

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, 11a-3, 11a-3.1, 11a-3.2, 11a-4, 11a-5, 11a-8,
6 11a-10, 11a-10.1, 11a-12, 11a-17, 11a-17.1, 11a-18, 11a-18.3,
7 11a-19, 11a-20, 13-1, 18-10, 19-2, 25-4, and 27-1 and by
8 adding Section 11a-13.5 as follows:

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

10 Sec. 11a-1. "Developmental disability" defined.†
11 "Developmental disability" means a disability which is
12 attributable to: (a) an intellectual disability, cerebral
13 palsy, epilepsy or autism; or to (b) any other condition which
14 results in impairment similar to that caused by an
15 intellectual disability and which requires services similar to
16 those 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-3) (from Ch. 110 1/2, par. 11a-3)

22 Sec. 11a-3. Adjudication of disability; Power to appoint

1 guardian.

2 (a) Upon the filing of a petition by a reputable person or
3 by the alleged person with a disability himself or on its own
4 motion, the court may adjudge a person to be a person with a
5 disability, but only if it has been demonstrated by clear and
6 convincing evidence that the person is a person with a
7 disability as defined in Section 11a-2. If the court adjudges
8 a person to be a person with a disability, the court may
9 appoint (1) a guardian of his person, if it has been
10 demonstrated by clear and convincing evidence that because of
11 his disability he lacks sufficient understanding or capacity
12 to make or communicate responsible decisions concerning the
13 care of his person, or (2) a guardian of his estate, if it has
14 been demonstrated by clear and convincing evidence that
15 because of his disability he is unable to manage his estate or
16 financial affairs, or (3) a guardian of his person and of his
17 estate. The court may appoint co-guardians in accordance with
18 Section 11a-15.

19 (b) Guardianship shall be utilized only as is necessary to
20 promote the well-being of the person with a disability, to
21 protect him from neglect, exploitation, or abuse, and to
22 encourage development of his maximum self-reliance and
23 independence. Guardianship shall be ordered only to the extent
24 necessitated by the individual's actual mental, physical and
25 adaptive limitations. The order shall conform with Sections
26 11a-12 and 11a-14.

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

2 (755 ILCS 5/11a-3.1)

3 Sec. 11a-3.1. Appointment of standby guardian.

4 (a) The guardian of a person with a disability may
5 designate in any writing, including a will, a person qualified
6 to act under Section 11a-5 to be appointed as standby guardian
7 of the person or estate, or both, of the person with a
8 disability. The guardian may designate in any writing,
9 including a will, a person qualified to act under Section
10 11a-5 to be appointed as successor standby guardian of the
11 person or estate of the person with a disability, or both. The
12 designation must be witnessed by 2 or more credible witnesses
13 at least 18 years of age, neither of whom is the person
14 designated as the standby guardian. The designation may be
15 proved by any competent evidence. If the designation is
16 executed and attested in the same manner as a will, it shall
17 have prima facie validity. Prior to designating a proposed
18 standby guardian, the guardian shall consult with the person
19 with a disability to determine the preference of the person
20 with a disability as to the person who will serve as standby
21 guardian. The guardian shall give due consideration to the
22 preference of the person with a disability in selecting a
23 standby guardian.

24 (b) Upon the filing of a petition for the appointment of a
25 standby guardian, the court may appoint a standby guardian of

1 the person or estate, or both, of the person with a disability
2 as the court finds to be in the best interests ~~interest~~ of the
3 person with a disability. The court shall apply the same
4 standards used in determining the suitability of a plenary or
5 limited guardian in determining the suitability of a standby
6 guardian, giving due consideration to the preference of the
7 person with a disability as to a standby guardian. The court
8 may not appoint the Office of State Guardian, pursuant to
9 Section 30 of the Guardianship and Advocacy Act, or a public
10 guardian, pursuant to Section 13-5 of this Act, as a standby
11 guardian, without the written consent of the State Guardian or
12 public guardian or an authorized representative of the State
13 Guardian or public guardian.

14 (c) The standby guardian shall take and file an oath or
15 affirmation that the standby guardian will faithfully
16 discharge the duties of the office of standby guardian
17 according to law, and shall file in and have approved by the
18 court a bond binding the standby guardian so to do, but shall
19 not be required to file a bond until the standby guardian
20 assumes all duties as guardian of the person with a disability
21 under Section 11a-18.2.

22 (d) The designation of a standby guardian may, but need
23 not, be in the following form:

24 DESIGNATION OF STANDBY GUARDIAN

25 [IT IS IMPORTANT TO READ THE FOLLOWING INSTRUCTIONS:

26 A standby guardian is someone who has been appointed

1 by the court as the person who will act as guardian of the
2 person with a disability when the guardian of the person
3 with a disability dies or is no longer willing or able to
4 make and carry out day-to-day care decisions concerning
5 the person with a disability. By properly completing this
6 form, a guardian is naming the person that the guardian
7 wants to be appointed as the standby guardian of the
8 person with a disability. Signing the form does not
9 appoint the standby guardian; to be appointed, a petition
10 must be filed in and approved by the court.]

11 1. Guardian and Ward. I, (insert name of designating
12 guardian), currently residing at (insert address of
13 designating guardian), am the guardian of the following
14 person with a disability: (insert name of ward).

15 2. Standby Guardian. I hereby designate the following
16 person to be appointed as standby guardian for my ward
17 listed above: (insert name and address of person
18 designated).

19 3. Successor Standby Guardian. If the person named in
20 item 2 above cannot or will not act as standby guardian, I
21 designate the following person to be appointed as
22 successor standby guardian for my ward: (insert name and
23 address of person designated).

24 4. Date and Signature. This designation is made this
25 (insert day) day of (insert month and year).

26 Signed: (designating guardian)

1 date of the appointment. The written instrument shall be
2 signed by, or at the direction of, the appointing guardian in
3 the presence of at least 2 credible witnesses at least 18 years
4 of age, neither of whom is the person appointed as the
5 short-term guardian. The person appointed as the short-term
6 guardian shall also sign the written instrument, but need not
7 sign at the same time as the appointing guardian. A guardian
8 may not appoint the Office of State Guardian or a public
9 guardian as a short-term guardian, without the written consent
10 of the State Guardian or public guardian or an authorized
11 representative of the State Guardian or public guardian.

12 (b) The appointment of the short-term guardian is
13 effective immediately upon the date the written instrument is
14 executed, unless the written instrument provides for the
15 appointment to become effective upon a later specified date or
16 event. A short-term guardian appointed by the guardian shall
17 have authority to act as guardian of the person with a
18 disability for a cumulative total of 60 days during any
19 12-month ~~12-month~~ period. Only one written instrument
20 appointing a short-term guardian may be in force at any given
21 time.

22 (c) Every appointment of a short-term guardian may be
23 amended or revoked by the appointing guardian at any time and
24 in any manner communicated to the short-term guardian or to
25 any other person. Any person other than the short-term
26 guardian to whom a revocation or amendment is communicated or

1 delivered shall make all reasonable efforts to inform the
2 short-term guardian of that fact as promptly as possible.

3 (d) The appointment of a short-term guardian or successor
4 short-term guardian does not affect the rights in the person
5 with a disability of any guardian other than the appointing
6 guardian.

7 (e) The written instrument appointing a short-term
8 guardian may, but need not, be in the following form:

9 APPOINTMENT OF SHORT-TERM GUARDIAN

10 [IT IS IMPORTANT TO READ THE FOLLOWING INSTRUCTIONS:

11 By properly completing this form, a guardian is
12 appointing a short-term guardian of the person with a
13 disability for a cumulative total of up to 60 days during
14 any 12-month ~~12-month~~ period. A separate form shall be
15 completed each time a short-term guardian takes over
16 guardianship duties. The person or persons appointed as
17 the short-term guardian shall sign the form, but need not
18 do so at the same time as the guardian.]

19 1. Guardian and Ward. I, (insert name of appointing
20 guardian), currently residing at (insert address of
21 appointing guardian), am the guardian of the following
22 person with a disability: (insert name of ward).

23 2. Short-term Guardian. I hereby appoint the following
24 person as the short-term guardian for my ward: (insert
25 name and address of appointed person).

1 3. Effective date. This appointment becomes effective:
2 (check one if you wish it to be applicable)

3 () On the date that I state in writing that I am no
4 longer either willing or able to make and carry out
5 day-to-day care decisions concerning my ward.

6 () On the date that a physician familiar with my
7 condition certifies in writing that I am no longer willing
8 or able to make and carry out day-to-day care decisions
9 concerning my ward.

10 () On the date that I am admitted as an in-patient to
11 a hospital or other health care institution.

12 () On the following date: (insert date).

13 () Other: (insert other).

14 [NOTE: If this item is not completed, the appointment
15 is effective immediately upon the date the form is signed
16 and dated below.]

17 4. Termination. This appointment shall terminate on:
18 (enter a date corresponding to 60 days from the current
19 date, less the number of days within the past 12 months
20 that any short-term guardian has taken over guardianship
21 duties), unless it terminates sooner as determined by the
22 event or date I have indicated below: (check one if you
23 wish it to be applicable)

24 () On the date that I state in writing that I am
25 willing and able to make and carry out day-to-day care
26 decisions concerning my ward.

1 () On the date that a physician familiar with my
2 condition certifies in writing that I am willing and able
3 to make and carry out day-to-day care decisions concerning
4 my ward.

5 () On the date that I am discharged from the hospital
6 or other health care institution where I was admitted as
7 an in-patient, which established the effective date.

8 () On the date which is (state a number of days) days
9 after the effective date.

10 () Other: (insert other).

11 [NOTE: If this item is not completed, the appointment
12 will be effective until the 60th day within the past year
13 during which time any short-term guardian of this ward had
14 taken over guardianship duties from the guardian,
15 beginning on the effective date.]

16 5. Date and signature of appointing guardian. This
17 appointment is made this (insert day) day of (insert month
18 and year).

19 Signed: (appointing guardian)

20 6. Witnesses. I saw the guardian sign this instrument
21 or I saw the guardian direct someone to sign this
22 instrument for the guardian. Then I signed this instrument
23 as a witness in the presence of the guardian. I am not
24 appointed in this instrument to act as the short-term
25 guardian for the guardian's ward. (insert space for names,
26 addresses, and signatures of 2 witnesses)

1 subject to such conditions as the court may prescribe. In
2 determining the necessity for temporary guardianship, the
3 immediate welfare and protection of the alleged person with a
4 disability and his or her estate shall be of paramount
5 concern, and the interests of the petitioner, any care
6 provider, or any other party shall not outweigh the interests
7 of the alleged person with a disability. The temporary
8 guardian shall have the limited powers and duties of a
9 guardian of the person or of the estate which are specifically
10 enumerated by court order. The court order shall state the
11 actual harm identified by the court that necessitates
12 temporary guardianship or any extension thereof.

13 (b) The temporary guardianship shall expire within 60 days
14 after the appointment or whenever a guardian is regularly
15 appointed, whichever occurs first. No extension shall be
16 granted except:

17 (1) In a case where there has been an adjudication of
18 disability, an extension shall be granted:

19 (i) pending the disposition on appeal of an
20 adjudication of disability;

21 (ii) pending the completion of a citation
22 proceeding brought pursuant to Section 23-3;

23 (iii) pending the appointment of a successor
24 guardian in a case where the former guardian has
25 resigned, has become incapacitated, or is deceased; or

26 (iv) where the guardian's powers have been

1 (3) is not of unsound mind;

2 (4) is not an adjudged person with a disability as
3 defined in this Act; and

4 (5) has not been convicted of a felony, unless the
5 court finds appointment of the person convicted of a
6 felony to be in the best interests of the person with a
7 disability, and as part of the best interests ~~interest~~
8 determination, the court has considered the nature of the
9 offense, the date of offense, and the evidence of the
10 proposed guardian's rehabilitation. No person shall be
11 appointed who has been convicted of a felony involving
12 harm or threat to a minor or an elderly person or a person
13 with a disability, including a felony sexual offense.

14 (b) Any public agency, or not-for-profit corporation found
15 capable by the court of providing an active and suitable
16 program of guardianship for the person with a disability,
17 taking into consideration the nature of such person's
18 disability and the nature of such organization's services, may
19 be appointed guardian of the person or of the estate, or both,
20 of the person with a disability. The court shall not appoint as
21 guardian an agency or employee of an agency that is directly
22 providing residential services to the ward. One person or
23 agency may be appointed guardian of the person and another
24 person or agency appointed guardian of the estate.

25 (b-5)(1) The court may appoint separate individuals or
26 entities to act as the guardian of the person and the guardian

1 of the estate of a person with a disability if the court finds
2 it is in the best interests of the person with a disability
3 that separate guardians be appointed. The court shall not
4 appoint a separate person or entity to act as guardian of the
5 person or guardian of the estate with a public guardian or the
6 Office of State Guardian unless the public guardian or the
7 Office of State Guardian agrees to such an appointment.

8 (2) The court may appoint co-guardians to act as guardian
9 of the person, guardian of the estate, or both the guardian of
10 the person and the guardian of the estate if the court finds it
11 is in the best interests of the person with a disability. When
12 considering appointing co-guardians, the court shall consider
13 the proposed co-guardians' history of cooperating and working
14 together on behalf of the person with a disability. The court
15 shall appoint only co-guardians who agree to serve together.
16 The court shall not appoint a public guardian or the Office of
17 State Guardian as a co-guardian for a person with a
18 disability.

19 (c) Any corporation qualified to accept and execute trusts
20 in this State may be appointed guardian or limited guardian of
21 the estate of a person with a disability.

22 (Source: P.A. 99-143, eff. 7-27-15; 100-756, eff. 1-1-19.)

23 (755 ILCS 5/11a-8) (from Ch. 110 1/2, par. 11a-8)

24 Sec. 11a-8. Petition. The petition for adjudication of
25 disability and for the appointment of a guardian of the estate

1 or the person or both of an alleged person with a disability
2 must state, if known or reasonably ascertainable: (a) the
3 relationship and interest of the petitioner to the respondent;
4 (b) the name, date of birth, and place of residence of the
5 respondent; (c) the reasons for the guardianship; (d) the name
6 and post office address of the respondent's guardian, if any,
7 or of the respondent's agent or agents appointed under the
8 Illinois Power of Attorney Act, if any; (e) the name and post
9 office addresses of the nearest relatives of the respondent in
10 the following order: (1) the spouse and adult children,
11 parents and adult brothers and sisters, if any; if none, (2)
12 nearest adult kindred known to the petitioner; (f) the name
13 and address of the person with whom or the facility in which
14 the respondent is residing; (g) the approximate value of the
15 personal and real estate; (h) the amount of the anticipated
16 annual gross income and other receipts; (i) the name, post
17 office address and in case of an individual, the age,
18 relationship to the respondent and occupation of the proposed
19 guardian. In addition, if the petition seeks the appointment
20 of a previously appointed standby guardian as guardian of the
21 person with a disability, the petition must also state: (j)
22 the facts concerning the standby guardian's previous
23 appointment and (k) the date of death of the guardian of the
24 person with a disability or the facts concerning the consent
25 of the guardian of the person with a disability to the
26 appointment of the standby guardian as guardian, or the

1 willingness and ability of the guardian of the person with a
2 disability to make and carry out day-to-day care decisions
3 concerning the person with a disability. A petition for
4 adjudication of disability and the appointment of a guardian
5 of the estate or the person or both of an alleged person with a
6 disability may not be dismissed or withdrawn without leave of
7 the court. A petitioner who seeks to revoke or construe a power
8 of attorney for the alleged person with a disability, or
9 review the agent's conduct, shall do so in conformity with the
10 Illinois Power of Attorney Act, and as set forth in subsection
11 (c) of Section 11a-17 and subsection (e) of Section 11a-18 of
12 this Act.

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

14 (755 ILCS 5/11a-10) (from Ch. 110 1/2, par. 11a-10)

15 Sec. 11a-10. Procedures preliminary to hearing.

16 (a) Upon the filing of a petition pursuant to Section
17 11a-8, the court shall set a date and place for hearing to take
18 place within 30 days. The court shall appoint a guardian ad
19 litem to report to the court concerning the respondent's best
20 interests consistent with the provisions of this Section,
21 except that the appointment of a guardian ad litem shall not be
22 required when the court determines that such appointment is
23 not necessary for the protection of the respondent or a
24 reasonably informed decision on the petition. If the guardian
25 ad litem is not a licensed attorney, he or she shall be

1 qualified, by training or experience, to work with or advocate
2 for persons with developmental disabilities, the mentally ill,
3 persons with physical disabilities, the elderly, or persons
4 with a disability due to mental deterioration, depending on
5 the type of disability that is alleged in the petition. The
6 court may allow the guardian ad litem reasonable compensation.
7 The guardian ad litem may consult with a person who by training
8 or experience is qualified to work with persons with a
9 developmental disability, persons with mental illness, persons
10 with physical disabilities, or persons with a disability due
11 to mental deterioration, depending on the type of disability
12 that is alleged. The guardian ad litem shall personally
13 observe the respondent prior to the hearing and shall inform
14 him orally and in writing of the contents of the petition and
15 of his rights, including providing a copy of the notice of
16 rights required under subsection (e) under Section 11a-11. The
17 guardian ad litem shall also attempt to elicit the
18 respondent's position concerning the adjudication of
19 disability, the proposed guardian, a proposed change in
20 residential placement, changes in care that might result from
21 the guardianship, and other areas of inquiry deemed
22 appropriate by the court. Notwithstanding any provision in the
23 Mental Health and Developmental Disabilities Confidentiality
24 Act or any other law, a guardian ad litem shall have the right
25 to inspect and copy any medical or mental health record of the
26 respondent which the guardian ad litem deems necessary,

1 provided that the information so disclosed shall not be
2 utilized for any other purpose nor be redisclosed except in
3 connection with the proceedings. At or before the hearing, the
4 guardian ad litem shall file a written report detailing his or
5 her observations of the respondent, the responses of the
6 respondent to any of the inquiries detailed in this Section,
7 the opinion of the guardian ad litem or other professionals
8 with whom the guardian ad litem consulted concerning the
9 appropriateness of guardianship, and any other material issue
10 discovered by the guardian ad litem. The guardian ad litem
11 shall appear at the hearing and testify as to any issues
12 presented in his or her report.

13 (b) The court (1) may appoint counsel for the respondent,
14 if the court finds that the interests of the respondent will be
15 best served by the appointment, and (2) shall appoint counsel
16 upon respondent's request or if the respondent takes a
17 position adverse to that of the guardian ad litem. The
18 respondent shall be permitted to obtain the appointment of
19 counsel either at the hearing or by any written or oral request
20 communicated to the court prior to the hearing. The summons
21 shall inform the respondent of this right to obtain appointed
22 counsel. The court may allow counsel for the respondent
23 reasonable compensation.

24 (c) If the respondent is unable to pay the fee of the
25 guardian ad litem or appointed counsel, or both, the court may
26 enter an order for the petitioner to pay all such fees or such

1 amounts as the respondent or the respondent's estate may be
2 unable to pay. However, in cases where the Office of State
3 Guardian is the petitioner, consistent with Section 30 of the
4 Guardianship and Advocacy Act, where the public guardian is
5 the petitioner, consistent with Section 13-5 of this Act,
6 where an adult protective services agency is the petitioner,
7 pursuant to Section 9 of the Adult Protective Services Act, or
8 where the Department of Children and Family Services is the
9 petitioner under subparagraph (d) of subsection (1) of Section
10 2-27 of the Juvenile Court Act of 1987, no guardian ad litem or
11 legal fees shall be assessed against the Office of State
12 Guardian, the public guardian, the adult protective services
13 agency, or the Department of Children and Family Services.

14 (d) The hearing may be held at such convenient place as the
15 court directs, including at a facility in which the respondent
16 resides.

17 (e) Unless he is the petitioner, the respondent shall be
18 personally served with a copy of the petition and a summons not
19 less than 14 days before the hearing. The summons shall be
20 printed in large, bold type and shall include the following
21 ~~notice~~:

22 NOTICE OF RIGHTS OF RESPONDENT

23 You have been named as a respondent in a guardianship
24 petition asking that you be declared a person with a
25 disability. If the court grants the petition, a guardian will
26 be appointed for you. A copy of the guardianship petition is

1 attached for your convenience.

2 The date and time of the hearing are:

3 The place where the hearing will occur is:

4 The Judge's name and phone number is:

5 If a guardian is appointed for you, the guardian may be
6 given the right to make all important personal decisions for
7 you, such as where you may live, what medical treatment you may
8 receive, what places you may visit, and who may visit you. A
9 guardian may also be given the right to control and manage your
10 money and other property, including your home, if you own one.
11 You may lose the right to make these decisions for yourself.

12 You have the following legal rights:

13 (1) You have the right to be present at the court
14 hearing.

15 (2) You have the right to be represented by a lawyer,
16 either one that you retain, or one appointed by the Judge.

17 (3) You have the right to ask for a jury of six persons
18 to hear your case.

19 (4) You have the right to present evidence to the
20 court and to confront and cross-examine witnesses.

21 (5) You have the right to ask the Judge to appoint an
22 independent expert to examine you and give an opinion
23 about your need for a guardian.

24 (6) You have the right to ask that the court hearing be
25 closed to the public.

26 (7) You have the right to tell the court whom you

1 prefer to have for your guardian.

2 (8) You have the right to ask a judge to find that
3 although you lack some capacity to make your own
4 decisions, you can make other decisions, and therefore it
5 is best for the court to appoint only a limited guardian
6 for you.

7 You do not have to attend the court hearing if you do not
8 want to be there. If you do not attend, the Judge may appoint a
9 guardian if the Judge finds that a guardian would be of benefit
10 to you. The hearing will not be postponed or canceled if you do
11 not attend. If you are unable to attend the hearing in person
12 or you will suffer harm if you attend, the Judge can decide to
13 hold the hearing at a place that is convenient. The Judge can
14 also follow the rule of the Supreme Court of this State, or its
15 local equivalent, and decide if a video conference is
16 appropriate.

17 IT IS VERY IMPORTANT THAT YOU ATTEND THE HEARING IF YOU DO
18 NOT WANT A GUARDIAN OR IF YOU WANT SOMEONE OTHER THAN THE
19 PERSON NAMED IN THE GUARDIANSHIP PETITION TO BE YOUR GUARDIAN.
20 IF YOU DO NOT WANT A GUARDIAN OR IF YOU HAVE ANY OTHER
21 PROBLEMS, YOU SHOULD CONTACT AN ATTORNEY OR COME TO COURT AND
22 TELL THE JUDGE.

23 Service of summons and the petition may be made by a
24 private person 18 years of age or over who is not a party to
25 the action.

26 [END OF FORM].

1 (f) Notice of the time and place of the hearing shall be
2 given by the petitioner by mail or in person to those persons,
3 including the proposed guardian, whose names and addresses
4 appear in the petition and who do not waive notice, not less
5 than 14 days before the hearing.

6 (Source: P.A. 99-143, eff. 7-27-15; 99-642, eff. 7-28-16;
7 100-201, eff. 8-18-17; 100-427, eff. 1-1-18.)

8 (755 ILCS 5/11a-10.1) (from Ch. 110 1/2, par. 11a-10.1)

9 Sec. 11a-10.1. Domestic Violence: Order of Protection. An
10 order of protection, as defined in the Illinois Domestic
11 Violence Act of 1986, ~~as amended~~, may be issued in conjunction
12 with a proceeding for adjudication of disability and
13 appointment of guardian if the petition for an order of
14 protection alleges that a person who is party to or the subject
15 of the proceeding has been abused by or has abused a family or
16 household member or has been neglected or exploited as defined
17 in the Illinois Domestic Violence Act of 1986, ~~as amended~~.

18 If the subject of the order of protection is a high-risk
19 adult with disabilities for whom a guardian has been
20 appointed, the court may appoint a temporary substitute
21 guardian under the provisions of this Act. The court shall
22 appoint a temporary substitute guardian if the appointed
23 guardian is named as a respondent in a petition for an order of
24 protection under the Illinois Domestic Violence Act of 1986, ~~as amended~~.
25 ~~as amended~~. The Illinois Domestic Violence Act of 1986 shall

1 govern the issuance, enforcement and recording of orders of
2 protection issued under this Section.

3 (Source: P.A. 86-542.)

4 (755 ILCS 5/11a-12) (from Ch. 110 1/2, par. 11a-12)

5 Sec. 11a-12. Order of appointment.†

6 (a) If basis for the appointment of a guardian as
7 specified in Section 11a-3 is not found, the court shall
8 dismiss the petition.

9 (b) If the respondent is adjudged to be a person with a
10 disability and to lack some but not all of the capacity as
11 specified in Section 11a-3, and if the court finds that
12 guardianship is necessary for the protection of the person
13 with a disability, his or her estate, or both, the court shall
14 appoint a limited guardian for the respondent's person or
15 estate or both. The court shall enter a written order stating
16 the factual basis for its findings and specifying the duties
17 and powers of the guardian and the legal disabilities to which
18 the respondent is subject.

19 (c) If the respondent is adjudged to be a person with a
20 disability and to be totally without capacity as specified in
21 Section 11a-3, and if the court finds that limited
22 guardianship will not provide sufficient protection for the
23 person with a disability, his or her estate, or both, the court
24 shall appoint a plenary guardian for the respondent's person
25 or estate or both. The court shall enter a written order

1 stating the factual basis for its findings.

2 (d) The selection of the guardian shall be in the
3 discretion of the court, which shall give due consideration to
4 the preference of the person with a disability as to a
5 guardian, as well as the qualifications of the proposed
6 guardian, in making its appointment. However, the paramount
7 concern in the selection of the guardian is the best interests
8 ~~interest~~ and well-being of the person with a disability.

9 One person or agency may be appointed a limited or plenary
10 guardian of the person and another person or corporate trustee
11 appointed as a limited or plenary guardian of the estate. If
12 different persons are appointed, the court shall consider the
13 factors set forth in subsection (b-5) of Section 11a-5. The
14 court shall enter a written order stating the factual basis
15 for its findings.

16 (e) The order of appointment of a guardian of the person in
17 any county with a population of less than 3 million shall
18 include the requirement that the guardian of the person
19 complete the training program as provided in Section 33.5 of
20 the Guardianship and Advocacy Act that outlines the
21 responsibilities of the guardian of the person and the rights
22 of the person under guardianship and file with the court a
23 certificate of completion one year from the date of issuance
24 of the letters of guardianship, except that: (1) the chief
25 judge of any circuit may order implementation of another
26 training program by a suitable provider containing

1 substantially similar content; (2) employees of the Office of
2 the State Guardian, public guardians, attorneys currently
3 authorized to practice law, corporate fiduciaries, and persons
4 certified by the Center for Guardianship Certification are
5 exempt from this training requirement; and (3) the court may,
6 for good cause shown, exempt from this requirement an
7 individual not otherwise listed in item (2). For the purposes
8 of this subsection (e), good cause may be proven by affidavit.
9 If the court finds good cause to exempt an individual from the
10 training requirement, the order of appointment shall so state.
11 (Source: P.A. 99-143, eff. 7-27-15; 100-483, eff. 9-8-18.)

12 (755 ILCS 5/11a-13.5 new)

13 Sec. 11a-13.5. Guardian fees. A guardian is entitled to
14 reasonable and appropriate compensation for services related
15 to guardianship duties, but all fees must be reviewed and
16 approved by the court pursuant to a fee petition. In
17 considering the reasonableness of any fee petition brought by
18 a guardian under this Section, the court shall consider the
19 following:

20 (1) the powers and duties assigned to the guardian by
21 the court;

22 (2) the necessity of any services provided;

23 (3) the time required, the degree of difficulty, and
24 the experience needed to complete the task;

25 (4) the needs of the ward and the costs of

1 alternatives; and

2 (5) other facts and circumstances material to the best
3 interests of the ward or his or her estate.

4 Upon the death of the ward, fees and costs awarded under
5 this Section shall be considered as a first-class claim for
6 administrative expenses as set forth in Section 18-10 and may
7 be paid from the guardianship estate or from the decedent's
8 estate.

9 (755 ILCS 5/11a-17) (from Ch. 110 1/2, par. 11a-17)

10 Sec. 11a-17. Duties of personal guardian.

11 (a) To the extent ordered by the court and under the
12 direction of the court, the guardian of the person shall have
13 custody of the ward and the ward's minor and adult dependent
14 children and shall procure for them and shall make provision
15 for their support, care, comfort, health, education and
16 maintenance, and professional services as are appropriate, but
17 the ward's spouse may not be deprived of the custody and
18 education of the ward's minor and adult dependent children,
19 without the consent of the spouse, unless the court finds that
20 the spouse is not a fit and competent person to have that
21 custody and education. The guardian shall assist the ward in
22 the development of maximum self-reliance and independence. The
23 guardian of the person may petition the court for an order
24 directing the guardian of the estate to pay an amount
25 periodically for the provision of the services specified by

1 the court order. If the ward's estate is insufficient to
2 provide for education and the guardian of the ward's person
3 fails to provide education, the court may award the custody of
4 the ward to some other person for the purpose of providing
5 education. If a person makes a settlement upon or provision
6 for the support or education of a ward, the court may make an
7 order for the visitation of the ward by the person making the
8 settlement or provision as the court deems proper. A guardian
9 of the person may not admit a ward to a mental health facility
10 except at the ward's request as provided in Article IV of the
11 Mental Health and Developmental Disabilities Code and unless
12 the ward has the capacity to consent to such admission as
13 provided in Article IV of the Mental Health and Developmental
14 Disabilities Code.

15 (a-3) If a guardian of an estate has not been appointed,
16 the guardian of the person may, without an order of court,
17 open, maintain, and transfer funds to an ABLE account on
18 behalf of the ward and the ward's minor and adult dependent
19 children as specified under Section 16.6 of the State
20 Treasurer Act.

21 (a-5) If the ward filed a petition for dissolution of
22 marriage under the Illinois Marriage and Dissolution of
23 Marriage Act before the ward was adjudicated a person with a
24 disability under this Article, the guardian of the ward's
25 person and estate may maintain that action for dissolution of
26 marriage on behalf of the ward. Upon petition by the guardian

1 of the ward's person or estate, the court may authorize and
2 direct a guardian of the ward's person or estate to file a
3 petition for dissolution of marriage or to file a petition for
4 legal separation or declaration of invalidity of marriage
5 under the Illinois Marriage and Dissolution of Marriage Act on
6 behalf of the ward if the court finds by clear and convincing
7 evidence that the relief sought is in the ward's best
8 interests. In making its determination, the court shall
9 consider the standards set forth in subsection (e) of this
10 Section.

11 (a-10) Upon petition by the guardian of the ward's person
12 or estate, the court may authorize and direct a guardian of the
13 ward's person or estate to consent, on behalf of the ward, to
14 the ward's marriage pursuant to Part II of the Illinois
15 Marriage and Dissolution of Marriage Act if the court finds by
16 clear and convincing evidence that the marriage is in the
17 ward's best interests. In making its determination, the court
18 shall consider the standards set forth in subsection (e) of
19 this Section. Upon presentation of a court order authorizing
20 and directing a guardian of the ward's person and estate to
21 consent to the ward's marriage, the county clerk shall accept
22 the guardian's application, appearance, and signature on
23 behalf of the ward for purposes of issuing a license to marry
24 under Section 203 of the Illinois Marriage and Dissolution of
25 Marriage Act.

26 (b) If the court directs, the guardian of the person shall

1 file with the court at intervals indicated by the court, a
2 report that shall state briefly: (1) the current mental,
3 physical, and social condition of the ward and the ward's
4 minor and adult dependent children; (2) their present living
5 arrangement, and a description and the address of every
6 residence where they lived during the reporting period and the
7 length of stay at each place; (3) a summary of the medical,
8 educational, vocational, and other professional services given
9 to them; (4) a resume of the guardian's visits with and
10 activities on behalf of the ward and the ward's minor and adult
11 dependent children; (5) a recommendation as to the need for
12 continued guardianship; (6) any other information requested by
13 the court or useful in the opinion of the guardian. The Office
14 of the State Guardian shall assist the guardian in filing the
15 report when requested by the guardian. The court may take such
16 action as it deems appropriate pursuant to the report.

17 (c) Absent court order pursuant to the Illinois Power of
18 Attorney Act directing a guardian to exercise powers of the
19 principal under an agency that survives disability, the
20 guardian has no power, duty, or liability with respect to any
21 personal or health care matters covered by the agency. This
22 subsection (c) applies to all agencies, whenever and wherever
23 executed.

24 (d) A guardian acting as a surrogate decision maker under
25 the Health Care Surrogate Act shall have all the rights of a
26 surrogate under that Act without court order including the

1 right to make medical treatment decisions such as decisions to
2 forgo or withdraw life-sustaining treatment. Any decisions by
3 the guardian to forgo or withdraw life-sustaining treatment
4 that are not authorized under the Health Care Surrogate Act
5 shall require a court order. Nothing in this Section shall
6 prevent an agent acting under a power of attorney for health
7 care from exercising his or her authority under the Illinois
8 Power of Attorney Act without further court order, unless a
9 court has acted under Section 2-10 of the Illinois Power of
10 Attorney Act. If a guardian is also a health care agent for the
11 ward under a valid power of attorney for health care, the
12 guardian acting as agent may execute his or her authority
13 under that act without further court order.

14 (e) Decisions made by a guardian on behalf of a ward shall
15 be made in accordance with the following standards for
16 decision making. Decisions made by a guardian on behalf of a
17 ward may be made by conforming as closely as possible to what
18 the ward, if competent, would have done or intended under the
19 circumstances, taking into account evidence that includes, but
20 is not limited to, the ward's personal, philosophical,
21 religious and moral beliefs, and ethical values relative to
22 the decision to be made by the guardian. Where possible, the
23 guardian shall determine how the ward would have made a
24 decision based on the ward's previously expressed preferences,
25 and make decisions in accordance with the preferences of the
26 ward. If the ward's wishes are unknown and remain unknown

1 after reasonable efforts to discern them, the decision shall
2 be made on the basis of the ward's best interests as determined
3 by the guardian. In determining the ward's best interests, the
4 guardian shall weigh the reason for and nature of the proposed
5 action, the benefit or necessity of the action, the possible
6 risks and other consequences of the proposed action, and any
7 available alternatives and their risks, consequences and
8 benefits, and shall take into account any other information,
9 including the views of family and friends, that the guardian
10 believes the ward would have considered if able to act for
11 herself or himself.

12 (f) Upon petition by any interested person (including the
13 standby or short-term guardian), with such notice to
14 interested persons as the court directs and a finding by the
15 court that it is in the best interests ~~interest~~ of the person
16 with a disability, the court may terminate or limit the
17 authority of a standby or short-term guardian or may enter
18 such other orders as the court deems necessary to provide for
19 the best interests ~~interest~~ of the person with a disability.
20 The petition for termination or limitation of the authority of
21 a standby or short-term guardian may, but need not, be
22 combined with a petition to have another guardian appointed
23 for the person with a disability.

24 (g) (1) Unless there is a court order to the contrary, the
25 guardian, consistent with the standards set forth in
26 subsection (e) of this Section, shall use reasonable efforts

1 to notify the ward's known adult children, who have requested
2 notification and provided contact information, of the ward's
3 admission to a hospital, ~~or~~ hospice or palliative care
4 program, the ward's death, and the arrangements for the
5 disposition of the ward's remains.

6 (2) If a guardian unreasonably prevents an adult child,
7 spouse, adult grandchild, parent, or adult sibling of the ward
8 from visiting the ward, the court, upon a verified petition,
9 may order the guardian to permit visitation between the ward
10 and the adult child, spouse, adult grandchild, parent, or
11 adult sibling. In making its determination, the court shall
12 consider the standards set forth in subsection (e) of this
13 Section. The court shall not allow visitation if the court
14 finds that the ward has capacity to evaluate and communicate
15 decisions regarding visitation and expresses a desire not to
16 have visitation with the petitioner. This subsection (g) does
17 not apply to duly appointed public guardians or the Office of
18 State Guardian.

19 (Source: P.A. 100-1054, eff. 1-1-19; 101-329, eff. 8-9-19.)

20 (755 ILCS 5/11a-17.1)

21 Sec. 11a-17.1. Sterilization of ward.

22 (a) A guardian of the person shall not consent to the
23 sterilization of the ward without first obtaining an order
24 from the court granting the guardian the authority to provide
25 consent. For purposes of this Article XIa, "sterilization"

1 means any procedure that has as its purpose rendering the ward
2 permanently incapable of reproduction; provided, however, that
3 an order from the court is not required for a procedure that is
4 medically necessary to preserve the life of the ward or to
5 prevent serious impairment to the health of the ward and which
6 may result in sterilization.

7 (b) A guardian seeking authority to consent to the
8 sterilization of the ward shall seek such authority by filing
9 a verified motion. The verified motion shall allege facts
10 which demonstrate that the proposed sterilization is warranted
11 under subsection (f), (g) or (h) of this Section. The guardian
12 ad litem will notify the ward of the motion in the manner set
13 forth in subsection (c) of this Section.

14 (c) Upon the filing of a verified motion for authority to
15 consent to sterilization, the court shall appoint a guardian
16 ad litem to report to the court consistent with the provisions
17 of this Section. If the guardian ad litem is not a licensed
18 attorney, he or she shall be qualified, by training or
19 experience, to work with or advocate for persons with a
20 developmental disability, mental illness, physical disability,
21 or disability because of mental deterioration, depending on
22 the type of disability of the ward that is alleged in the
23 motion. The court may allow the guardian ad litem reasonable
24 compensation. The guardian ad litem may consult with a person
25 who by training or experience is qualified to work with
26 persons with a developmental disability, mental illness,

1 physical disability, or disability because of mental
2 deterioration, depending on the type of disability of the ward
3 that is alleged. The guardian ad litem may also consult with
4 health care providers knowledgeable about reproductive health
5 matters including sterilization, other forms of contraception,
6 and childbirth. Outside the presence of the guardian, the
7 guardian ad litem shall personally observe the ward prior to
8 the hearing and shall inform the ward orally and in writing of
9 the contents of the verified motion for authority to consent
10 to sterilization. Outside the presence of the guardian, the
11 guardian ad litem shall also attempt to elicit the ward's
12 position concerning the motion, and any other areas of inquiry
13 deemed appropriate by the court. At or before the hearing, the
14 guardian ad litem shall file a written report detailing his or
15 her observations of the ward; the responses of the ward to any
16 of the inquiries detailed in this Section; the opinion of the
17 guardian ad litem and any other professionals with whom the
18 guardian ad litem consulted concerning the ward's
19 understanding of and desire for or objection to, as well as
20 what is in the ward's best interests ~~interest~~ relative to,
21 sterilization, other forms of contraception, and childbirth;
22 and any other material issue discovered by the guardian ad
23 litem. The guardian ad litem shall appear at the hearing and
24 testify, and may present witnesses, as to any issues presented
25 in his or her report.

26 (d) The court (1) may appoint counsel for the ward if the

1 court finds that the interests of the ward will be best served
2 by the appointment, and (2) shall appoint counsel upon the
3 ward's request, if the ward is objecting to the proposed
4 sterilization, or if the ward takes a position adverse to that
5 of the guardian ad litem. The ward shall be permitted to obtain
6 the appointment of counsel either at the hearing or by any
7 written or oral request communicated to the court prior to the
8 hearing. The court shall inform the ward of this right to
9 obtain appointed counsel. The court may allow counsel for the
10 ward reasonable compensation.

11 (e) The court shall order a medical and psychological
12 evaluation of the ward. The evaluation shall address the
13 ward's decision-making ~~decision-making~~ capacity with respect
14 to the proposed sterilization, the existence of any less
15 permanent alternatives, and any other material issue.

16 (f) The court shall determine, as a threshold inquiry,
17 whether the ward has capacity to consent or withhold consent
18 to the proposed sterilization and, if the ward lacks such
19 capacity, whether the ward is likely to regain such capacity.
20 The ward shall not be deemed to lack such capacity solely on
21 the basis of the adjudication of disability and appointment of
22 a guardian. In determining capacity, the court shall consider
23 whether the ward is able, after being provided appropriate
24 information, to understand the relationship between sexual
25 activity and reproduction; the consequences of reproduction;
26 and the nature and consequences of the proposed sterilization

1 procedure. If the court finds that (1) the ward has capacity to
2 consent or withhold consent to the proposed sterilization, and
3 (2) the ward objects or consents to the procedure, the court
4 shall enter an order consistent with the ward's objection or
5 consent and the proceedings on the verified motion shall be
6 terminated.

7 (g) If the court finds that the ward does not have capacity
8 to consent or withhold consent to the proposed sterilization
9 and is unlikely to regain such capacity, the court shall
10 determine whether the ward is expressing a clear desire for
11 the proposed sterilization. If the ward is expressing a clear
12 desire for the proposed sterilization, the court's decision
13 regarding the proposed sterilization shall be made in
14 accordance with the standards set forth in subsection (e) of
15 Section 11a-17 of this Act.

16 (h) If the court finds that the ward does not have capacity
17 to consent or withhold consent to the proposed sterilization
18 and is unlikely to regain such capacity, and that the ward is
19 not expressing a clear desire for the proposed sterilization,
20 the court shall consider the standards set forth in subsection
21 (e) of Section 11a-17 of this Act and enter written findings of
22 fact and conclusions of law addressing those standards. In
23 addition, the court shall not authorize the guardian to
24 consent to the proposed sterilization unless the court finds,
25 by clear and convincing evidence and based on written findings
26 of fact and conclusions of law, that all of the following

1 factors are present:

2 (1) The ward lacks decisional capacity regarding the
3 proposed sterilization.

4 (2) The ward is fertile and capable of procreation.

5 (3) The benefits to the ward of the proposed
6 sterilization outweigh the harm.

7 (4) The court has considered less intrusive
8 alternatives and found them to be inadequate in this case.

9 (5) The proposed sterilization is in the best
10 interests ~~interest~~ of the ward. In considering the ward's
11 best interests ~~interest~~, the court shall consider the
12 following factors:

13 (A) The possibility that the ward will experience
14 trauma or psychological damage if he or she has a child
15 and, conversely, the possibility of trauma or
16 psychological damage from the proposed sterilization.

17 (B) The ward is or is likely to become sexually
18 active.

19 (C) The inability of the ward to understand
20 reproduction or contraception and the likely
21 permanence of that inability.

22 (D) Any other factors that assist the court in
23 determining the best interests ~~interest~~ of the ward
24 relative to the proposed sterilization.

25 (Source: P.A. 96-272, eff. 1-1-10.)

1 (755 ILCS 5/11a-18) (from Ch. 110 1/2, par. 11a-18)

2 Sec. 11a-18. Duties of the estate guardian.

3 (a) To the extent specified in the order establishing the
4 guardianship, the guardian of the estate shall have the care,
5 management and investment of the estate, shall manage the
6 estate frugally and shall apply the income and principal of
7 the estate so far as necessary for the comfort and suitable
8 support and education of the ward, his minor and adult
9 dependent children, and persons related by blood or marriage
10 who are dependent upon or entitled to support from him, or for
11 any other purpose which the court deems to be for the best
12 interests of the ward, and the court may approve the making on
13 behalf of the ward of such agreements as the court determines
14 to be for the ward's best interests. The guardian may make
15 disbursement of his ward's funds and estate directly to the
16 ward or other distributee or in such other manner and in such
17 amounts as the court directs. If the estate of a ward is
18 derived in whole or in part from payments of compensation,
19 adjusted compensation, pension, insurance or other similar
20 benefits made directly to the estate by the Veterans
21 Administration, notice of the application for leave to invest
22 or expend the ward's funds or estate, together with a copy of
23 the petition and proposed order, shall be given to the
24 Veterans' Administration Regional Office in this State at
25 least 7 days before the hearing on the application.

26 (a-5) The probate court, upon petition of a guardian,

1 other than the guardian of a minor, and after notice to all
2 other persons interested as the court directs, may authorize
3 the guardian to exercise any or all powers over the estate and
4 business affairs of the ward that the ward could exercise if
5 present and not under disability. The court may authorize the
6 taking of an action or the application of funds not required
7 for the ward's current and future maintenance and support in
8 any manner approved by the court as being in keeping with the
9 ward's wishes so far as they can be ascertained. The court must
10 consider the permanence of the ward's disabling condition and
11 the natural objects of the ward's bounty. In ascertaining and
12 carrying out the ward's wishes the court may consider, but
13 shall not be limited to, minimization of State or federal
14 income, estate, or inheritance taxes; and providing gifts to
15 charities, relatives, and friends that would be likely
16 recipients of donations from the ward. The ward's wishes as
17 best they can be ascertained shall be carried out, whether or
18 not tax savings are involved. Actions or applications of funds
19 may include, but shall not be limited to, the following:

20 (1) making gifts of income or principal, or both, of
21 the estate, either outright or in trust;

22 (2) conveying, releasing, or disclaiming his or her
23 contingent and expectant interests in property, including
24 marital property rights and any right of survivorship
25 incident to joint tenancy or tenancy by the entirety;

26 (3) releasing or disclaiming his or her powers as

1 trustee, personal representative, custodian for minors, or
2 guardian;

3 (4) exercising, releasing, or disclaiming his or her
4 powers as donee of a power of appointment;

5 (5) entering into contracts;

6 (6) creating for the benefit of the ward or others,
7 revocable or irrevocable trusts of his or her property
8 that may extend beyond his or her disability or life;

9 (7) exercising options of the ward to purchase or
10 exchange securities or other property;

11 (8) exercising the rights of the ward to elect benefit
12 or payment options, to terminate, to change beneficiaries
13 or ownership, to assign rights, to borrow, or to receive
14 cash value in return for a surrender of rights under any
15 one or more of the following:

16 (i) life insurance policies, plans, or benefits,

17 (ii) annuity policies, plans, or benefits,

18 (iii) mutual fund and other dividend investment
19 plans,

20 (iv) retirement, profit sharing, and employee
21 welfare plans and benefits;

22 (9) exercising his or her right to claim or disclaim
23 an elective share in the estate of his or her deceased
24 spouse and to renounce any interest by testate or
25 intestate succession or by inter vivos transfer;

26 (10) changing the ward's residence or domicile; or

1 (11) modifying by means of codicil or trust amendment
2 the terms of the ward's will or any revocable trust
3 created by the ward, as the court may consider advisable
4 in light of changes in applicable tax laws.

5 The guardian in his or her petition shall briefly outline
6 the action or application of funds for which he or she seeks
7 approval, the results expected to be accomplished thereby, and
8 the tax savings, if any, expected to accrue. The proposed
9 action or application of funds may include gifts of the ward's
10 personal property or real estate, but transfers of real estate
11 shall be subject to the requirements of Section 20 of this Act.
12 Gifts may be for the benefit of prospective legatees,
13 devisees, or heirs apparent of the ward or may be made to
14 individuals or charities in which the ward is believed to have
15 an interest. The guardian shall also indicate in the petition
16 that any planned disposition is consistent with the intentions
17 of the ward insofar as they can be ascertained, and if the
18 ward's intentions cannot be ascertained, the ward will be
19 presumed to favor reduction in the incidents of various forms
20 of taxation and the partial distribution of his or her estate
21 as provided in this subsection. The guardian shall not,
22 however, be required to include as a beneficiary or fiduciary
23 any person who he has reason to believe would be excluded by
24 the ward. A guardian shall be required to investigate and
25 pursue a ward's eligibility for governmental benefits.

26 (a-6) The guardian may, without an order of court, open,

1 maintain, and transfer funds to an ABLE account on behalf of
2 the ward and the ward's minor and adult dependent children as
3 specified under Section 16.6 of the State Treasurer Act.

4 (b) Upon the direction of the court which issued his
5 letters, a guardian may perform the contracts of his ward
6 which were legally subsisting at the time of the commencement
7 of the ward's disability. The court may authorize the guardian
8 to execute and deliver any bill of sale, deed or other
9 instrument.

10 (c) The guardian of the estate of a ward shall appear for
11 and represent the ward in all legal proceedings unless another
12 person is appointed for that purpose as guardian or next
13 friend. This does not impair the power of any court to appoint
14 a guardian ad litem or next friend to defend the interests of
15 the ward in that court, or to appoint or allow any person as
16 the next friend of a ward to commence, prosecute or defend any
17 proceeding in his behalf. Without impairing the power of the
18 court in any respect, if the guardian of the estate of a ward
19 and another person as next friend shall appear for and
20 represent the ward in a legal proceeding in which the
21 compensation of the attorney or attorneys representing the
22 guardian and next friend is solely determined under a
23 contingent fee arrangement, the guardian of the estate of the
24 ward shall not participate in or have any duty to review the
25 prosecution of the action, to participate in or review the
26 appropriateness of any settlement of the action, or to

1 participate in or review any determination of the
2 appropriateness of any fees awarded to the attorney or
3 attorneys employed in the prosecution of the action.

4 (d) Adjudication of disability shall not revoke or
5 otherwise terminate a trust which is revocable by the ward. A
6 guardian of the estate shall have no authority to revoke a
7 trust that is revocable by the ward, except that the court may
8 authorize a guardian to revoke a Totten trust or similar
9 deposit or withdrawable capital account in trust to the extent
10 necessary to provide funds for the purposes specified in
11 paragraph (a) of this Section. If the trustee of any trust for
12 the benefit of the ward has discretionary power to apply
13 income or principal for the ward's benefit, the trustee shall
14 not be required to distribute any of the income or principal to
15 the guardian of the ward's estate, but the guardian may bring
16 an action on behalf of the ward to compel the trustee to
17 exercise the trustee's discretion or to seek relief from an
18 abuse of discretion. This paragraph shall not limit the right
19 of a guardian of the estate to receive accountings from the
20 trustee on behalf of the ward.

21 (d-5) Upon a verified petition by the plenary or limited
22 guardian of the estate or the request of the ward that is
23 accompanied by a current physician's report that states the
24 ward possesses testamentary capacity, the court may enter an
25 order authorizing the ward to execute a will or codicil. In so
26 ordering, the court shall authorize the guardian to retain

1 independent counsel for the ward with whom the ward may
2 execute or modify a will or codicil.

3 (e) Absent court order pursuant to the Illinois Power of
4 Attorney Act directing a guardian to exercise powers of the
5 principal under an agency that survives disability, the
6 guardian will have no power, duty or liability with respect to
7 any property subject to the agency. This subsection (e)
8 applies to all agencies, whenever and wherever executed.

9 (f) Upon petition by any interested person (including the
10 standby or short-term guardian), with such notice to
11 interested persons as the court directs and a finding by the
12 court that it is in the best interests ~~interest~~ of the person
13 with a disability, the court may terminate or limit the
14 authority of a standby or short-term guardian or may enter
15 such other orders as the court deems necessary to provide for
16 the best interests ~~interest~~ of the person with a disability.
17 The petition for termination or limitation of the authority of
18 a standby or short-term guardian may, but need not, be
19 combined with a petition to have another guardian appointed
20 for the person with a disability.

21 (Source: P.A. 101-329, eff. 8-9-19.)

22 (755 ILCS 5/11a-18.3)

23 Sec. 11a-18.3. Duties of short-term guardian of a person
24 with a disability.

25 (a) Immediately upon the effective date of the appointment

1 of a short-term guardian, the short-term guardian shall assume
2 all duties as short-term guardian of the person with a
3 disability as provided in this Section. The short-term
4 guardian of the person shall have authority to act as
5 short-term guardian, without direction of the court, for the
6 duration of the appointment, which in no case shall exceed a
7 cumulative total of 60 days in any 12-month ~~12-month~~ period for
8 all short-term guardians appointed by the guardian. The
9 authority of the short-term guardian may be limited or
10 terminated by a court of competent jurisdiction.

11 (b) Unless further specifically limited by the instrument
12 appointing the short-term guardian, a short-term guardian
13 shall have the authority to act as a guardian of the person of
14 a person with a disability as prescribed in Section 11a-17,
15 but shall not have any authority to act as guardian of the
16 estate of a person with a disability, except that a short-term
17 guardian shall have the authority to apply for and receive on
18 behalf of the person with a disability benefits to which the
19 person with a disability may be entitled from or under
20 federal, State, or local organizations or programs.

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

22 (755 ILCS 5/11a-19) (from Ch. 110 1/2, par. 11a-19)

23 Sec. 11a-19. Notice of right to seek modification. At the
24 time of the appointment of a guardian the court shall inform
25 the ward of his right under Section 11a-20 to petition for

1 termination of adjudication of disability, revocation of the
 2 letters of guardianship of the estate or person, or both, or
 3 modification of the duties of the guardian and shall give the
 4 ward a written statement explaining this right and the
 5 procedures for petitioning the court. The notice shall be in
 6 large, ~~bold~~ type and shall be in a format substantially
 7 similar to the following: ~~notice of rights required under~~
 8 ~~subsection (c) of Section 11a-10 of this Act.~~

9 IN THE CIRCUIT COURT OF THE ... JUDICIAL CIRCUIT OF ILLINOIS
 10 ... COUNTY

11 IN RE THE ESTATE OF)
 12)
 13,) CASE NO.
 14 a Person with a Disability,)

15 NOTICE TO WARD OF RIGHT TO SEEK MODIFICATION

16 [Insert name] was appointed your Guardian of the Person on
 17 [insert date].

18 [Insert name] was appointed your Guardian of the Estate on
 19 [insert date].

20 You have the right to ask the court to dismiss this
 21 guardianship, to revoke the power of this guardian to act for
 22 you, or to modify the duties of any such guardian.

23 You, or someone on your behalf, can make this request,
 24 even by an informal letter, a telephone call, or a visit to the

1 court. You should send your letter to the court at the
2 following address; [insert name of judge and mailing address
3 of courthouse].

4 The court may appoint a Guardian ad Litem to investigate
5 and report to the court. You have the right to have a lawyer
6 appointed for you, to have a hearing before the court, to have
7 a jury of six persons decide the facts, to present evidence and
8 tell your story, and to ask witnesses any questions in
9 cross-examination.

10 Entered this.....day of....., 20....

11

12 JUDGE

13 [..] At the time of the appointment of the Guardian in this
14 cause, the court informed the ward of his or her rights under
15 Section 11a-20 of the Illinois Probate Act and gave the ward,
16 in open court, the above-written notice explaining these
17 rights and procedures.

18 or

19 [..] The Clerk of the Circuit Court shall mail a copy of the
20 above-written notice to the above-named person with a
21 disability at the residence address set forth in the petition
22 filed herein.

1 Copy Mailed:

2

3 Clerk of the Circuit Court

4 [END OF FORM]

5 (Source: P.A. 89-396, eff. 8-20-95.)

6 (755 ILCS 5/11a-20) (from Ch. 110 1/2, par. 11a-20)

7 Sec. 11a-20. Termination of adjudication of disability -
8 Revocation of letters - modification.†

9 (a) Except as provided in subsection (b-5), upon the
10 filing of a petition by or on behalf of a person with a
11 disability or on its own motion, the court may terminate the
12 adjudication of disability of the ward, revoke the letters of
13 guardianship of the estate or person, or both, or modify the
14 duties of the guardian if the ward's capacity to perform the
15 tasks necessary for the care of his person or the management of
16 his estate has been demonstrated by clear and convincing
17 evidence. A report or testimony by a licensed physician is not
18 a prerequisite for termination, revocation or modification of
19 a guardianship order under this subsection (a).

20 (b) Except as provided in subsection (b-5), a request by
21 the ward or any other person on the ward's behalf, under this
22 Section may be communicated to the court or judge by any means,
23 including but not limited to informal letter, telephone call

1 or visit. Upon receipt of a request from the ward or another
2 person, the court may appoint a guardian ad litem to
3 investigate and report to the court concerning the allegations
4 made in conjunction with said request, and if the ward wishes
5 to terminate, revoke, or modify the guardianship order, to
6 prepare the ward's petition and to render such other services
7 as the court directs.

8 (b-5) Upon the filing of a verified petition by the
9 guardian of the person with a disability or the person with a
10 disability, the court may terminate the adjudication of
11 disability of the ward, revoke the letters of guardianship of
12 the estate or person, or both, or modify the duties of the
13 guardian if: (i) a report completed in accordance with
14 subsection (a) of Section 11a-9 states that the person with a
15 disability is no longer in need of guardianship or that the
16 type and scope of guardianship should be modified; (ii) the
17 person with a disability no longer wishes to be under
18 guardianship or desires that the type and scope of
19 guardianship be modified; and (iii) the guardian of the person
20 with a disability states that it is in the best interests
21 ~~interest~~ of the person with a disability to terminate the
22 adjudication of disability of the ward, revoke the letters of
23 guardianship of the estate or person, or both, or modify the
24 duties of the guardian, and provides the basis thereof. In a
25 proceeding brought pursuant to this subsection (b-5), the
26 court may terminate the adjudication of disability of the

1 ward, revoke the letters of guardianship of the estate or
2 person, or both, or modify the duties of the guardian, unless
3 it has been demonstrated by clear and convincing evidence that
4 the ward is incapable of performing the tasks necessary for
5 the care of his or her person or the management of his or her
6 estate.

7 (c) Notice of the hearing on a petition under this
8 Section, together with a copy of the petition, shall be given
9 to the ward, unless he is the petitioner, and to each and every
10 guardian to whom letters of guardianship have been issued and
11 not revoked, not less than 14 days before the hearing.

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

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

14 Sec. 13-1. Appointment and term of public administrator
15 and public guardian.†

16 (a) Except as provided in Section 13-1.1, before the first
17 Monday of December, 1977 and every 4 years thereafter, and as
18 often as vacancies occur, the Governor, by and with the advice
19 and consent of the Senate, shall appoint in each county a
20 suitable person to serve as public administrator and a
21 suitable person to serve as public guardian of the county. The
22 Governor may designate, without the advice and consent of the
23 Senate, the Office of State Guardian as an interim public
24 guardian to fill a vacancy in one or more counties having a
25 population of 500,000 or less if the designation:

1 (1) is specifically designated as an interim
2 appointment for a term of the lesser of one year or until
3 the Governor appoints, with the advice and consent of the
4 Senate, a county public guardian to fill the vacancy;

5 (2) requires the Office of State Guardian to affirm
6 its availability to act in the county; and

7 (3) expires in a pending case of a person with a
8 disability in the county at such a time as the court
9 appoints a qualified successor guardian of the estate and
10 person for the person with a disability.

11 When appointed as an interim public guardian, the State
12 Guardian will perform the powers and duties assigned under the
13 Guardianship and Advocacy Act.

14 The Governor may appoint the same person to serve as
15 public guardian and public administrator in one or more
16 counties. In considering the number of counties of service for
17 any prospective public guardian or public administrator the
18 Governor may consider the population of the county and the
19 ability of the prospective public guardian or public
20 administrator to travel to multiple counties and manage
21 estates in multiple counties. Each person so appointed holds
22 his office for 4 years from the first Monday of December, 1977
23 and every 4 years thereafter or until his successor is
24 appointed and qualified.

25 (b) Within 14 days of notification to the current public
26 guardian of the appointment by the Governor of a new public

1 guardian pursuant to this Section, the outgoing public
2 guardian shall provide the incoming successor public guardian
3 with a list of current guardianships. Within 60 days of
4 receipt of the list of guardianships, the incoming public
5 guardian may petition the court for a transfer of a
6 guardianship to the incoming public guardian. The transfer of
7 a guardianship of the person, estate, or both shall be made if
8 it is in the best interests of the ward as determined by the
9 court on a case-by-case basis.

10 Factors for the court to consider include, but are not
11 limited to, the following:

12 (1) the ward's preference as to the transfer of the
13 guardianship;

14 (2) the recommendation of the guardian ad litem, the
15 ward's family members, and other interested parties;

16 (3) the length of time in which the outgoing public
17 guardian has served as guardian for the ward;

18 (4) the ward's relationship with the outgoing public
19 guardian's office;

20 (5) the nature and extent of the ward's disabilities;

21 (6) the ward's current residential placement, his or
22 her current support network, and ongoing needs;

23 (7) the costs involved in the transfer of the ward's
24 estate;

25 (8) the status of pending legal matters or other
26 matters germane to the ward's care or the management of

1 the ward's estate;

2 (9) the obligation to post bond and the cost thereof;

3 (10) the guardians' status with regard to
4 certification by the Center for Guardianship
5 Certification; and

6 (11) other good causes.

7 If the court approves a transfer to the incoming public
8 guardian, the outgoing public guardian shall file a final
9 account of his or her activities on behalf of the ward within
10 30 days or within such other time that the court may allow. The
11 outgoing public guardian may file a petition for final fees
12 pursuant to subsection (b) of Section 13-3.1.

13 (Source: P.A. 100-483, eff. 9-8-18.)

14 (755 ILCS 5/18-10) (from Ch. 110 1/2, par. 18-10)

15 Sec. 18-10. Classification of claims against decedent's
16 estate. All claims against the estate of a decedent are
17 divided into classes in the manner following:

18 1st: Funeral and burial expenses, expenses of
19 administration, ~~and~~ statutory custodial claims, and final fees
20 and costs as determined by the court relating to guardianship,
21 including fees awarded under Section 11a-13.5, 13-3, 13-3.1,
22 27-1, 27-2, or 27-4. For the purposes of this paragraph,
23 funeral and burial expenses paid by any person, including a
24 surviving spouse, are funeral and burial expenses; and funeral
25 and burial expenses include reasonable amounts paid for a

1 burial space, crypt or niche, a marker on the burial space,
2 care of the burial space, crypt or niche, and interest on these
3 amounts. Interest on these amounts shall accrue beginning 60
4 days after issuance of letters of office to the representative
5 of the decedent's estate, or if no such letters of office are
6 issued, then beginning 60 days after those amounts are due, up
7 to the rate of 9% per annum as allowed by contract or law.

8 2nd: The surviving spouse's or child's award.

9 3rd: Debts due the United States.

10 4th: Reasonable and necessary medical, hospital, and
11 nursing home expenses for the care of the decedent during the
12 year immediately preceding death; and money due employees of
13 the decedent of not more than \$800 for each claimant for
14 services rendered within 4 months prior to the decedent's
15 death.

16 5th: Money and property received or held in trust by
17 decedent which cannot be identified or traced.

18 6th: Debts due this State and any county, township, city,
19 town, village or school district located within this State.

20 7th: All other claims.

21 (Source: P.A. 100-1079, eff. 8-24-18.)

22 (755 ILCS 5/19-2) (from Ch. 110 1/2, par. 19-2)

23 Sec. 19-2. Lease, sale, mortgage or pledge of personal
24 estate of ward.➔ By leave of court a representative may lease,
25 sell, mortgage or pledge any personal estate of the ward, when

1 in the opinion of the court it is for the best interests
2 ~~interest~~ of the ward or his estate.

3 (Source: P.A. 79-328.)

4 (755 ILCS 5/25-4) (from Ch. 110 1/2, par. 25-4)

5 Sec. 25-4. Sale of small real estate interest of ward.† If
6 the interest of a ward in any parcel of real estate does not
7 exceed \$2,500 in value and a private sale thereof can be made
8 for cash, the interest may be sold as provided in this Section
9 instead of as prescribed elsewhere in this Act. The
10 representative of the estate of the ward may file a petition
11 setting forth: (a) the description of the real estate, the
12 interest of the ward therein and the value of the interest
13 sought to be sold; (b) the name and post office address of the
14 ward; (c) a private sale of the ward's interest can be made for
15 cash; and (d) it is for the best interests ~~interest~~ of the ward
16 that his interest in the real estate be sold. Upon the filing
17 of the petition the court shall set it for hearing not less
18 than 20 days thereafter. Not less than 15 days before the date
19 of hearing of the petition, the clerk of the court shall mail a
20 notice of the time and place of the hearing to the ward. No
21 guardian ad litem need be appointed for the ward unless the
22 court finds it necessary for the ward's protection. If on the
23 hearing the court finds that the ward's interest in the real
24 estate to be sold does not exceed \$2,500 in value, a private
25 sale of the ward's interest can be made for cash and it is for

1 the best interests ~~interest~~ of the ward that the sale be made,
2 the court shall direct the petitioner to sell the ward's
3 interest at private sale for cash for such price as the court
4 determines and upon receipt of the purchase price to execute
5 and deliver a deed to the purchaser. The court shall require
6 the representative to furnish a bond conditioned upon his
7 disposing of the proceeds of sale in the manner required by
8 law, and with or without sureties and in such amount as the
9 court directs; and it is the duty of the representative to file
10 the bond in and have it approved by the court.

11 (Source: P.A. 79-328.)

12 (755 ILCS 5/27-1) (from Ch. 110 1/2, par. 27-1)

13 Sec. 27-1. Fees of representative. A representative is
14 entitled to reasonable compensation for his services, but no
15 fees, charges or other compensation may be allowed a public
16 administrator for services performed in administering that
17 part of the estate of any United States war veteran which
18 consists of compensation, insurance or other monies due or
19 payable from the United States because of the veteran's war
20 service. No fees, charges or other compensation may be allowed
21 an employee of the Department of Human Services or the
22 Department of Children and Family Services designated under
23 paragraph (b) of Section 11-3 for services as guardian of the
24 estate of a patient or resident in a State mental health or
25 developmental disabilities facility or other State

1 institution. Fees awarded under this Section shall be
2 considered as a first-class claim for administrative expenses
3 and paid from the guardianship estate or from the probate
4 estate pursuant to Section 18-10. Fees awarded to guardians
5 shall be consistent with Section 11a-13.5.

6 (Source: P.A. 89-507, eff. 7-1-97.)

7 Section 10. The Illinois Power of Attorney Act is amended
8 by changing Section 2-10 as follows:

9 (755 ILCS 45/2-10) (from Ch. 110 1/2, par. 802-10)

10 Sec. 2-10. Agency-court relationship.

11 (a) Upon petition by any interested person (including the
12 agent), with such notice to interested persons as the court
13 directs and a finding by the court that the principal lacks
14 either the capacity to control or the capacity to revoke the
15 agency, the court may construe a power of attorney, review the
16 agent's conduct, and grant appropriate relief including
17 compensatory damages.

18 (b) If the court finds that the agent is not acting for the
19 benefit of the principal in accordance with the terms of the
20 agency or that the agent's action or inaction has caused or
21 threatens substantial harm to the principal's person or
22 property in a manner not authorized or intended by the
23 principal, the court may order a guardian of the principal's
24 person or estate to exercise any powers of the principal under

1 the agency, including the power to revoke the agency, or may
2 enter such other orders without appointment of a guardian as
3 the court deems necessary to provide for the best interests of
4 the principal.

5 (c) If the court finds that the agency requires
6 interpretation, the court may construe the agency and instruct
7 the agent, but the court may not amend the agency.

8 (d) If the court finds that the agent has not acted for the
9 benefit of the principal in accordance with the terms of the
10 agency and the Illinois Power of Attorney Act, or that the
11 agent's action caused or threatened substantial harm to the
12 principal's person or property in a manner not authorized or
13 intended by the principal, then the agent shall not be
14 authorized to pay or be reimbursed from the estate of the
15 principal the attorneys' fees and costs of the agent in
16 defending a proceeding brought pursuant to this Section.

17 (e) Upon a finding that the agent's action has caused
18 substantial harm to the principal's person or property, the
19 court may assess against the agent reasonable costs and
20 attorney's fees to a prevailing party who is a provider agency
21 as defined in Section 2 of the Adult Protective Services Act, a
22 representative of the Office of the State Long Term Care
23 Ombudsman, the State Guardian, a public guardian, or a
24 governmental agency having regulatory authority to protect the
25 welfare of the principal.

26 (f) As used in this Section, the term "interested person"

1 includes (1) the principal or the agent; (2) a guardian of the
2 person, guardian of the estate, or other fiduciary charged
3 with management of the principal's property; (3) the
4 principal's spouse, parent, or descendant; (4) a person who
5 would be a presumptive heir-at-law of the principal; (5) a
6 person named as a beneficiary to receive any property,
7 benefit, or contractual right upon the principal's death, or
8 as a beneficiary of a trust created by or for the principal;
9 (6) a provider agency as defined in Section 2 of the Adult
10 Protective Services Act, a representative of the Office of the
11 State Long Term Care Ombudsman, the State Guardian, a public
12 guardian, or a governmental agency having regulatory authority
13 to protect the welfare of the principal; and (7) the
14 principal's caregiver or another person who demonstrates
15 sufficient interest in the principal's welfare.

16 (g) Absent court order directing a guardian to exercise
17 powers of the principal under the agency, a guardian will have
18 no power, duty or liability with respect to any property
19 subject to the agency or any personal or health care matters
20 covered by the agency. If an agent seeks guardianship of the
21 principal pursuant to the Probate Act of 1975, the petition
22 for guardianship must delineate the specific powers to be
23 granted to the guardian that are not already included in the
24 power of attorney. The petition for temporary, limited, or
25 plenary guardianship of the principal under the Probate Act of
26 1975 may include a prayer for relief to suspend a power of

1 attorney or to revoke a power of attorney in accordance with
2 subsection (b).

3 (h) Proceedings under this Section shall be commenced in
4 the county where the guardian was appointed or, if no Illinois
5 guardian is acting, then in the county where the agent or
6 principal resides or where the principal owns real property.

7 (i) This Section shall not be construed to limit any other
8 remedies available.

9 (Source: P.A. 98-49, eff. 7-1-13; 98-562, eff. 8-27-13;
10 98-756, eff. 7-16-14.)

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2

Statutes amended in order of appearance

3	755 ILCS 5/11a-1	from Ch. 110 1/2, par. 11a-1
4	755 ILCS 5/11a-3	from Ch. 110 1/2, par. 11a-3
5	755 ILCS 5/11a-3.1	
6	755 ILCS 5/11a-3.2	
7	755 ILCS 5/11a-4	from Ch. 110 1/2, par. 11a-4
8	755 ILCS 5/11a-5	from Ch. 110 1/2, par. 11a-5
9	755 ILCS 5/11a-8	from Ch. 110 1/2, par. 11a-8
10	755 ILCS 5/11a-10	from Ch. 110 1/2, par. 11a-10
11	755 ILCS 5/11a-10.1	from Ch. 110 1/2, par. 11a-10.1
12	755 ILCS 5/11a-12	from Ch. 110 1/2, par. 11a-12
13	755 ILCS 5/11a-13.5 new	
14	755 ILCS 5/11a-17	from Ch. 110 1/2, par. 11a-17
15	755 ILCS 5/11a-17.1	
16	755 ILCS 5/11a-18	from Ch. 110 1/2, par. 11a-18
17	755 ILCS 5/11a-18.3	
18	755 ILCS 5/11a-19	from Ch. 110 1/2, par. 11a-19
19	755 ILCS 5/11a-20	from Ch. 110 1/2, par. 11a-20
20	755 ILCS 5/13-1	from Ch. 110 1/2, par. 13-1
21	755 ILCS 5/18-10	from Ch. 110 1/2, par. 18-10
22	755 ILCS 5/19-2	from Ch. 110 1/2, par. 19-2
23	755 ILCS 5/25-4	from Ch. 110 1/2, par. 25-4
24	755 ILCS 5/27-1	from Ch. 110 1/2, par. 27-1
25	755 ILCS 45/2-10	from Ch. 110 1/2, par. 802-10