardian, consistent with the standards set forth in subsection (e) of this Section, shall use reasonable efforts

to notify the ward's known adult children, who have requested notification and provided contact information, of the ward's admission to a hospital, ~~or~~ hospice or palliative care program, the ward's death, and the arrangements for the disposition of the ward's remains.

(2) If a guardian unreasonably prevents an adult child, spouse, adult grandchild, parent, or adult sibling of the ward from visiting the ward, the court, upon a verified petition, may order the guardian to permit visitation between the ward and the adult child, spouse, adult grandchild, parent, or adult sibling. In making its determination, the court shall consider the standards set forth in subsection (e) of this Section. The court shall not allow visitation if the court finds that the ward has capacity to evaluate and communicate decisions regarding visitation and expresses a desire not to have visitation with the petitioner. This subsection (g) does not apply to duly appointed public guardians or the Office of State Guardian.

(Source: P.A. 100-1054, eff. 1-1-19; 101-329, eff. 8-9-19.)

(755 ILCS 5/11a-17.1)

Sec. 11a-17.1. Sterilization of ward.

(a) A guardian of the person shall not consent to the sterilization of the ward without first obtaining an order from the court granting the guardian the authority to provide consent. For purposes of this Article XIa, "sterilization"

means any procedure that has as its purpose rendering the ward permanently incapable of reproduction; provided, however, that an order from the court is not required for a procedure that is medically necessary to preserve the life of the ward or to prevent serious impairment to the health of the ward and which may result in sterilization.

(b) A guardian seeking authority to consent to the sterilization of the ward shall seek such authority by filing a verified motion. The verified motion shall allege facts which demonstrate that the proposed sterilization is warranted under subsection (f), (g) or (h) of this Section. The guardian ad litem will notify the ward of the motion in the manner set forth in subsection (c) of this Section.

(c) Upon the filing of a verified motion for authority to consent to sterilization, the court shall appoint a guardian ad litem to report to the court consistent with the provisions of this Section. If the guardian ad litem is not a licensed attorney, he or she shall be qualified, by training or experience, to work with or advocate for persons with a developmental disability, mental illness, physical disability, or disability because of mental deterioration, depending on the type of disability of the ward that is alleged in the motion. The court may allow the guardian ad litem reasonable compensation. The guardian ad litem may consult with a person who by training or experience is qualified to work with persons with a developmental disability, mental illness,

physical disability, or disability because of mental deterioration, depending on the type of disability of the ward that is alleged. The guardian ad litem may also consult with health care providers knowledgeable about reproductive health matters including sterilization, other forms of contraception, and childbirth. Outside the presence of the guardian, the guardian ad litem shall personally observe the ward prior to the hearing and shall inform the ward orally and in writing of the contents of the verified motion for authority to consent to sterilization. Outside the presence of the guardian, the guardian ad litem shall also attempt to elicit the ward's position concerning the motion, and any other areas of inquiry deemed appropriate by the court. At or before the hearing, the guardian ad litem shall file a written report detailing his or her observations of the ward; the responses of the ward to any of the inquiries detailed in this Section; the opinion of the guardian ad litem and any other professionals with whom the guardian ad litem consulted concerning the ward's understanding of and desire for or objection to, as well as what is in the ward's best interests ~~interest~~ relative to, sterilization, other forms of contraception, and childbirth; and any other material issue discovered by the guardian ad litem. The guardian ad litem shall appear at the hearing and testify, and may present witnesses, as to any issues presented in his or her report.

(d) The court (1) may appoint counsel for the ward if the

court finds that the interests of the ward will be best served by the appointment, and (2) shall appoint counsel upon the ward's request, if the ward is objecting to the proposed sterilization, or if the ward takes a position adverse to that of the guardian ad litem. The ward shall be permitted to obtain the appointment of counsel either at the hearing or by any written or oral request communicated to the court prior to the hearing. The court shall inform the ward of this right to obtain appointed counsel. The court may allow counsel for the ward reasonable compensation.

(e) The court shall order a medical and psychological evaluation of the ward. The evaluation shall address the ward's decision-making ~~decision-making~~ capacity with respect to the proposed sterilization, the existence of any less permanent alternatives, and any other material issue.

(f) The court shall determine, as a threshold inquiry, whether the ward has capacity to consent or withhold consent to the proposed sterilization and, if the ward lacks such capacity, whether the ward is likely to regain such capacity. The ward shall not be deemed to lack such capacity solely on the basis of the adjudication of disability and appointment of a guardian. In determining capacity, the court shall consider whether the ward is able, after being provided appropriate information, to understand the relationship between sexual activity and reproduction; the consequences of reproduction; and the nature and consequences of the proposed sterilization

procedure. If the court finds that (1) the ward has capacity to consent or withhold consent to the proposed sterilization, and (2) the ward objects or consents to the procedure, the court shall enter an order consistent with the ward's objection or consent and the proceedings on the verified motion shall be terminated.

(g) If the court finds that the ward does not have capacity to consent or withhold consent to the proposed sterilization and is unlikely to regain such capacity, the court shall determine whether the ward is expressing a clear desire for the proposed sterilization. If the ward is expressing a clear desire for the proposed sterilization, the court's decision regarding the proposed sterilization shall be made in accordance with the standards set forth in subsection (e) of Section 11a-17 of this Act.

(h) If the court finds that the ward does not have capacity to consent or withhold consent to the proposed sterilization and is unlikely to regain such capacity, and that the ward is not expressing a clear desire for the proposed sterilization, the court shall consider the standards set forth in subsection (e) of Section 11a-17 of this Act and enter written findings of fact and conclusions of law addressing those standards. In addition, the court shall not authorize the guardian to consent to the proposed sterilization unless the court finds, by clear and convincing evidence and based on written findings of fact and conclusions of law, that all of the following

factors are present:

(1) The ward lacks decisional capacity regarding the proposed sterilization.

(2) The ward is fertile and capable of procreation.

(3) The benefits to the ward of the proposed sterilization outweigh the harm.

(4) The court has considered less intrusive alternatives and found them to be inadequate in this case.

(5) The proposed sterilization is in the best interests ~~interest~~ of the ward. In considering the ward's best interests ~~interest~~, the court shall consider the following factors:

(A) The possibility that the ward will experience trauma or psychological damage if he or she has a child and, conversely, the possibility of trauma or psychological damage from the proposed sterilization.

(B) The ward is or is likely to become sexually active.

(C) The inability of the ward to understand reproduction or contraception and the likely permanence of that inability.

(D) Any other factors that assist the court in determining the best interests ~~interest~~ of the ward relative to the proposed sterilization.

(Source: P.A. 96-272, eff. 1-1-10.)

(755 ILCS 5/11a-18) (from Ch. 110 1/2, par. 11a-18)

Sec. 11a-18. Duties of the estate guardian.

(a) To the extent specified in the order establishing the guardianship, the guardian of the estate shall have the care, management and investment of the estate, shall manage the estate frugally and shall apply the income and principal of the estate so far as necessary for the comfort and suitable support and education of the ward, his minor and adult dependent children, and persons related by blood or marriage who are dependent upon or entitled to support from him, or for any other purpose which the court deems to be for the best interests of the ward, and the court may approve the making on behalf of the ward of such agreements as the court determines to be for the ward's best interests. The guardian may make disbursement of his ward's funds and estate directly to the ward or other distributee or in such other manner and in such amounts as the court directs. If the estate of a ward is derived in whole or in part from payments of compensation, adjusted compensation, pension, insurance or other similar benefits made directly to the estate by the Veterans Administration, notice of the application for leave to invest or expend the ward's funds or estate, together with a copy of the petition and proposed order, shall be given to the Veterans' Administration Regional Office in this State at least 7 days before the hearing on the application.

(a-5) The probate court, upon petition of a guardian,

other than the guardian of a minor, and after notice to all other persons interested as the court directs, may authorize the guardian to exercise any or all powers over the estate and business affairs of the ward that the ward could exercise if present and not under disability. The court may authorize the taking of an action or the application of funds not required for the ward's current and future maintenance and support in any manner approved by the court as being in keeping with the ward's wishes so far as they can be ascertained. The court must consider the permanence of the ward's disabling condition and the natural objects of the ward's bounty. In ascertaining and carrying out the ward's wishes the court may consider, but shall not be limited to, minimization of State or federal income, estate, or inheritance taxes; and providing gifts to charities, relatives, and friends that would be likely recipients of donations from the ward. The ward's wishes as best they can be ascertained shall be carried out, whether or not tax savings are involved. Actions or applications of funds may include, but shall not be limited to, the following:

(1) making gifts of income or principal, or both, of the estate, either outright or in trust;

(2) conveying, releasing, or disclaiming his or her contingent and expectant interests in property, including marital property rights and any right of survivorship incident to joint tenancy or tenancy by the entirety;

(3) releasing or disclaiming his or her powers as

trustee, personal representative, custodian for minors, or guardian;

(4) exercising, releasing, or disclaiming his or her powers as donee of a power of appointment;

(5) entering into contracts;

(6) creating for the benefit of the ward or others, revocable or irrevocable trusts of his or her property that may extend beyond his or her disability or life;

(7) exercising options of the ward to purchase or exchange securities or other property;

(8) exercising the rights of the ward to elect benefit or payment options, to terminate, to change beneficiaries or ownership, to assign rights, to borrow, or to receive cash value in return for a surrender of rights under any one or more of the following:

(i) life insurance policies, plans, or benefits,

(ii) annuity policies, plans, or benefits,

(iii) mutual fund and other dividend investment plans,

(iv) retirement, profit sharing, and employee welfare plans and benefits;

(9) exercising his or her right to claim or disclaim an elective share in the estate of his or her deceased spouse and to renounce any interest by testate or intestate succession or by inter vivos transfer;

(10) changing the ward's residence or domicile; or

(11) modifying by means of codicil or trust amendment the terms of the ward's will or any revocable trust created by the ward, as the court may consider advisable in light of changes in applicable tax laws.

The guardian in his or her petition shall briefly outline the action or application of funds for which he or she seeks approval, the results expected to be accomplished thereby, and the tax savings, if any, expected to accrue. The proposed action or application of funds may include gifts of the ward's personal property or real estate, but transfers of real estate shall be subject to the requirements of Section 20 of this Act. Gifts may be for the benefit of prospective legatees, devisees, or heirs apparent of the ward or may be made to individuals or charities in which the ward is believed to have an interest. The guardian shall also indicate in the petition that any planned disposition is consistent with the intentions of the ward insofar as they can be ascertained, and if the ward's intentions cannot be ascertained, the ward will be presumed to favor reduction in the incidents of various forms of taxation and the partial distribution of his or her estate as provided in this subsection. The guardian shall not, however, be required to include as a beneficiary or fiduciary any person who he has reason to believe would be excluded by the ward. A guardian shall be required to investigate and pursue a ward's eligibility for governmental benefits.

(a-6) The guardian may, without an order of court, open,

maintain, and transfer funds to an ABLE account on behalf of the ward and the ward's minor and adult dependent children as specified under Section 16.6 of the State Treasurer Act.

(b) Upon the direction of the court which issued his letters, a guardian may perform the contracts of his ward which were legally subsisting at the time of the commencement of the ward's disability. The court may authorize the guardian to execute and deliver any bill of sale, deed or other instrument.

(c) The guardian of the estate of a ward shall appear for and represent the ward in all legal proceedings unless another person is appointed for that purpose as guardian or next friend. This does not impair the power of any court to appoint a guardian ad litem or next friend to defend the interests of the ward in that court, or to appoint or allow any person as the next friend of a ward to commence, prosecute or defend any proceeding in his behalf. Without impairing the power of the court in any respect, if the guardian of the estate of a ward and another person as next friend shall appear for and represent the ward in a legal proceeding in which the compensation of the attorney or attorneys representing the guardian and next friend is solely determined under a contingent fee arrangement, the guardian of the estate of the ward shall not participate in or have any duty to review the prosecution of the action, to participate in or review the appropriateness of any settlement of the action, or to

participate in or review any determination of the appropriateness of any fees awarded to the attorney or attorneys employed in the prosecution of the action.

(d) Adjudication of disability shall not revoke or otherwise terminate a trust which is revocable by the ward. A guardian of the estate shall have no authority to revoke a trust that is revocable by the ward, except that the court may authorize a guardian to revoke a Totten trust or similar deposit or withdrawable capital account in trust to the extent necessary to provide funds for the purposes specified in paragraph (a) of this Section. If the trustee of any trust for the benefit of the ward has discretionary power to apply income or principal for the ward's benefit, the trustee shall not be required to distribute any of the income or principal to the guardian of the ward's estate, but the guardian may bring an action on behalf of the ward to compel the trustee to exercise the trustee's discretion or to seek relief from an abuse of discretion. This paragraph shall not limit the right of a guardian of the estate to receive accountings from the trustee on behalf of the ward.

(d-5) Upon a verified petition by the plenary or limited guardian of the estate or the request of the ward that is accompanied by a current physician's report that states the ward possesses testamentary capacity, the court may enter an order authorizing the ward to execute a will or codicil. In so ordering, the court shall authorize the guardian to retain

independent counsel for the ward with whom the ward may execute or modify a will or codicil.

(e) Absent court order pursuant to the Illinois Power of Attorney Act directing a guardian to exercise powers of the principal under an agency that survives disability, the guardian will have no power, duty or liability with respect to any property subject to the agency. This subsection (e) applies to all agencies, whenever and wherever executed.

(f) Upon petition by any interested person (including the standby or short-term guardian), with such notice to interested persons as the court directs and a finding by the court that it is in the best interests ~~interest~~ of the person with a disability, the court may terminate or limit the authority of a standby or short-term guardian or may enter such other orders as the court deems necessary to provide for the best interests ~~interest~~ of the person with a disability. The petition for termination or limitation of the authority of a standby or short-term guardian may, but need not, be combined with a petition to have another guardian appointed for the person with a disability.

(Source: P.A. 101-329, eff. 8-9-19.)

(755 ILCS 5/11a-18.3)

Sec. 11a-18.3. Duties of short-term guardian of a person with a disability.

(a) Immediately upon the effective date of the appointment

of a short-term guardian, the short-term guardian shall assume all duties as short-term guardian of the person with a disability as provided in this Section. The short-term guardian of the person shall have authority to act as short-term guardian, without direction of the court, for the duration of the appointment, which in no case shall exceed a cumulative total of 60 days in any 12-month ~~12-month~~ period for all short-term guardians appointed by the guardian. The authority of the short-term guardian may be limited or terminated by a court of competent jurisdiction.

(b) Unless further specifically limited by the instrument appointing the short-term guardian, a short-term guardian shall have the authority to act as a guardian of the person of a person with a disability as prescribed in Section 11a-17, but shall not have any authority to act as guardian of the estate of a person with a disability, except that a short-term guardian shall have the authority to apply for and receive on behalf of the person with a disability benefits to which the person with a disability may be entitled from or under federal, State, or local organizations or programs.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-19) (from Ch. 110 1/2, par. 11a-19)

Sec. 11a-19. Notice of right to seek modification. At the time of the appointment of a guardian the court shall inform the ward of his right under Section 11a-20 to petition for

termination of adjudication of disability, revocation of the letters of guardianship of the estate or person, or both, or modification of the duties of the guardian and shall give the ward a written statement explaining this right and the procedures for petitioning the court. The notice shall be in large, ~~bold~~ type and shall be in a format substantially similar to the following: ~~notice of rights required under subsection (c) of Section 11a-10 of this Act.~~

IN THE CIRCUIT COURT OF THE ... JUDICIAL CIRCUIT OF ILLINOIS

... COUNTY

IN RE THE ESTATE OF

)

)

.....,

)

CASE NO. ....

a Person with a Disability,

)

NOTICE TO WARD OF RIGHT TO SEEK MODIFICATION

[Insert name] was appointed your Guardian of the Person on [insert date].

[Insert name] was appointed your Guardian of the Estate on [insert date].

You have the right to ask the court to dismiss this guardianship, to revoke the power of this guardian to act for you, or to modify the duties of any such guardian.

You, or someone on your behalf, can make this request, even by an informal letter, a telephone call, or a visit to the

court. You should send your letter to the court at the following address; [insert name of judge and mailing address of courthouse].

The court may appoint a Guardian ad Litem to investigate and report to the court. You have the right to have a lawyer appointed for you, to have a hearing before the court, to have a jury of six persons decide the facts, to present evidence and tell your story, and to ask witnesses any questions in cross-examination.

Entered this.....day of....., 20....

.....

JUDGE

[..] At the time of the appointment of the Guardian in this cause, the court informed the ward of his or her rights under Section 11a-20 of the Illinois Probate Act and gave the ward, in open court, the above-written notice explaining these rights and procedures.

or

[..] The Clerk of the Circuit Court shall mail a copy of the above-written notice to the above-named person with a disability at the residence address set forth in the petition filed herein.

Copy Mailed: .....

.....

Clerk of the Circuit Court

[END OF FORM]

(Source: P.A. 89-396, eff. 8-20-95.)

(755 ILCS 5/11a-20) (from Ch. 110 1/2, par. 11a-20)

Sec. 11a-20. Termination of adjudication of disability -  
Revocation of letters - modification.➤

(a) Except as provided in subsection (b-5), upon the filing of a petition by or on behalf of a person with a disability or on its own motion, the court may terminate the adjudication of disability of the ward, revoke the letters of guardianship of the estate or person, or both, or modify the duties of the guardian if the ward's capacity to perform the tasks necessary for the care of his person or the management of his estate has been demonstrated by clear and convincing evidence. A report or testimony by a licensed physician is not a prerequisite for termination, revocation or modification of a guardianship order under this subsection (a).

(b) Except as provided in subsection (b-5), a request by the ward or any other person on the ward's behalf, under this Section may be communicated to the court or judge by any means, including but not limited to informal letter, telephone call

or visit. Upon receipt of a request from the ward or another person, the court may appoint a guardian ad litem to investigate and report to the court concerning the allegations made in conjunction with said request, and if the ward wishes to terminate, revoke, or modify the guardianship order, to prepare the ward's petition and to render such other services as the court directs.

(b-5) Upon the filing of a verified petition by the guardian of the person with a disability or the person with a disability, the court may terminate the adjudication of disability of the ward, revoke the letters of guardianship of the estate or person, or both, or modify the duties of the guardian if: (i) a report completed in accordance with subsection (a) of Section 11a-9 states that the person with a disability is no longer in need of guardianship or that the type and scope of guardianship should be modified; (ii) the person with a disability no longer wishes to be under guardianship or desires that the type and scope of guardianship be modified; and (iii) the guardian of the person with a disability states that it is in the best interests ~~interest~~ of the person with a disability to terminate the adjudication of disability of the ward, revoke the letters of guardianship of the estate or person, or both, or modify the duties of the guardian, and provides the basis thereof. In a proceeding brought pursuant to this subsection (b-5), the court may terminate the adjudication of disability of the

ward, revoke the letters of guardianship of the estate or person, or both, or modify the duties of the guardian, unless it has been demonstrated by clear and convincing evidence that the ward is incapable of performing the tasks necessary for the care of his or her person or the management of his or her estate.

(c) Notice of the hearing on a petition under this Section, together with a copy of the petition, shall be given to the ward, unless he is the petitioner, and to each and every guardian to whom letters of guardianship have been issued and not revoked, not less than 14 days before the hearing.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/13-1) (from Ch. 110 1/2, par. 13-1)

Sec. 13-1. Appointment and term of public administrator and public guardian.†

(a) Except as provided in Section 13-1.1, before the first Monday of December, 1977 and every 4 years thereafter, and as often as vacancies occur, the Governor, by and with the advice and consent of the Senate, shall appoint in each county a suitable person to serve as public administrator and a suitable person to serve as public guardian of the county. The Governor may designate, without the advice and consent of the Senate, the Office of State Guardian as an interim public guardian to fill a vacancy in one or more counties having a population of 500,000 or less if the designation:

(1) is specifically designated as an interim appointment for a term of the lesser of one year or until the Governor appoints, with the advice and consent of the Senate, a county public guardian to fill the vacancy;

(2) requires the Office of State Guardian to affirm its availability to act in the county; and

(3) expires in a pending case of a person with a disability in the county at such a time as the court appoints a qualified successor guardian of the estate and person for the person with a disability.

When appointed as an interim public guardian, the State Guardian will perform the powers and duties assigned under the Guardianship and Advocacy Act.

The Governor may appoint the same person to serve as public guardian and public administrator in one or more counties. In considering the number of counties of service for any prospective public guardian or public administrator the Governor may consider the population of the county and the ability of the prospective public guardian or public administrator to travel to multiple counties and manage estates in multiple counties. Each person so appointed holds his office for 4 years from the first Monday of December, 1977 and every 4 years thereafter or until his successor is appointed and qualified.

(b) Within 14 days of notification to the current public guardian of the appointment by the Governor of a new public

guardian pursuant to this Section, the outgoing public guardian shall provide the incoming successor public guardian with a list of current guardianships. Within 60 days of receipt of the list of guardianships, the incoming public guardian may petition the court for a transfer of a guardianship to the incoming public guardian. The transfer of a guardianship of the person, estate, or both shall be made if it is in the best interests of the ward as determined by the court on a case-by-case basis.

Factors for the court to consider include, but are not limited to, the following:

(1) the ward's preference as to the transfer of the guardianship;

(2) the recommendation of the guardian ad litem, the ward's family members, and other interested parties;

(3) the length of time in which the outgoing public guardian has served as guardian for the ward;

(4) the ward's relationship with the outgoing public guardian's office;

(5) the nature and extent of the ward's disabilities;

(6) the ward's current residential placement, his or her current support network, and ongoing needs;

(7) the costs involved in the transfer of the ward's estate;

(8) the status of pending legal matters or other matters germane to the ward's care or the management of

the ward's estate;

(9) the obligation to post bond and the cost thereof;

(10) the guardians' status with regard to certification by the Center for Guardianship Certification; and

(11) other good causes.

If the court approves a transfer to the incoming public guardian, the outgoing public guardian shall file a final account of his or her activities on behalf of the ward within 30 days or within such other time that the court may allow. The outgoing public guardian may file a petition for final fees pursuant to subsection (b) of Section 13-3.1.

(Source: P.A. 100-483, eff. 9-8-18.)

(755 ILCS 5/18-10) (from Ch. 110 1/2, par. 18-10)

Sec. 18-10. Classification of claims against decedent's estate. All claims against the estate of a decedent are divided into classes in the manner following:

1st: Funeral and burial expenses, expenses of administration, ~~and~~ statutory custodial claims, and final fees and costs as determined by the court relating to guardianship, including fees awarded under Section 11a-13.5, 13-3, 13-3.1, 27-1, 27-2, or 27-4. For the purposes of this paragraph, funeral and burial expenses paid by any person, including a surviving spouse, are funeral and burial expenses; and funeral and burial expenses include reasonable amounts paid for a

burial space, crypt or niche, a marker on the burial space, care of the burial space, crypt or niche, and interest on these amounts. Interest on these amounts shall accrue beginning 60 days after issuance of letters of office to the representative of the decedent's estate, or if no such letters of office are issued, then beginning 60 days after those amounts are due, up to the rate of 9% per annum as allowed by contract or law.

2nd: The surviving spouse's or child's award.

3rd: Debts due the United States.

4th: Reasonable and necessary medical, hospital, and nursing home expenses for the care of the decedent during the year immediately preceding death; and money due employees of the decedent of not more than \$800 for each claimant for services rendered within 4 months prior to the decedent's death.

5th: Money and property received or held in trust by decedent which cannot be identified or traced.

6th: Debts due this State and any county, township, city, town, village or school district located within this State.

7th: All other claims.

(Source: P.A. 100-1079, eff. 8-24-18.)

(755 ILCS 5/19-2) (from Ch. 110 1/2, par. 19-2)

Sec. 19-2. Lease, sale, mortgage or pledge of personal estate of ward.→ By leave of court a representative may lease, sell, mortgage or pledge any personal estate of the ward, when

in the opinion of the court it is for the best interests  
~~interest~~ of the ward or his estate.

(Source: P.A. 79-328.)

(755 ILCS 5/25-4) (from Ch. 110 1/2, par. 25-4)

Sec. 25-4. Sale of small real estate interest of ward.† If the interest of a ward in any parcel of real estate does not exceed \$2,500 in value and a private sale thereof can be made for cash, the interest may be sold as provided in this Section instead of as prescribed elsewhere in this Act. The representative of the estate of the ward may file a petition setting forth: (a) the description of the real estate, the interest of the ward therein and the value of the interest sought to be sold; (b) the name and post office address of the ward; (c) a private sale of the ward's interest can be made for cash; and (d) it is for the best interests ~~interest~~ of the ward that his interest in the real estate be sold. Upon the filing of the petition the court shall set it for hearing not less than 20 days thereafter. Not less than 15 days before the date of hearing of the petition, the clerk of the court shall mail a notice of the time and place of the hearing to the ward. No guardian ad litem need be appointed for the ward unless the court finds it necessary for the ward's protection. If on the hearing the court finds that the ward's interest in the real estate to be sold does not exceed \$2,500 in value, a private sale of the ward's interest can be made for cash and it is for

the best interests ~~interest~~ of the ward that the sale be made, the court shall direct the petitioner to sell the ward's interest at private sale for cash for such price as the court determines and upon receipt of the purchase price to execute and deliver a deed to the purchaser. The court shall require the representative to furnish a bond conditioned upon his disposing of the proceeds of sale in the manner required by law, and with or without sureties and in such amount as the court directs; and it is the duty of the representative to file the bond in and have it approved by the court.

(Source: P.A. 79-328.)

(755 ILCS 5/27-1) (from Ch. 110 1/2, par. 27-1)

Sec. 27-1. Fees of representative. A representative is entitled to reasonable compensation for his services, but no fees, charges or other compensation may be allowed a public administrator for services performed in administering that part of the estate of any United States war veteran which consists of compensation, insurance or other monies due or payable from the United States because of the veteran's war service. No fees, charges or other compensation may be allowed an employee of the Department of Human Services or the Department of Children and Family Services designated under paragraph (b) of Section 11-3 for services as guardian of the estate of a patient or resident in a State mental health or developmental disabilities facility or other State

institution. Fees awarded under this Section shall be considered as a first-class claim for administrative expenses and paid from the guardianship estate or from the probate estate pursuant to Section 18-10. Fees awarded to guardians shall be consistent with Section 11a-13.5.

(Source: P.A. 89-507, eff. 7-1-97.)

Section 10. The Illinois Power of Attorney Act is amended by changing Section 2-10 as follows:

(755 ILCS 45/2-10) (from Ch. 110 1/2, par. 802-10)

Sec. 2-10. Agency-court relationship.

(a) Upon petition by any interested person (including the agent), with such notice to interested persons as the court directs and a finding by the court that the principal lacks either the capacity to control or the capacity to revoke the agency, the court may construe a power of attorney, review the agent's conduct, and grant appropriate relief including compensatory damages.

(b) If the court finds that the agent is not acting for the benefit of the principal in accordance with the terms of the agency or that the agent's action or inaction has caused or threatens substantial harm to the principal's person or property in a manner not authorized or intended by the principal, the court may order a guardian of the principal's person or estate to exercise any powers of the principal under

the agency, including the power to revoke the agency, or may enter such other orders without appointment of a guardian as the court deems necessary to provide for the best interests of the principal.

(c) If the court finds that the agency requires interpretation, the court may construe the agency and instruct the agent, but the court may not amend the agency.

(d) If the court finds that the agent has not acted for the benefit of the principal in accordance with the terms of the agency and the Illinois Power of Attorney Act, or that the agent's action caused or threatened substantial harm to the principal's person or property in a manner not authorized or intended by the principal, then the agent shall not be authorized to pay or be reimbursed from the estate of the principal the attorneys' fees and costs of the agent in defending a proceeding brought pursuant to this Section.

(e) Upon a finding that the agent's action has caused substantial harm to the principal's person or property, the court may assess against the agent reasonable costs and attorney's fees to a prevailing party who is a provider agency as defined in Section 2 of the Adult Protective Services Act, a representative of the Office of the State Long Term Care Ombudsman, the State Guardian, a public guardian, or a governmental agency having regulatory authority to protect the welfare of the principal.

(f) As used in this Section, the term "interested person"

includes (1) the principal or the agent; (2) a guardian of the person, guardian of the estate, or other fiduciary charged with management of the principal's property; (3) the principal's spouse, parent, or descendant; (4) a person who would be a presumptive heir-at-law of the principal; (5) a person named as a beneficiary to receive any property, benefit, or contractual right upon the principal's death, or as a beneficiary of a trust created by or for the principal; (6) a provider agency as defined in Section 2 of the Adult Protective Services Act, a representative of the Office of the State Long Term Care Ombudsman, the State Guardian, a public guardian, or a governmental agency having regulatory authority to protect the welfare of the principal; and (7) the principal's caregiver or another person who demonstrates sufficient interest in the principal's welfare.

(g) Absent court order directing a guardian to exercise powers of the principal under the agency, a guardian will have no power, duty or liability with respect to any property subject to the agency or any personal or health care matters covered by the agency. If an agent seeks guardianship of the principal pursuant to the Probate Act of 1975, the petition for guardianship must delineate the specific powers to be granted to the guardian that are not already included in the power of attorney. The petition for temporary, limited, or plenary guardianship of the principal under the Probate Act of 1975 may include a prayer for relief to suspend a power of

attorney or to revoke a power of attorney in accordance with subsection (b).

(h) Proceedings under this Section shall be commenced in the county where the guardian was appointed or, if no Illinois guardian is acting, then in the county where the agent or principal resides or where the principal owns real property.

(i) This Section shall not be construed to limit any other remedies available.

(Source: P.A. 98-49, eff. 7-1-13; 98-562, eff. 8-27-13; 98-756, eff. 7-16-14.)

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