

HB0807



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB0807

by Rep. Michael J. Madigan

SYNOPSIS AS INTRODUCED:

755 ILCS 5/4-1

from Ch. 110 1/2, par. 4-1

Amends the Probate Act of 1975. Makes a technical change to a Section concerning a testator's capacity.

LRB101 03725 LNS 48733 b

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 Probate Act of 1975 is amended by changing
5 Section 4-1 as follows:

6 (755 ILCS 5/4-1) (from Ch. 110 1/2, par. 4-1)

7 Sec. 4-1. Capacity of testator.

8 (a) Every person who has attained the ~~the~~ age of 18 years
9 and is of sound mind and memory has power to bequeath by will
10 the real and personal estate which he has at the time of his
11 death.

12 (b) Except as stated herein, there is a rebuttable
13 presumption that a will or codicil is void if it was executed
14 or modified after the testator is adjudicated disabled under
15 Article XIa of this Act and either (1) a plenary guardian has
16 been appointed for the testator under subsection (c) of Section
17 11a-12 of this Act or (2) a limited guardian has been appointed
18 for the testator under subsection (b) of Section 11a-12 of this
19 Act and the court has found that the testator lacks
20 testamentary capacity. The rebuttable presumption is overcome
21 by clear and convincing evidence that the testator had the
22 capacity to execute the will or codicil at the time the will or
23 codicil was executed. The rebuttable presumption does not apply

1 if the will or codicil was completed in compliance with
2 subsection (d-5) of Section 11a-18 of this Act. This subsection
3 (b) applies only to wills or codicils executed or modified
4 after the effective date of this amendatory Act of the 99th
5 General Assembly.

6 (Source: P.A. 99-302, eff. 1-1-16.)