



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB2015

Introduced 2/10/2011, by Sen. Ira I. Silverstein

SYNOPSIS AS INTRODUCED:

755 ILCS 5/11a-4

from Ch. 110 1/2, par. 11a-4

Amends the Probate Act of 1975. Adds to the circumstances in which the court is allowed to appoint a temporary guardian: a guardian's death, incapacity, or resignation. Provides that the court shall state the actual harm that necessitates the temporary guardianship or any extension of the guardianship (instead of necessitates the temporary guardianship). Provides that no extension shall be granted except in a case where there has been an adjudication of disability, or if the court finds it is in the best interest of the alleged disabled person so as to protect the person from abuse or neglect. Deletes a provision stating that, except for an appeal of an adjudication of disability, no extension shall be granted.

LRB097 10113 AJO 50295 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 Section 11a-4 as follows:

6 (755 ILCS 5/11a-4) (from Ch. 110 1/2, par. 11a-4)

7 Sec. 11a-4. Temporary guardian.

8 (a) Prior to the appointment of a guardian under this
9 Article, pending an appeal in relation to the appointment, or
10 pending the completion of a citation proceeding brought
11 pursuant to Section 23-3 of this Act, or upon a guardian's
12 death, incapacity, or resignation, the court may appoint a
13 temporary guardian upon a showing of the necessity therefor for
14 the immediate welfare and protection of the alleged disabled
15 person or his or her estate on such notice and subject to such
16 conditions as the court may prescribe. In determining the
17 necessity for temporary guardianship, the immediate welfare
18 and protection of the alleged disabled person and his or her
19 estate 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 disabled person. The
22 temporary guardian shall have all of the powers and duties of a
23 guardian of the person or of the estate which are specifically

1 enumerated by court order. The court order shall state the
2 actual harm identified by the court that necessitates temporary
3 guardianship or any extension thereof.

4 (b) The temporary guardianship shall expire within 60 days
5 after the appointment or whenever a guardian is regularly
6 appointed, whichever occurs first. No extension shall be
7 granted except: ~~Except pending the disposition on appeal of an~~
8 ~~adjudication of disability, no extension shall be granted.~~

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 11a-8
23 so long as the court finds it is in the best interest of
24 the alleged disabled person to extend the temporary
25 guardianship so as to protect the alleged disabled person
26 from any potential abuse, neglect, self-neglect,

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

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

7 (Source: P.A. 89-396, eff. 8-20-95; 90-250, eff. 7-29-97.)