



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

**HB4884**

Introduced 2/7/2024, by Rep. Terra Costa Howard

#### SYNOPSIS AS INTRODUCED:

755 ILCS 5/11a-3  
755 ILCS 5/11a-4

from Ch. 110 1/2, par. 11a-3

Amends the Probate Act of 1975. Provides that if guardianship is necessary and the petition for guardianship is filed by a person, corporation, nonprofit organization, or other entity with no legally recognized relationship to the alleged person with a disability, the court shall appoint the county public guardian as temporary and permanent guardian.

LRB103 36924 JRC 67038 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-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  
17 demonstrated by clear and convincing evidence that because of  
18 his disability he lacks sufficient understanding or capacity  
19 to make or communicate responsible decisions concerning the  
20 care of his person, or (2) a guardian of his estate, if it has  
21 been demonstrated by clear and convincing evidence that  
22 because of his disability he is unable to manage his estate or  
23 financial affairs, ~~or~~ (3) a guardian of his person and of his

1 estate, (4) the. ~~The~~ court may appoint co-guardians in  
2 accordance with Section 11a-15, or (5) if a petition for  
3 guardianship is filed by a person, corporation, nonprofit  
4 organization, or other entity with no legally recognized  
5 relationship to the alleged person with a disability, the  
6 court shall appoint the county public guardian as the guardian  
7 of the person or estate or both if the requirements of this  
8 Section are met.

9 (b) Guardianship shall be utilized only as is necessary to  
10 promote the well-being of the person with a disability, to  
11 protect him from neglect, exploitation, or abuse, and to  
12 encourage development of his maximum self-reliance and  
13 independence. Guardianship shall be ordered only to the extent  
14 necessitated by the individual's actual mental, physical and  
15 adaptive limitations. The order shall conform with Sections  
16 11a-12 and 11a-14.

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

18 (755 ILCS 5/11a-4)

19 Sec. 11a-4. Temporary guardian.

20 (a) Prior to the appointment of a guardian under this  
21 Article, pending an appeal in relation to the appointment, or  
22 pending the completion of a citation proceeding brought  
23 pursuant to Section 23-3 of this Act, or upon a guardian's  
24 death, incapacity, or resignation, the court may appoint a  
25 temporary guardian upon a showing of the necessity therefor

1 for the immediate welfare and protection of the alleged person  
2 with a disability or his or her estate and subject to such  
3 conditions as the court may prescribe. In cases in which a  
4 petition for guardianship of a person alleged person with a  
5 disability is filed by a person, corporation, nonprofit, or  
6 other entity with no legally recognized relationship to that  
7 person, the court shall appoint the county public guardian as  
8 temporary guardian of that person under this Section. A  
9 petition for the appointment of a temporary guardian for an  
10 alleged person with a disability shall be filed at the time of  
11 or subsequent to the filing of a petition for adjudication of  
12 disability and appointment of a guardian. The petition for the  
13 appointment of a temporary guardian shall state the facts upon  
14 which it is based and the name, the post office address, and,  
15 in the case of an individual, the age and occupation of the  
16 proposed temporary guardian. In determining the necessity for  
17 temporary guardianship, the immediate welfare and protection  
18 of the alleged person with a disability and his or her estate  
19 shall be of paramount concern, and the interests of the  
20 petitioner, any care provider, or any other party shall not  
21 outweigh the interests of the alleged person with a  
22 disability. The temporary guardian shall have the limited  
23 powers and duties of a guardian of the person or of the estate  
24 which are specifically enumerated by court order. The court  
25 order shall state the actual harm identified by the court that  
26 necessitates temporary guardianship or any extension thereof.

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

10 (a-10) Notice of the time and place of the hearing on a  
11 petition to revoke the appointment of a temporary guardian  
12 shall be given, not less than 3 days before the hearing, by  
13 mail or in person to the temporary guardian, to the petitioner  
14 on whose petition the temporary guardian was appointed, and to  
15 those persons whose names and addresses are listed in the  
16 petition for adjudication of disability and appointment of a  
17 guardian under Section 11a-8. The court, upon a finding of  
18 good cause, may waive the notice requirements under this  
19 subsection.

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

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

26 (i) pending the disposition on appeal of an

1 adjudication of disability;

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

4 (iii) pending the appointment of a successor  
5 guardian in a case where the former guardian has  
6 resigned, has become incapacitated, or is deceased; or

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

9 (2) In a case where there has not been an adjudication  
10 of disability, an extension shall be granted pending the  
11 disposition of a petition brought pursuant to Section  
12 11a-8 so long as the court finds it is in the best  
13 interests of the alleged person with a disability to  
14 extend the temporary guardianship so as to protect the  
15 alleged person with a disability from any potential abuse,  
16 neglect, self-neglect, exploitation, or other harm and  
17 such extension lasts no more than 120 days from the date  
18 the temporary guardian was originally appointed.

19 The ward shall have the right any time after the  
20 appointment of a temporary guardian is made to petition the  
21 court to revoke the appointment of the temporary guardian.

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