



Rep. Terra Costa Howard

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10300HB4884ham002

LRB103 36924 JRC 71401 a

1 AMENDMENT TO HOUSE BILL 4884

2 AMENDMENT NO. _____. Amend House Bill 4884 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Probate Act of 1975 is amended by changing
5 Sections 11a-3 and 11a-4 as follows:

6 (755 ILCS 5/11a-3) (from Ch. 110 1/2, par. 11a-3)

7 Sec. 11a-3. Adjudication of disability; Power to appoint
8 guardian.

9 (a) Upon the filing of a petition by a reputable person or
10 by the alleged person with a disability himself or on its own
11 motion, the court may adjudge a person to be a person with a
12 disability, but only if it has been demonstrated by clear and
13 convincing evidence that the person is a person with a
14 disability as defined in Section 11a-2. If the court adjudges
15 a person to be a person with a disability, the court may
16 appoint (1) a guardian of his person, if it has been

1 demonstrated by clear and convincing evidence that because of
2 his disability he lacks sufficient understanding or capacity
3 to make or communicate responsible decisions concerning the
4 care of his person, or (2) a guardian of his estate, if it has
5 been demonstrated by clear and convincing evidence that
6 because of his disability he is unable to manage his estate or
7 financial affairs, or (3) a guardian of his person and of his
8 estate, or (4) . ~~The court may appoint~~ co-guardians in
9 accordance with Section 11a-15. If a petition for guardianship
10 is filed by a corporation, nonprofit organization, or other
11 entity with no legally recognized relationship to the alleged
12 person with a disability, the court shall appoint the State
13 Guardian or county public guardian as the guardian of the
14 person or estate or both if the requirements of this Section
15 are met except in cases in counties in which there is no
16 sitting public guardian.

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

25 (Source: P.A. 102-72, eff. 1-1-22.)

1 (755 ILCS 5/11a-4)

2 Sec. 11a-4. Temporary guardian.

3 (a) Prior to the appointment of a guardian under this
4 Article, pending an appeal in relation to the appointment, or
5 pending the completion of a citation proceeding brought
6 pursuant to Section 23-3 of this Act, or upon a guardian's
7 death, incapacity, or resignation, the court may appoint a
8 temporary guardian upon a showing of the necessity therefor
9 for the immediate welfare and protection of the alleged person
10 with a disability or his or her estate and subject to such
11 conditions as the court may prescribe. In cases in which a
12 petition for guardianship of an alleged person with a
13 disability is filed by a corporation, nonprofit, or other
14 entity with no legally recognized relationship to that person,
15 the court shall appoint the State Guardian or county public
16 guardian as temporary guardian of that person under this
17 Section if the requirements of this Section are met except in
18 cases in counties in which there is no sitting public
19 guardian. A petition for the appointment of a temporary
20 guardian for an alleged person with a disability shall be
21 filed at the time of or subsequent to the filing of a petition
22 for adjudication of disability and appointment of a guardian.
23 The petition for the appointment of a temporary guardian shall
24 state the facts upon which it is based and the name, the post
25 office address, and, in the case of an individual, the age and
26 occupation of the proposed temporary guardian. In determining

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

12 (a-5) Notice of the time and place of the hearing on a
13 petition for the appointment of a temporary guardian shall be
14 given, not less than 3 days before the hearing, by mail or in
15 person to the alleged person with a disability, to the
16 proposed temporary guardian, and to those persons whose names
17 and addresses are listed in the petition for adjudication of
18 disability and appointment of a guardian under Section 11a-8.
19 The court, upon a finding of good cause, may waive the notice
20 requirement under this subsection.

21 (a-10) Notice of the time and place of the hearing on a
22 petition to revoke the appointment of a temporary guardian
23 shall be given, not less than 3 days before the hearing, by
24 mail or in person to the temporary guardian, to the petitioner
25 on whose petition the temporary guardian was appointed, and to
26 those persons whose names and addresses are listed in the

1 petition for adjudication of disability and appointment of a
2 guardian under Section 11a-8. The court, upon a finding of
3 good cause, may waive the notice requirements under this
4 subsection.

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

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

11 (i) pending the disposition on appeal of an
12 adjudication of disability;

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

15 (iii) pending the appointment of a successor
16 guardian in a case where the former guardian has
17 resigned, has become incapacitated, or is deceased; or

18 (iv) where the guardian's powers have been
19 suspended pursuant to a court order.

20 (2) In a case where there has not been an adjudication
21 of disability, an extension shall be granted pending the
22 disposition of a petition brought pursuant to Section
23 11a-8 so long as the court finds it is in the best
24 interests of the alleged person with a disability to
25 extend the temporary guardianship so as to protect the
26 alleged person with a disability from any potential abuse,

1 neglect, self-neglect, exploitation, or other harm and
2 such extension lasts no more than 120 days from the date
3 the temporary guardian was originally appointed.

4 The ward shall have the right any time after the
5 appointment of a temporary guardian is made to petition the
6 court to revoke the appointment of the temporary guardian.

7 (Source: P.A. 102-72, eff. 1-1-22; 102-120, eff 7-23-21;
8 102-687, eff. 12-17-21.)".