

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 1. Short title; references to Act.

5 (a) Short title. This Act may be cited as the Frail Elderly
6 Individual Family Visitation Protection Act.

7 (b) References to Act. This Act may be referred to as the
8 Kasem/Baksys Visitation Law.

9 Section 5. Definitions. As used in this Act:

10 "Family caregiver" means an adult family member who is a
11 provider of in-home care to a frail elderly individual.

12 "Family member" means the spouse, adult child, adult
13 grandchild, or other close relative of the frail elderly
14 individual.

15 "Frail elderly individual" means an adult over 60 years of
16 age who is determined by a court to be functionally impaired
17 because the person: (i) is unable to perform at least 2
18 activities of daily living without substantial human
19 assistance, including verbal reminding, physical cueing, or
20 supervision; or (ii) due to a cognitive or other mental
21 impairment, requires substantial supervision because the
22 person behaves in a manner that poses a serious health or
23 safety hazard to the person or to another person.

1 "Petitioner" means the family member who files a verified
2 petition for visitation under Section 10 of this Act.

3 Section 10. Visitation with frail elderly individuals.

4 (a) If a family caregiver unreasonably prevents a family
5 member from visiting the frail elderly individual, the court,
6 upon a verified petition by the family member, may order the
7 family caregiver to permit such visitation as the court deems
8 reasonable and appropriate under the circumstances.

9 (b) At the hearing on the verified petition for visitation,
10 the court shall consider:

11 (1) the nature and extent of the frail elderly
12 individual's functional impairment;

13 (2) the frail elderly individual's previously
14 expressed preferences in regard to visitation with the
15 petitioner;

16 (3) the history of visitation between the frail elderly
17 individual and the petitioner;

18 (4) the opinions of any family members and the family
19 caregiver with respect to visitation between the
20 petitioner and the frail elderly individual; and

21 (5) any other area of inquiry deemed appropriate by the
22 court under the circumstances.

23 (c) The court shall not allow visitation if the court finds
24 that: (i) the frail elderly individual has capacity to evaluate
25 and communicate decisions regarding visitation and expresses a

1 desire to not have visitation with the petitioner; or (ii)
2 visitation between the petitioner and the frail elderly
3 individual is not in the best interests of the frail elderly
4 individual.

5 (d) Guardian ad litem for frail elderly individual.

6 (1) The court may appoint a guardian ad litem for the frail
7 elderly individual if it determines such appointment to be in
8 the frail elderly individual's best interests.

9 (2) The court shall appoint a guardian ad litem for the
10 frail elderly individual if the frail elderly individual does
11 not appear at the hearing or is unable to appear due to
12 hardship.

13 (3) The court may award reasonable compensation to a
14 guardian ad litem appointed under this Act. The petitioner
15 shall pay the court-awarded compensation due to the guardian ad
16 litem, except if the court grants the verified petition for
17 visitation and finds that the family caregiver acted
18 maliciously in denying visitation between the petitioner and
19 the frail elderly individual, then the family caregiver shall
20 pay the court-awarded compensation due the guardian ad litem.

21 Section 15. Notice of hospitalization, change or
22 residence, or death of frail elderly individual. If the court
23 grants the petition of a family member for visitation in
24 accordance with Section 10, the court may also order the family
25 caregiver to use reasonable efforts to notify the petitioner of

1 the frail elderly individual's hospitalization, admission to a
2 healthcare facility, change in permanent residence, or death.

3 Section 20. Commencement of proceeding; notice.

4 (a) A proceeding under this Act shall be commenced in the
5 court of the county in which the frail elderly individual
6 resides.

7 (b) The frail elderly individual and family caregiver shall
8 be personally served with a copy of the verified petition for
9 visitation and a summons not less than 14 days before the
10 hearing. The form of the summons shall be in the manner
11 prescribed by subsection (c) of Supreme Court Rule 101.

12 (c) The petitioner shall provide notice of the time, date,
13 and place of the hearing by mail to any other family members
14 not less than 14 days before the hearing. All other notices
15 during the pendency of the proceeding shall be served in
16 accordance with Supreme Court Rules 11 and 12.

17 Section 25. Applicability. This Act does not apply if: (i)
18 the frail elderly individual is a person under guardianship
19 pursuant to Article XIa of the Probate Act of 1975; or (ii) the
20 family caregiver is acting as agent under a power of attorney
21 or acting at the direction of an agent under a power of
22 attorney pursuant to the Illinois Power of Attorney Act.