

AN ACT concerning civil law.

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

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

(20 ILCS 3955/33.5 new)

Sec. 33.5. Guardianship training program. The State Guardian shall provide a training program that outlines the duties and responsibilities of guardians appointed under Article XIa of the Probate Act of 1975. The training program shall be offered to courts at no cost, and shall outline the responsibilities of a guardian and the rights of a person with a disability in a guardianship proceeding under Article XIa of the Probate Act of 1975. In developing the training program content, the State Guardian shall consult with the courts, State and national guardianship organizations, public guardians, advocacy organizations, and persons and family members with direct experience with adult guardianship. In the preparation and dissemination of training materials, the State Guardian shall give due consideration to making the training materials accessible to persons with disabilities.

Section 10. The Probate Act of 1975 is amended by changing

Sections 11a-12, 11a-21, 13-1, and 13-1.2 as follows:

(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 interest and well-being of the person with a disability.

(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. 98-1094, eff. 1-1-15; 99-143, eff. 7-27-15.)

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

Sec. 11a-21. Hearing. (a) The court shall conduct a hearing on a petition filed under Section 11a-20. The ward is entitled to be represented by counsel, to demand a jury of 6 persons, to present evidence and to confront and cross-examine all witnesses. 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 or if the respondent takes a position adverse to that of the guardian ad litem. The court may allow the guardian ad litem and counsel for the ward reasonable compensation.

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

(c) Upon conclusion of the hearing, the court shall enter an order setting forth the factual basis for its findings and may: (1) dismiss the petition; (2) terminate the adjudication of disability; (3) revoke the letters of guardianship of the estate or person, or both; (4) modify the duties of the guardian; ~~and~~ (5) require the guardian to complete a training

program as provided in subsection (e) of Section 11a-12 of this Act; and (6) make any other order which the court deems appropriate and in the interests of the ward.

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

(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.) 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.

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

(755 ILCS 5/13-1.2)

Sec. 13-1.2. Certification requirement. Each person appointed as a public guardian by the Governor shall be certified as a National Certified Guardian by the Center for Guardianship Certification within 6 months after his or her appointment. The Guardianship and Advocacy Commission shall provide public guardians with information about certification requirements and procedures for testing and certification

~~offered by professional training opportunities and facilitate testing and certification opportunities at locations in Springfield and Chicago with~~ the Center for Guardianship Certification. The cost of certification shall be considered an expense connected with the operation of the public guardian's office within the meaning of subsection (b) of Section 13-3.1 of this Article.

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

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