



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB0658

Introduced 2/18/2005, by Sen. John J. Cullerton

SYNOPSIS AS INTRODUCED:

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

from Ch. 110 1/2, par. 11-3
from Ch. 110 1/2, par. 11a-5

Amends the Probate Act of 1975. In provisions prohibiting a person convicted of a felony from acting as the guardian of a minor or disabled person, creates an exception if the court finds that the appointment of the person convicted of a felony is in the best interests of the minor or disabled person. Effective immediately.

LRB094 09010 LCB 39231 b

1 AN ACT concerning estates.

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 11-3 and 11a-5 as follows:

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

7 Sec. 11-3. Who may act as guardian.

8 (a) A person ~~who has attained the age of 18 years, is a~~
9 ~~resident of the United States, is not of unsound mind, is not~~
10 ~~an adjudged disabled person as defined in this Act, has not~~
11 ~~been convicted of a felony, and who the court finds is capable~~
12 ~~of providing an active and suitable program of guardianship for~~
13 ~~the minor~~ is qualified to act as guardian of the person and as
14 guardian of the estate if the court finds that the proposed
15 guardian is capable of providing an active and suitable program
16 of guardianship for the minor and that the proposed guardian:

17 (1) has attained the age of 18 years;

18 (2) is a resident of the United States;

19 (3) is not of unsound mind;

20 (4) is not an adjudged disabled person as defined in
21 this Act; and

22 (5) has not been convicted of a felony, unless the
23 court finds appointment of the person convicted of a felony
24 to be in the minor's best interests.

25 One person may be appointed guardian of the person and
26 another person appointed guardian of the estate.

27 (b) The Department of Human Services or the Department of
28 Children and Family Services may with the approval of the court
29 designate one of its employees to serve without fees as
30 guardian of the estate of a minor patient in a State mental
31 hospital or a resident in a State institution when the value of
32 the personal estate does not exceed \$1,000.

1 (Source: P.A. 89-507, eff. 7-1-97; 90-430, eff. 8-16-97;
2 90-472, eff. 8-17-97.)

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

4 Sec. 11a-5. Who may act as guardian.

5 (a) A person ~~who has attained the age of 18 years, is a~~
6 ~~resident of the United States, is not of unsound mind, is not~~
7 ~~an adjudged disabled person as defined in this Act, has not~~
8 ~~been convicted of a felony, and who the court finds is capable~~
9 ~~of providing an active and suitable program of guardianship for~~
10 ~~the disabled person~~ is qualified to act as guardian of the
11 person and as guardian of the estate if the court finds that
12 the proposed guardian is capable of providing an active and
13 suitable program of guardianship for the disabled person and
14 that the proposed guardian:

15 (1) has attained the age of 18 years;

16 (2) is a resident of the United States;

17 (3) is not of unsound mind;

18 (4) is not an adjudged disabled person as defined in
19 this Act; and

20 (5) has not been convicted of a felony, unless the
21 court finds appointment of the person convicted of a felony
22 to be in the disabled person's best interests ~~of a disabled~~
23 ~~person.~~

24 (b) Any public agency, or not-for-profit corporation found
25 capable by the court of providing an active and suitable
26 program of guardianship for the disabled person, taking into
27 consideration the nature of such person's disability and the
28 nature of such organization's services, may be appointed
29 guardian of the person or of the estate, or both, of the
30 disabled person. The court shall not appoint as guardian an
31 agency which is directly providing residential services to the
32 ward. One person or agency may be appointed guardian of the
33 person and another person or agency appointed guardian of the
34 estate.

35 (c) Any corporation qualified to accept and execute trusts

1 in this State may be appointed guardian of the estate of a
2 disabled person.

3 (Source: P.A. 90-430, eff. 8-16-97; 90-472, eff. 8-17-97.)

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.