

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 Illinois Power of Attorney Act is amended  
5 by changing Section 2-10 as follows:

6 (755 ILCS 45/2-10) (from Ch. 110 1/2, par. 802-10)

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

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

15 (b) If the court finds that the agent is not acting for the  
16 benefit of the principal in accordance with the terms of the  
17 agency or that the agent's action or inaction, including  
18 restricting or not allowing an interested person to have  
19 reasonable visitation with the principal, has caused or  
20 threatens substantial harm to the principal's person or  
21 property in a manner not authorized or intended by the  
22 principal, the court may order a guardian of the principal's  
23 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. 102-72, eff. 1-1-22.)