

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 Section 11a-10 as follows:

6 (755 ILCS 5/11a-10) (from Ch. 110 1/2, par. 11a-10)

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

8 (a) Upon the filing of a petition pursuant to Section
9 11a-8, the court shall set a date and place for hearing to take
10 place within 30 days. The court shall appoint a guardian ad
11 litem to report to the court concerning the respondent's best
12 interests consistent with the provisions of this Section,
13 except that the appointment of a guardian ad litem shall not be
14 required when the court determines that such appointment is not
15 necessary for the protection of the respondent or a reasonably
16 informed decision on the petition. If the guardian ad litem is
17 not a licensed attorney, he or she shall be qualified, by
18 training or experience, to work with or advocate for the
19 developmentally disabled, mentally ill, physically disabled,
20 the elderly, or persons disabled because of mental
21 deterioration, depending on the type of disability that is
22 alleged in the petition. The court may allow the guardian ad
23 litem reasonable compensation. The guardian ad litem may

1 consult with a person who by training or experience is
2 qualified to work with persons with a developmental disability,
3 persons with mental illness, or physically disabled persons, or
4 persons disabled because of mental deterioration, depending on
5 the type of disability that is alleged. The guardian ad litem
6 shall personally observe the respondent prior to the hearing
7 and shall inform him orally and in writing of the contents of
8 the petition and of his rights under Section 11a-11. The
9 guardian ad litem shall also attempt to elicit the respondent's
10 position concerning the adjudication of disability, the
11 proposed guardian, a proposed change in residential placement,
12 changes in care that might result from the guardianship, and
13 other areas of inquiry deemed appropriate by the court. At or
14 before the hearing, the guardian ad litem shall file a written
15 report detailing his or her observations of the respondent, the
16 responses of the respondent to any of the inquires detailed in
17 this Section, the opinion of the guardian ad litem or other
18 professionals with whom the guardian ad litem consulted
19 concerning the appropriateness of guardianship, and any other
20 material issue discovered by the guardian ad litem. The
21 guardian ad litem shall appear at the hearing and testify as to
22 any issues presented in his or her report.

23 (b) The court (1) may appoint counsel for the respondent,
24 if the court finds that the interests of the respondent will be
25 best served by the appointment, and (2) shall appoint counsel
26 upon respondent's request or if the respondent takes a position

1 adverse to that of the guardian ad litem. The respondent shall
2 be permitted to obtain the appointment of counsel either at the
3 hearing or by any written or oral request communicated to the
4 court prior to the hearing. The summons shall inform the
5 respondent of this right to obtain appointed counsel. The court
6 may allow counsel for the respondent reasonable compensation.

7 (c) If the respondent is unable to pay the fee of the
8 guardian ad litem or appointed counsel, or both, the court may
9 enter an order for the petitioner to pay all such fees or such
10 amounts as the respondent or the respondent's estate may be
11 unable to pay. However, in cases where the Office of State
12 Guardian is the petitioner, consistent with Section 30 of the
13 Guardianship and Advocacy Act, ~~or~~ where an elder abuse provider
14 agency is the petitioner, pursuant to Section 9 of the Elder
15 Abuse and Neglect Act, or where the Department of Human
16 Services Office of Inspector General is the petitioner,
17 consistent with Section 45(b) of the Abuse of Adults with
18 Disabilities Intervention Act, no guardian ad litem or legal
19 fees shall be assessed against the Office of State Guardian, ~~or~~
20 the elder abuse provider agency, or the Department of Human
21 Services Office of Inspector General.

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

25 (e) Unless he is the petitioner, the respondent shall be
26 personally served with a copy of the petition and a summons not

1 less than 14 days before the hearing. The summons shall be
2 printed in large, bold type and shall include the following
3 notice:

4 NOTICE OF RIGHTS OF RESPONDENT

5 You have been named as a respondent in a guardianship
6 petition asking that you be declared a disabled person. If the
7 court grants the petition, a guardian will be appointed for
8 you. A copy of the guardianship petition is attached for your
9 convenience.

10 The date and time of the hearing are:

11 The place where the hearing will occur is:

12 The Judge's name and phone number is:

13 If a guardian is appointed for you, the guardian may be
14 given the right to make all important personal decisions for
15 you, such as where you may live, what medical treatment you may
16 receive, what places you may visit, and who may visit you. A
17 guardian may also be given the right to control and manage your
18 money and other property, including your home, if you own one.
19 You may lose the right to make these decisions for yourself.

20 You have the following legal rights:

21 (1) You have the right to be present at the court
22 hearing.

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

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

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

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

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

8 (7) You have the right to tell the court whom you
9 prefer to have for your guardian.

10 You do not have to attend the court hearing if you do not
11 want to be there. If you do not attend, the Judge may appoint a
12 guardian if the Judge finds that a guardian would be of benefit
13 to you. The hearing will not be postponed or canceled if you do
14 not attend.

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

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

24 (f) Notice of the time and place of the hearing shall be
25 given by the petitioner by mail or in person to those persons,
26 including the proposed guardian, whose names and addresses

1 appear in the petition and who do not waive notice, not less
2 than 14 days before the hearing.

3 (Source: P.A. 89-396, eff. 8-20-95; 90-628, eff. 1-1-99.)

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