



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB2665

by Rep. William Davis

SYNOPSIS AS INTRODUCED:

See Index

Amends the Guardianship and Advocacy Act. Provides that the State Guardian shall provide a training program that outlines the duties and responsibilities of guardians appointed for adults with disabilities under the Probate Act of 1975. Provides that the training program shall be offered to courts at no cost, and shall outline the responsibilities of guardians and the rights of persons with disabilities in adult guardianships. Provides that in developing the training program content, the State Guardian may consult with various entities. Amends the Probate Act of 1975. Provides that a person may not act as the guardian of an adult with a disability until he or she has completed a training program developed by the State Guardian or by another suitable provider approved by the court. Exempts from the training requirements public guardians, state guardians, attorneys currently authorized to practice law, and persons who are certified as National Certified Guardians by the Center for Guardianship Certification. Provides that at the conclusion of a hearing on a petition to terminate the adjudication of disability or revoke or modify letters of appointment, the court may require the guardian to complete the training program. Provides that 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. Provides that the Guardianship and Advocacy Commission shall provide public guardians with information about certification requirements and procedures for testing and certification offered by (instead of "professional training opportunities and facilitate testing and certification opportunities at locations in Springfield and Chicago with") the Center for Guardianship Certification. Effective one year after becoming law.

LRB100 10372 HEP 20564 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning civil law.

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

4 Section 5. The Guardianship and Advocacy Act is amended by
5 adding Section 33.5 as follows:

6 (20 ILCS 3955/33.5 new)

7 Sec. 33.5. Guardianship training program. The State
8 Guardian shall provide a training program that outlines the
9 duties and responsibilities of guardians appointed under
10 Article XIa of the Probate Act of 1975. The training program
11 shall be offered to courts at no cost, and shall outline the
12 responsibilities of a guardian and the rights of a person with
13 a disability in a guardianship proceeding under Article XIa of
14 the Probate Act of 1975. In developing the training program
15 content, the State Guardian may consult with the courts, State
16 and national guardianship organizations, public guardians,
17 advocacy organizations, and persons and family members with
18 direct experience with adult guardianship.

19 Section 10. The Probate Act of 1975 is amended by changing
20 Sections 11a-5, 11a-21, 13-1, and 13-1.2 as follows:

21 (755 ILCS 5/11a-5) (from Ch. 110 1/2, par. 11a-5)

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

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

7 (1) has attained the age of 18 years;

8 (2) is a resident of the United States;

9 (3) is not of unsound mind;

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

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

22 (6) has completed a training program, developed by the
23 State Guardian in accordance with Section 33.5 of the
24 Guardianship and Advocacy Act or by another suitable
25 provider approved by the court, that outlines the
26 responsibilities of a guardian and the rights of a person

1 with a disability, and has been made available at no cost
2 by the court or another suitable provider approved by the
3 court.

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

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

18 (d) Public guardians, state guardians, attorneys currently
19 authorized to practice law, and persons who are certified as
20 National Certified Guardians by the Center for Guardianship
21 Certification are exempt from the training requirement under
22 paragraph (6) of subsection (a) of this Section.

23 (Source: P.A. 98-120, eff. 1-1-14; 99-143, eff. 7-27-15.)

24 (755 ILCS 5/11a-21) (from Ch. 110 1/2, par. 11a-21)

25 Sec. 11a-21. Hearing. (a) The court shall conduct a hearing

1 on a petition filed under Section 11a-20. The ward is entitled
2 to be represented by counsel, to demand a jury of 6 persons, to
3 present evidence and to confront and cross-examine all
4 witnesses. The court (1) may appoint counsel for the ward, if
5 the court finds that the interests of the ward will be best
6 served by the appointment and (2) shall appoint counsel upon
7 the ward's request or if the respondent takes a position
8 adverse to that of the guardian ad litem. The court may allow
9 the guardian ad litem and counsel for the ward reasonable
10 compensation.

11 (b) If the ward is unable to pay the fee of the guardian ad
12 litem or appointed counsel, or both, the court shall enter an
13 order upon the State to pay, from funds appropriated by the
14 General Assembly for that purpose, all such fees or such
15 amounts as the ward is unable to pay.

16 (c) Upon conclusion of the hearing, the court shall enter
17 an order setting forth the factual basis for its findings and
18 may: (1) dismiss the petition; (2) terminate the adjudication
19 of disability; (3) revoke the letters of guardianship of the
20 estate or person, or both; (4) modify the duties of the
21 guardian; ~~and~~ (5) require the guardian to complete a training
22 program as provided in subdivision (a) (6) of Section 11a-5 of
23 this Act; and (6) make any other order which the court deems
24 appropriate and in the interests of the ward.

25 (Source: P.A. 81-1509.)

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

2 Sec. 13-1. Appointment and term of public administrator and
3 public guardian.) Except as provided in Section 13-1.1, before
4 the first Monday of December, 1977 and every 4 years
5 thereafter, and as often as vacancies occur, the Governor, by
6 and with the advice and consent of the Senate, shall appoint in
7 each county a suitable person to serve as public administrator
8 and a suitable person to serve as public guardian of the
9 county. The Governor may designate, without the advice and
10 consent of the Senate, the Office of State Guardian as an
11 interim public guardian to fill a vacancy in one or more
12 counties. When appointed as an interim public guardian, the
13 State Guardian will perform the powers and duties assigned
14 under the Guardianship and Advocacy Act. The Governor may
15 appoint the same person to serve as public guardian and public
16 administrator in one or more counties. In considering the
17 number of counties of service for any prospective public
18 guardian or public administrator the Governor may consider the
19 population of the county and the ability of the prospective
20 public guardian or public administrator to travel to multiple
21 counties and manage estates in multiple counties. Each person
22 so appointed holds his office for 4 years from the first Monday
23 of December, 1977 and every 4 years thereafter or until his
24 successor is appointed and qualified.

25 (Source: P.A. 96-752, eff. 1-1-10.)

1 (755 ILCS 5/13-1.2)

2 Sec. 13-1.2. Certification requirement. Each person
3 appointed as a public guardian by the Governor shall be
4 certified as a National Certified Guardian by the Center for
5 Guardianship Certification within 6 months after his or her
6 appointment. The Guardianship and Advocacy Commission shall
7 provide public guardians with information about certification
8 requirements and procedures for testing and certification
9 offered by ~~professional training opportunities and facilitate~~
10 ~~testing and certification opportunities at locations in~~
11 ~~Springfield and Chicago with~~ the Center for Guardianship
12 Certification. The cost of certification shall be considered an
13 expense connected with the operation of the public guardian's
14 office within the meaning of subsection (b) of Section 13-3.1
15 of this Article.

16 (Source: P.A. 96-752, eff. 1-1-10.)

17 Section 99. Effective date. This Act takes effect one year
18 after becoming law.

1 INDEX

2 Statutes amended in order of appearance

3 20 ILCS 3955/33.5 new

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

5 755 ILCS 5/11a-21 from Ch. 110 1/2, par. 11a-21

6 755 ILCS 5/13-1 from Ch. 110 1/2, par. 13-1

7 755 ILCS 5/13-1.2