



Rep. William Davis

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LRB100 10372 HEP 23995 a

1 AMENDMENT TO HOUSE BILL 2665

2 AMENDMENT NO. _____. Amend House Bill 2665 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Guardianship and Advocacy Act is amended by
5 adding Section 33.5 as follows:

6 (20 ILCS 3955/33.5 new)

7 Sec. 33.5. Guardianship training program. The State
8 Guardian shall provide a training program that outlines the
9 duties and responsibilities of guardians appointed under
10 Article XIa of the Probate Act of 1975. The training program
11 shall be offered to courts at no cost, and shall outline the
12 responsibilities of a guardian and the rights of a person with
13 a disability in a guardianship proceeding under Article XIa of
14 the Probate Act of 1975. In developing the training program
15 content, the State Guardian shall consult with the courts,
16 State and national guardianship organizations, public

1 guardians, advocacy organizations, and persons and family
2 members with direct experience with adult guardianship. In the
3 preparation and dissemination of training materials, the State
4 Guardian shall give due consideration to making the training
5 materials accessible to persons with disabilities.

6 Section 10. The Probate Act of 1975 is amended by changing
7 Sections 11a-12, 11a-21, 13-1, and 13-1.2 as follows:

8 (755 ILCS 5/11a-12) (from Ch. 110 1/2, par. 11a-12)

9 Sec. 11a-12. Order of appointment.)

10 (a) If basis for the appointment of a guardian as specified
11 in Section 11a-3 is not found, the court shall dismiss the
12 petition.

13 (b) If the respondent is adjudged to be a person with a
14 disability and to lack some but not all of the capacity as
15 specified in Section 11a-3, and if the court finds that
16 guardianship is necessary for the protection of the person with
17 a disability, his or her estate, or both, the court shall
18 appoint a limited guardian for the respondent's person or
19 estate or both. The court shall enter a written order stating
20 the factual basis for its findings and specifying the duties
21 and powers of the guardian and the legal disabilities to which
22 the respondent is subject.

23 (c) If the respondent is adjudged to be a person with a
24 disability and to be totally without capacity as specified in

1 Section 11a-3, and if the court finds that limited guardianship
2 will not provide sufficient protection for the person with a
3 disability, his or her estate, or both, the court shall appoint
4 a plenary guardian for the respondent's person or estate or
5 both. The court shall enter a written order stating the factual
6 basis for its findings.

7 (d) The selection of the guardian shall be in the
8 discretion of the court, which shall give due consideration to
9 the preference of the person with a disability as to a
10 guardian, as well as the qualifications of the proposed
11 guardian, in making its appointment. However, the paramount
12 concern in the selection of the guardian is the best interest
13 and well-being of the person with a disability.

14 (e) The order of appointment of a guardian of the person in
15 any county with a population of less than 3 million shall
16 include the requirement that the guardian of the person
17 complete the training program as provided in Section 33.5 of
18 the Guardianship and Advocacy Act that outlines the
19 responsibilities of the guardian of the person and the rights
20 of the person under guardianship and file with the court a
21 certificate of completion one year from the date of issuance of
22 the letters of guardianship, except that: (1) the chief judge
23 of any circuit may order implementation of another training
24 program by a suitable provider containing substantially
25 similar content; (2) employees of the Office of the State
26 Guardian, public guardians, attorneys currently authorized to

1 practice law, corporate fiduciaries, and persons certified by
2 the Center for Guardianship Certification are exempt from this
3 training requirement; and (3) the court may, for good cause
4 shown, exempt from this requirement an individual not otherwise
5 listed in item (2).

6 (Source: P.A. 98-1094, eff. 1-1-15; 99-143, eff. 7-27-15.)

7 (755 ILCS 5/11a-21) (from Ch. 110 1/2, par. 11a-21)

8 Sec. 11a-21. Hearing. (a) The court shall conduct a hearing
9 on a petition filed under Section 11a-20. The ward is entitled
10 to be represented by counsel, to demand a jury of 6 persons, to
11 present evidence and to confront and cross-examine all
12 witnesses. The court (1) may appoint counsel for the ward, if
13 the court finds that the interests of the ward will be best
14 served by the appointment and (2) shall appoint counsel upon
15 the ward's request or if the respondent takes a position
16 adverse to that of the guardian ad litem. The court may allow
17 the guardian ad litem and counsel for the ward reasonable
18 compensation.

19 (b) If the ward is unable to pay the fee of the guardian ad
20 litem or appointed counsel, or both, the court shall enter an
21 order upon the State to pay, from funds appropriated by the
22 General Assembly for that purpose, all such fees or such
23 amounts as the ward is unable to pay.

24 (c) Upon conclusion of the hearing, the court shall enter
25 an order setting forth the factual basis for its findings and

1 may: (1) dismiss the petition; (2) terminate the adjudication
2 of disability; (3) revoke the letters of guardianship of the
3 estate or person, or both; (4) modify the duties of the
4 guardian; ~~and~~ (5) require the guardian to complete a training
5 program as provided in subsection (e) of Section 11a-12 of this
6 Act; and (6) make any other order which the court deems
7 appropriate and in the interests of the ward.

8 (Source: P.A. 81-1509.)

9 (755 ILCS 5/13-1) (from Ch. 110 1/2, par. 13-1)

10 Sec. 13-1. Appointment and term of public administrator and
11 public guardian.) Except as provided in Section 13-1.1, before
12 the first Monday of December, 1977 and every 4 years
13 thereafter, and as often as vacancies occur, the Governor, by
14 and with the advice and consent of the Senate, shall appoint in
15 each county a suitable person to serve as public administrator
16 and a suitable person to serve as public guardian of the
17 county. The Governor may designate, without the advice and
18 consent of the Senate, the Office of State Guardian as an
19 interim public guardian to fill a vacancy in one or more
20 counties having a population of 500,000 or less if the
21 designation:

22 (1) is specifically designated as an interim
23 appointment for a term of the lesser of one year or until
24 the Governor appoints, with the advice and consent of the
25 Senate, a county public guardian to fill the vacancy;

1 (2) requires the Office of State Guardian to affirm its
2 availability to act in the county; and

3 (3) expires in a pending case of a person with a
4 disability in the county at such a time as the court
5 appoints a qualified successor guardian of the estate and
6 person for the person with a disability.

7 When appointed as an interim public guardian, the State
8 Guardian will perform the powers and duties assigned under the
9 Guardianship and Advocacy Act.

10 The Governor may appoint the same person to serve as public
11 guardian and public administrator in one or more counties. In
12 considering the number of counties of service for any
13 prospective public guardian or public administrator the
14 Governor may consider the population of the county and the
15 ability of the prospective public guardian or public
16 administrator to travel to multiple counties and manage estates
17 in multiple counties. Each person so appointed holds his office
18 for 4 years from the first Monday of December, 1977 and every 4
19 years thereafter or until his successor is appointed and
20 qualified.

21 (Source: P.A. 96-752, eff. 1-1-10.)

22 (755 ILCS 5/13-1.2)

23 Sec. 13-1.2. Certification requirement. Each person
24 appointed as a public guardian by the Governor shall be
25 certified as a National Certified Guardian by the Center for

1 Guardianship Certification within 6 months after his or her
2 appointment. The Guardianship and Advocacy Commission shall
3 provide public guardians with information about certification
4 requirements and procedures for testing and certification
5 offered by ~~professional training opportunities and facilitate~~
6 ~~testing and certification opportunities at locations in~~
7 ~~Springfield and Chicago with~~ the Center for Guardianship
8 Certification. The cost of certification shall be considered an
9 expense connected with the operation of the public guardian's
10 office within the meaning of subsection (b) of Section 13-3.1
11 of this Article.

12 (Source: P.A. 96-752, eff. 1-1-10.)

13 Section 99. Effective date. This Act takes effect one year
14 after becoming law."