



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB1714

Introduced 1/28/2025, by Rep. Terra Costa Howard

SYNOPSIS AS INTRODUCED:

755 ILCS 5/11a-5

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

Amends the Guardians for Adults with Disabilities Article of the Probate Act of 1975. Provides that a person is qualified to act as guardian of a person with a disability and as guardian of the estate of a person with a disability if, among other requirements, the court finds that the proposed guardian is capable of providing an active and suitable program of guardianship for the person with a disability and that the proposed guardian has not been found to be an unfit person, unless the court finds the appointment of the person to have previously been found unfit to be in the best interests of the person with a disability, and as part of the best interests determination, the court has considered the nature of the determination of unfitness, the date of the determination, and the evidence of the proposed guardian's determination. Effective immediately.

LRB104 02917 LNS 12933 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-5 as follows:

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

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

8 (a) A person is qualified to act as guardian of the person
9 and as guardian of the estate of a person with a disability if
10 the court finds that the proposed guardian is capable of
11 providing an active and suitable program of guardianship for
12 the person with a disability and that the proposed guardian:

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

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

15 (3) is not of unsound mind;

16 (4) is not an adjudged person with a disability as
17 defined in this Act; ~~and~~

18 (5) has not been convicted of a felony, unless the
19 court finds appointment of the person convicted of a
20 felony to be in the best interests of the person with a
21 disability, and as part of the best interests
22 determination, the court has considered the nature of the
23 offense, the date of offense, and the evidence of the

1 proposed guardian's rehabilitation. No person shall be
2 appointed who has been convicted of a felony involving
3 harm or threat to a minor or an elderly person or a person
4 with a disability, including a felony sexual offense; and
5 —

6 (6) has not been found to be an unfit person as defined
7 under subsection D of Section 1 of the Adoption Act,
8 unless the court finds the appointment of the person to
9 have previously been found unfit to be in the best
10 interests of the person with a disability, and as part of
11 the best interests determination, the court has considered
12 the nature of the determination of unfitness, the date of
13 the determination, and the evidence of the proposed
14 guardian's determination.

15 (b) Any public agency, or not-for-profit corporation found
16 capable by the court of providing an active and suitable
17 program of guardianship for the person with a disability,
18 taking into consideration the nature of such person's
19 disability and the nature of such organization's services, may
20 be appointed guardian of the person or of the estate, or both,
21 of the person with a disability. The court shall not appoint as
22 guardian an agency or employee of an agency that is directly
23 providing residential services to the ward. One person or
24 agency may be appointed guardian of the person and another
25 person or agency appointed guardian of the estate.

26 (b-5) (1) The court may appoint separate individuals or

1 entities to act as the guardian of the person and the guardian
2 of the estate of a person with a disability if the court finds
3 it is in the best interests of the person with a disability
4 that separate guardians be appointed. The court shall not
5 appoint a separate person or entity to act as guardian of the
6 person or guardian of the estate with a public guardian or the
7 Office of State Guardian unless the public guardian or the
8 Office of State Guardian agrees to such an appointment.

9 (2) The court may appoint co-guardians to act as guardian
10 of the person, guardian of the estate, or both the guardian of
11 the person and the guardian of the estate if the court finds it
12 is in the best interests of the person with a disability. When
13 considering appointing co-guardians, the court shall consider
14 the proposed co-guardians' history of cooperating and working
15 together on behalf of the person with a disability. The court
16 shall appoint only co-guardians who agree to serve together.
17 The court shall not appoint a public guardian or the Office of
18 State Guardian as a co-guardian for a person with a
19 disability.

20 (c) Any corporation qualified to accept and execute trusts
21 in this State may be appointed guardian or limited guardian of
22 the estate of a person with a disability.

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

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.