



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB0055

Introduced 1/14/2021, by Rep. Daniel Didech

SYNOPSIS AS INTRODUCED:

755 ILCS 5/11a-1
755 ILCS 5/11a-9

from Ch. 110 1/2, par. 11a-1
from Ch. 110 1/2, par. 11a-9

Amends the Guardians For Adults With Disabilities Article of the Probate Act of 1975. Changes the definition of "developmental disability" to mean a disability that is attributable to an intellectual disability or a related condition. Defines "intellectual disability". Provides that, in the case of an intellectual disability, the required report for a petition for adjudication of disability and for appointment of a guardian shall include a psychological evaluation of the respondent that has been performed by a clinical psychologist within one year of the date of the filing of the petition. Makes a corresponding change.

LRB102 02659 LNS 12662 b

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 Sections 11a-1 and 11a-9 as follows:

6 (755 ILCS 5/11a-1) (from Ch. 110 1/2, par. 11a-1)

7 Sec. 11a-1. "Developmental disability", intellectual
8 disability", and "related condition" defined. ~~Developmental~~
9 ~~disability defined.)~~

10 "Developmental disability" means a disability that is
11 attributable to an intellectual disability or a related
12 condition.

13 "Intellectual disability" means significantly subaverage
14 general intellectual functioning existing concurrently with
15 deficits in adaptive behavior and manifested before the age of
16 22 years.

17 "Related condition" means a condition that:

18 (1) is attributable to cerebral palsy, epilepsy, or
19 any other condition, other than mental illness, found to
20 be closely related to an intellectual disability because
21 that condition results in impairment of general
22 intellectual functioning or adaptive behavior similar to
23 that of individuals with an intellectual disability, and

1 requires treatment or services similar to those required
2 for those individuals. For purposes of this Act, autism is
3 considered a related condition;

4 (2) is manifested before the individual reaches age
5 22;

6 (3) is likely to continue indefinitely; and

7 (4) results in substantial functional limitation in 3
8 or more of the following areas of major life activity:
9 self-care, language, learning, mobility, self-direction,
10 and capacity for independent living. "Developmental

11 disability" means a disability which is attributable to:

12 (a) an intellectual disability, cerebral palsy, epilepsy
13 or autism; or to (b) any other condition which results in
14 impairment similar to that caused by an intellectual
15 disability and which requires services similar to those
16 required by persons with intellectual disabilities. Such
17 disability must originate before the age of 18 years, be
18 expected to continue indefinitely, and constitute a
19 substantial disability.

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

21 (755 ILCS 5/11a-9) (from Ch. 110 1/2, par. 11a-9)

22 Sec. 11a-9. Report.†

23 (a) The petition for adjudication of disability and for
24 appointment of a guardian should be accompanied by a report
25 which contains (1) a description of the nature and type of the

1 respondent's disability and an assessment of how the
2 disability impacts on the ability of the respondent to make
3 decisions or to function independently; (2) an analysis and
4 results of evaluations of the respondent's mental and physical
5 condition and, where appropriate, educational condition,
6 adaptive behavior and social skills, which have been performed
7 within 3 months of the date of the filing of the petition, or,
8 in the case of an intellectual disability, a psychological
9 evaluation of the respondent that has been performed by a
10 clinical psychologist licensed under the Clinical Psychologist
11 Licensing Act, within one year of the date of the filing of the
12 petition; (3) an opinion as to whether guardianship is needed,
13 the type and scope of the guardianship needed, and the reasons
14 therefor; (4) a recommendation as to the most suitable living
15 arrangement and, where appropriate, treatment or habilitation
16 plan for the respondent and the reasons therefor; (5) the
17 name, business address, business telephone number, and
18 signatures of all persons who performed the evaluations upon
19 which the report is based, one of whom shall be a licensed
20 physician, or may, in the case of the an intellectual
21 disability, be a clinical psychologist licensed under the
22 Clinical Psychologist Licensing Act, and a statement of the
23 certification, license, or other credentials that qualify the
24 evaluators who prepared the report.

25 (b) If for any reason no report accompanies the petition,
26 the court shall order appropriate evaluations to be performed

1 by a qualified person or persons and a report prepared and
2 filed with the court at least 10 days prior to the hearing.

3 (b-5) Upon oral or written motion by the respondent or the
4 guardian ad litem or upon the court's own motion, the court
5 shall appoint one or more independent experts to examine the
6 respondent. Upon the filing with the court of a verified
7 statement of services rendered by the expert or experts, the
8 court shall determine a reasonable fee for the services
9 performed. If the respondent is unable to pay the fee, the
10 court may enter an order upon the petitioner to pay the entire
11 fee or such amount as the respondent is unable to pay. However,
12 in cases where the Office of State Guardian is the petitioner,
13 consistent with Section 30 of the Guardianship and Advocacy
14 Act, no expert services fees shall be assessed against the
15 Office of the State Guardian.

16 (c) Unless the court otherwise directs, any report
17 prepared pursuant to this Section shall not be made part of the
18 public record of the proceedings but shall be available to the
19 court or an appellate court in which the proceedings are
20 subject to review, to the respondent, the petitioner, the
21 guardian, and their attorneys, to the respondent's guardian ad
22 litem, and to such other persons as the court may direct.

23 (Source: P.A. 98-1094, eff. 1-1-15.)