

HB1198



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB1198

Introduced 1/9/2025, by Rep. Terra Costa Howard

SYNOPSIS AS INTRODUCED:

755 ILCS 5/11a-3
755 ILCS 5/11a-4

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

Amends the Probate Act of 1975. Provides that if guardianship is necessary under law and the petition for guardianship is filed by a person, corporation, nonprofit organization, or other entity with no legally recognized relationship to the alleged person with a disability, the court shall appoint the State Guardian or county public guardian as the temporary and permanent guardian of the person or estate or both except in counties in which there is no sitting county public guardian.

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A BILL FOR

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 Sections 11a-3 and 11a-4 as follows:

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

7 Sec. 11a-3. Adjudication of disability; Power to appoint
8 guardian.

9 (a) Upon the filing of a petition by a reputable person or
10 by the alleged person with a disability himself or on its own
11 motion, the court may adjudge a person to be a person with a
12 disability, but only if it has been demonstrated by clear and
13 convincing evidence that the person is a person with a
14 disability as defined in Section 11a-2. If the court adjudges
15 a person to be a person with a disability, the court may
16 appoint (1) a guardian of his person, if it has been
17 demonstrated by clear and convincing evidence that because of
18 his disability he lacks sufficient understanding or capacity
19 to make or communicate responsible decisions concerning the
20 care of his person, or (2) a guardian of his estate, if it has
21 been demonstrated by clear and convincing evidence that
22 because of his disability he is unable to manage his estate or
23 financial affairs, or (3) a guardian of his person and of his

1 estate, or (4) . The court may appoint co-guardians in
2 accordance with Section 11a-15. If a petition for guardianship
3 is filed by a corporation, nonprofit organization, or other
4 entity with no legally recognized relationship to the person
5 alleged to have a disability, the court shall appoint the
6 State Guardian or county public guardian as the guardian of
7 the person or estate or both if the requirements of this
8 Section are met except in cases in counties in which there is
9 no sitting public guardian.

10 (b) Guardianship shall be utilized only as is necessary to
11 promote the well-being of the person with a disability, to
12 protect him from neglect, exploitation, or abuse, and to
13 encourage development of his maximum self-reliance and
14 independence. Guardianship shall be ordered only to the extent
15 necessitated by the individual's actual mental, physical and
16 adaptive limitations. The order shall conform with Sections
17 11a-12 and 11a-14.

18 (Source: P.A. 102-72, eff. 1-1-22.)

19 (755 ILCS 5/11a-4)

20 Sec. 11a-4. Temporary guardian.

21 (a) Prior to the appointment of a guardian under this
22 Article, pending an appeal in relation to the appointment, or
23 pending the completion of a citation proceeding brought
24 pursuant to Section 23-3 of this Act, or upon a guardian's
25 death, incapacity, or resignation, the court may appoint a

1 temporary guardian upon a showing of the necessity therefor
2 for the immediate welfare and protection of the alleged person
3 with a disability or his or her estate and subject to such
4 conditions as the court may prescribe. In cases in which a
5 petition for guardianship of a person alleged to have a
6 disability is filed by a corporation, nonprofit, or other
7 entity with no legally recognized relationship to that person,
8 the court shall appoint the State Guardian or county public
9 guardian as temporary guardian of that person or estate or
10 both under this Section if the requirements of this Section
11 are met except in cases in counties in which there is no
12 sitting public guardian. A petition for the appointment of a
13 temporary guardian for an alleged person with a disability
14 shall be filed at the time of or subsequent to the filing of a
15 petition for adjudication of disability and appointment of a
16 guardian. The petition for the appointment of a temporary
17 guardian shall state the facts upon which it is based and the
18 name, the post office address, and, in the case of an
19 individual, the age and occupation of the proposed temporary
20 guardian. In determining the necessity for temporary
21 guardianship, the immediate welfare and protection of the
22 alleged person with a disability and his or her estate shall be
23 of paramount concern, and the interests of the petitioner, any
24 care provider, or any other party shall not outweigh the
25 interests of the alleged person with a disability. The
26 temporary guardian shall have the limited powers and duties of

1 a guardian of the person or of the estate which are
2 specifically enumerated by court order. The court order shall
3 state the actual harm identified by the court that
4 necessitates temporary guardianship or any extension thereof.

5 (a-5) Notice of the time and place of the hearing on a
6 petition for the appointment of a temporary guardian shall be
7 given, not less than 3 days before the hearing, by mail or in
8 person to the alleged person with a disability, to the
9 proposed temporary guardian, and to those persons whose names
10 and addresses are listed in the petition for adjudication of
11 disability and appointment of a guardian under Section 11a-8.
12 The court, upon a finding of good cause, may waive the notice
13 requirement under this subsection.

14 (a-10) Notice of the time and place of the hearing on a
15 petition to revoke the appointment of a temporary guardian
16 shall be given, not less than 3 days before the hearing, by
17 mail or in person to the temporary guardian, to the petitioner
18 on whose petition the temporary guardian was appointed, and to
19 those persons whose names and addresses are listed in the
20 petition for adjudication of disability and appointment of a
21 guardian under Section 11a-8. The court, upon a finding of
22 good cause, may waive the notice requirements under this
23 subsection.

24 (b) The temporary guardianship shall expire within 60 days
25 after the appointment or whenever a guardian is regularly
26 appointed, whichever occurs first. No extension shall be

1 granted except:

2 (1) In a case where there has been an adjudication of
3 disability, an extension shall be granted:

4 (i) pending the disposition on appeal of an
5 adjudication of disability;

6 (ii) pending the completion of a citation
7 proceeding brought pursuant to Section 23-3;

8 (iii) pending the appointment of a successor
9 guardian in a case where the former guardian has
10 resigned, has become incapacitated, or is deceased; or

11 (iv) where the guardian's powers have been
12 suspended pursuant to a court order.

13 (2) In a case where there has not been an adjudication
14 of disability, an extension shall be granted pending the
15 disposition of a petition brought pursuant to Section
16 11a-8 so long as the court finds it is in the best
17 interests of the alleged person with a disability to
18 extend the temporary guardianship so as to protect the
19 alleged person with a disability from any potential abuse,
20 neglect, self-neglect, exploitation, or other harm and
21 such extension lasts no more than 120 days from the date
22 the temporary guardian was originally appointed.

23 The ward shall have the right any time after the
24 appointment of a temporary guardian is made to petition the
25 court to revoke the appointment of the temporary guardian.

26 (Source: P.A. 102-72, eff. 1-1-22; 102-120, eff 7-23-21;

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1 102-687, eff. 12-17-21.)