



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB3372

Introduced 2/18/2025, by Rep. Michelle Mussman

SYNOPSIS AS INTRODUCED:

See Index

Amends the Probate Act of 1975. Requires the court at the guardianship hearing to inquire of the alleged disabled adult's interest in a supported decision-making agreement as an alternative and inform the ward of the ward's right to modify an adjudication of disability using a limited guardianship or termination of guardianship with a supported decision-making agreement. Amends the Supported Decision-Making Agreement Act. Changes the applicability of the Act by deleting the requirement that the adult must have an intellectual or developmental disability. Provides that Alzheimer's or dementia, by itself, does not void the presumption that an adult has the capacity to make decisions. Provides that the execution of a supported decision-making agreement does not preclude the ability of the adult who has entered into a supported decision-making agreement to act independently of the agreement. Requires a supporter in an agreement must complete the training and education developed by the Guardianship and Advocacy Commission within 45 days of signing the consent to act as a supporter. Provides that a supported decision-making agreement is terminated if: (i) there is a restraining order against the supporter by or on behalf of the principal; (ii) the principal revokes the agreement; (iii) the supporter resigns; (iv) ordered by a court; or (v) the agreement includes a termination date. Provides that a supported decision-making agreement is suspended while: (i) the conditions of the Health Care Surrogate Act are met, (ii) a medical or psychological evaluation has concluded that the principal lacks decisional capacity but a subsequent evaluation has not yet found the principal's decisional capacity restored; or (iii) the agency established in a durable power of attorney has begun but not yet terminated. Provides that upon the filing of a petition by an interested person, a court may suspend or terminate a supported decision-making agreement if necessary to ensure the well-being and safety of the principal.

LRB104 10553 JRC 20629 b

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-10, 11a-11, and 11a-19 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
15 not necessary for the protection of the respondent or a
16 reasonably informed decision on the petition. If the guardian
17 ad litem is not a licensed attorney, he or she shall be
18 qualified, by training or experience, to work with or advocate
19 for persons with developmental disabilities, the mentally ill,
20 persons with physical disabilities, the elderly, or persons
21 with a disability due to mental deterioration, depending on
22 the type of disability that is alleged in the petition. The
23 court may allow the guardian ad litem reasonable compensation.

1 The guardian ad litem may consult with a person who by training
2 or experience is qualified to work with persons with a
3 developmental disability, persons with mental illness, persons
4 with physical disabilities, or persons with a disability due
5 to mental deterioration, depending on the type of disability
6 that is alleged. The guardian ad litem shall personally
7 observe the respondent prior to the hearing and shall inform
8 him orally and in writing of the contents of the petition and
9 of his rights, including providing a copy of the notice of
10 rights required under subsection (e). The guardian ad litem
11 shall also attempt to elicit the respondent's position
12 concerning the adjudication of disability, the proposed
13 guardian, a proposed change in residential placement, changes
14 in care that might result from the guardianship, and other
15 areas of inquiry deemed appropriate by the court, including
16 whether a supported decision-making agreement would be an
17 appropriate alternative to guardianship or a limited
18 guardianship would be an appropriate alternative to plenary
19 guardianship. Notwithstanding any provision in the Mental
20 Health and Developmental Disabilities Confidentiality Act or
21 any other law, a guardian ad litem shall have the right to
22 inspect and copy any medical or mental health record of the
23 respondent which the guardian ad litem deems necessary,
24 provided that the information so disclosed shall not be
25 utilized for any other purpose nor be redisclosed except in
26 connection with the proceedings. At or before the hearing, the

1 guardian ad litem shall file a written report detailing his or
2 her observations of the respondent, the responses of the
3 respondent to any of the inquiries detailed in this Section,
4 the opinion of the guardian ad litem or other professionals
5 with whom the guardian ad litem consulted concerning the
6 appropriateness of guardianship, and any other material issue
7 discovered by the guardian ad litem, including whether a
8 supported decision-making agreement would be an appropriate
9 alternative to guardianship or a limited guardianship would be
10 an appropriate alternative to plenary guardianship. The
11 guardian ad litem shall appear at the hearing and testify as to
12 any issues presented in his or her report.

13 (b) The court (1) may appoint counsel for the respondent,
14 if the court finds that the interests of the respondent will be
15 best served by the appointment, and (2) shall appoint counsel
16 upon the respondent's request or if the respondent takes a
17 position adverse to that of the guardian ad litem. The
18 respondent shall be permitted to obtain the appointment of
19 counsel either at the hearing or by any written or oral request
20 communicated to the court prior to the hearing. The summons
21 shall inform the respondent of this right to obtain appointed
22 counsel. The court may allow counsel for the respondent
23 reasonable compensation.

24 (c) The allocation of guardian ad litem fees and costs is
25 within the discretion of the court. No legal fees, appointed
26 counsel fees, guardian ad litem fees, or costs shall be

1 assessed against the Office of the State Guardian, the public
2 guardian, an adult protective services agency, the Department
3 of Children and Family Services, or the agency designated by
4 the Governor under Section 1 of the Protection and Advocacy
5 for Persons with Developmental Disabilities Act.

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

9 (e) Unless he is the petitioner, the respondent shall be
10 personally served with a copy of the petition and a summons not
11 less than 14 days before the hearing. The summons shall be
12 printed in large, bold type and shall include the following:

13 NOTICE OF RIGHTS OF RESPONDENT

14 You have been named as a respondent in a guardianship
15 petition asking that you be declared a person with a
16 disability. If the court grants the petition, a guardian will
17 be appointed for you. A copy of the guardianship petition is
18 attached for your convenience.

19 The date and time of the hearing are:

20 The place where the hearing will occur is:

21 The Judge's name and phone number is:

22 If a guardian is appointed for you, the guardian may be
23 given the right to make all important personal decisions for
24 you, such as where you may live, what medical treatment you may
25 receive, what places you may visit, and who may visit you. A
26 guardian may also be given the right to control and manage your

1 money and other property, including your home, if you own one.
2 You may lose the right to make these decisions for yourself.

3 You have the following legal rights:

4 (1) You have the right to be present at the court
5 hearing.

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

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

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

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

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

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

19 (8) You have the right to ask a judge to find that
20 although you lack some capacity to make your own
21 decisions, you can make other decisions, and therefore it
22 is best for the court to appoint only a limited guardian
23 for you.

24 You do not have to attend the court hearing if you do not
25 want to be there. If you do not attend, the Judge may appoint a
26 guardian if the Judge finds that a guardian would be of benefit

1 to you. The hearing will not be postponed or canceled if you do
2 not attend. If you are unable to attend the hearing in person
3 or you will suffer harm if you attend, the Judge can decide to
4 hold the hearing at a place that is convenient. The Judge can
5 also follow the rule of the Supreme Court of this State, or its
6 local equivalent, and decide if a video conference is
7 appropriate.

8 IT IS VERY IMPORTANT THAT YOU ATTEND THE HEARING IF YOU DO
9 NOT WANT A GUARDIAN OR IF YOU WANT SOMEONE OTHER THAN THE
10 PERSON NAMED IN THE GUARDIANSHIP PETITION TO BE YOUR GUARDIAN.
11 IF YOU DO NOT WANT A GUARDIAN OR IF YOU HAVE ANY OTHER
12 PROBLEMS, YOU SHOULD CONTACT AN ATTORNEY OR COME TO COURT AND
13 TELL THE JUDGE.

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

17 [END OF FORM]

18 (f) Notice of the time and place of the hearing shall be
19 given by the petitioner by mail or in person to those persons,
20 including the proposed guardian, whose names and addresses
21 appear in the petition and who do not waive notice, not less
22 than 14 days before the hearing.

23 (Source: P.A. 102-72, eff. 1-1-22; 102-191, eff. 1-1-22;
24 102-813, eff. 5-13-22.)

25 (755 ILCS 5/11a-11) (from Ch. 110 1/2, par. 11a-11)

1 Sec. 11a-11. Hearing.

2 (a) The respondent is entitled to be represented by
3 counsel, to demand a jury of 6 persons, to present evidence,
4 and to confront and cross-examine all witnesses. The hearing
5 may be closed to the public on request of the respondent, the
6 guardian ad litem, or appointed or other counsel for the
7 respondent. Unless excused by the court upon a showing that
8 the respondent refuses to be present or will suffer harm if
9 required to attend, the respondent shall be present at the
10 hearing.

11 (b) (Blank).

12 (c) (Blank).

13 (d) In an uncontested proceeding for the appointment of a
14 guardian the person who prepared the report required by
15 Section 11a-9 will only be required to testify at trial upon
16 order of court for cause shown.

17 (e) At the hearing the court shall inquire regarding: (1)
18 the nature and extent of respondent's general intellectual and
19 physical functioning; (2) the extent of the impairment of his
20 adaptive behavior if he is a person with a developmental
21 disability, or the nature and severity of his mental illness
22 if he is a person with mental illness; (3) the understanding
23 and capacity of the respondent to make and communicate
24 responsible decisions concerning his person; (4) the capacity
25 of the respondent to manage his estate and his financial
26 affairs; (5) the appropriateness of proposed and alternate

1 living arrangements; (6) the impact of the disability upon the
2 respondent's functioning in the basic activities of daily
3 living and the important decisions faced by the respondent or
4 normally faced by adult members of the respondent's community;
5 ~~and~~ (7) the use of a supported decision-making agreement or
6 limited guardianship as an alternative to plenary
7 guardianship; and (8) any other area of inquiry deemed
8 appropriate by the court.

9 (f) An authenticated transcript of the evidence taken in a
10 judicial proceeding concerning the respondent under the Mental
11 Health and Developmental Disabilities Code is admissible in
12 evidence at the hearing.

13 (g) If the petition is for the appointment of a guardian
14 for a beneficiary of the Veterans Administration who has a
15 disability, a certificate of the Administrator of Veterans
16 Affairs or his representative stating that the beneficiary has
17 been determined to be incompetent by the Veterans
18 Administration on examination in accordance with the laws and
19 regulations governing the Veterans Administration in effect
20 upon the date of the issuance of the certificate and that the
21 appointment of a guardian is a condition precedent to the
22 payment of any money due the beneficiary by the Veterans
23 Administration, is admissible in evidence at the hearing.

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

25 (755 ILCS 5/11a-19) (from Ch. 110 1/2, par. 11a-19)

1 You have the right to ask the court to dismiss this
2 guardianship, to revoke the power of this guardian to act for
3 you, or to modify the duties of any such guardian.

4 You, or someone on your behalf, can make this request,
5 even by an informal letter, a telephone call, or a visit to the
6 court. You should send your letter to the court at the
7 following address; [insert name of judge and mailing address
8 of courthouse].

9 The court may appoint a Guardian ad Litem to investigate
10 and report to the court. You have the right to have a lawyer
11 appointed for you, to have a hearing before the court, to have
12 a jury of six persons decide the facts, to present evidence and
13 tell your story, and to ask witnesses any questions in
14 cross-examination.

15 Entered this.....day of....., 20....

16

17 JUDGE

18 [...] At the time of the appointment of the Guardian in this
19 cause, the court informed the ward of his or her rights under
20 Section 11a-20 of the Illinois Probate Act and gave the ward,
21 in open court, the above-written notice explaining these
22 rights and procedures.

23 or

1 or protection as long as they do not harm others and are
2 capable of making decisions about those matters.

3 (2) All adults should be able to be informed about
4 and, to the best of their ability, participate in
5 decisions regarding daily living.

6 (3) All adults should receive the most effective yet
7 least restrictive and intrusive forms of support,
8 assistance, and protection when they are unable to care
9 for themselves or manage their affairs alone.

10 (4) The values, beliefs, wishes, cultural norms, and
11 traditions that the principal holds should be respected.

12 (Source: P.A. 102-614, eff. 2-27-22.)

13 (755 ILCS 9/10)

14 Sec. 10. Definitions. As used in this Act:

15 "Adult" means a person who is at least 18 years of age.

16 "Everyday life decisions" means decisions that support
17 one's existence, including, but not limited to, decisions
18 regarding medical care and treatment, one's residence, work,
19 finances, and social life.

20 "Principal" means an adult ~~with intellectual or~~
21 ~~developmental disabilities~~ who seeks to enter, or has entered,
22 into a supported decision-making agreement with a supporter
23 under this Act.

24 "Supported decision-making agreement" means an agreement
25 between a principal and a supporter under this Act.

1 "Supporter" means an adult who has entered into a
2 supported decision-making agreement with a principal under
3 this Act.

4 (Source: P.A. 102-614, eff. 2-27-22.)

5 (755 ILCS 9/15)

6 Sec. 15. Presumption of capability.

7 (a) All adults are presumed to be capable of making
8 decisions regarding daily living and to have capacity unless
9 otherwise determined by a court. A diagnosis of mental
10 illness, intellectual disability, ~~or~~ developmental disability,
11 Alzheimer's Disease, or dementia, of itself, does not void the
12 presumption of capacity.

13 (b) The manner in which an adult communicates with others
14 is not grounds for deciding that the adult is incapable of
15 managing the affairs of the adult.

16 (c) The execution of a supported decision-making agreement
17 may not be used as evidence of capacity or incapacity in any
18 civil or criminal proceeding, however, the existence of such
19 an agreement may be entered into evidence for purposes other
20 than as evidence of capacity or incapacity. The execution of a
21 supported decision-making agreement ~~and~~ does not preclude the
22 ability of the adult who has entered into a supported
23 decision-making agreement to act independently of the
24 agreement.

25 (Source: P.A. 102-614, eff. 2-27-22.)

1 (755 ILCS 9/30)

2 Sec. 30. Supporter duties.

3 (a) Except as otherwise provided by a supported
4 decision-making agreement, a supporter may:

5 (1) Assist the principal in understanding information,
6 options, responsibilities, and consequences of the life
7 decisions of the principal, including those decisions
8 related to the affairs or support services of the
9 principal.

10 (2) Help the principal access, obtain, and understand
11 any information that is relevant to any given life
12 decision, including a medical, psychological, financial,
13 or educational decision, or any treatment records or
14 records necessary to manage the affairs or support
15 services of the principal.

16 (3) Assist the principal in finding, obtaining, making
17 appointments for, and implementing the support services or
18 plans for support services of the principal.

19 (4) Help the principal monitor information about the
20 affairs or support services of the principal, including
21 keeping track of future necessary or recommended services.

22 (5) Ascertain the wishes and decisions of the
23 principal in order to advocate that the wishes and
24 decisions of an individual with disabilities are
25 implemented.

1 (b) A supporter shall act with the care, competence, and
2 diligence ordinarily exercised by an individual in a similar
3 circumstance, with due regard to the possession of, or lack
4 of, special skills or expertise.

5 (c) A supporter shall complete the ~~seek~~ training developed
6 by the Guardianship and Advocacy Commission and ~~education~~
7 regarding the responsibilities and limitations of the
8 supporter role within 45 days of signing the consent to act as
9 a supporter. The Guardianship and Advocacy Commission shall
10 provide public information about this Act and the supporter
11 role, responsibilities, and limitations.

12 The Guardianship and Advocacy Commission shall develop
13 training and education materials for both principals and
14 supporters, including, but not limited to, sample agreements
15 that will be posted on the website of the Commission along with
16 public awareness materials.

17 (Source: P.A. 102-614, eff. 2-27-22.)

18 (755 ILCS 9/50)

19 Sec. 50. Agreement instrument. A supported decision-making
20 agreement is valid if it substantially follows the following
21 form:

22 "SUPPORTED DECISION-MAKING AGREEMENT

23 Important Information for the Supporter: Duties

1 If you agree to provide support to the principal, you have
2 a duty to:

- 3 (1) act in good faith;
- 4 (2) act within the authority granted in this
5 agreement;
- 6 (3) act loyally and without self-interest; ~~and~~
- 7 (4) avoid conflicts of interest; ~~and~~
- 8 (5) complete the training required by subsection (c)
9 of Section 30.

10 Appointment of Supporter

11 I, (insert principal's name), make this agreement of my
12 own free will.

13 I agree and designate that the following individual is my
14 supporter:

15 Name:.....

16 Address:

17 Phone Number:.....

18 Email Address:

19 My supporter is to help me make decisions for myself and
20 may help me with making everyday life decisions relating to
21 the following:

22 (Yes/No) obtaining food, clothing, and shelter.

1 (Yes/No) taking care of my physical and emotional
2 health.

3 (Yes/No) managing my financial affairs.

4 (Yes/No) applying for public benefits.

5 (Yes/No) helping me find work.

6 (Yes/No) assisting with residential services.

7 (Yes/No) helping me with school.

8 (Yes/No) helping me advocate for myself.

9 My supporter is not allowed to make decisions for me. To
10 help me with my decisions, my supporter may:

11 (1) help me access, collect, or obtain information
12 that is relevant to a decision, including medical,
13 psychological, financial, educational, housing, and
14 treatment records;

15 (2) help me understand my options so that I can make an
16 informed decision; and

17 (3) help me communicate my decision to appropriate
18 persons.

19 I want my supporter to have:

20 (Yes/No) A release allowing my supporter to see
21 protected health information under the Health Insurance
22 Portability and Accountability Act of 1996 is attached.

23 (Yes/No) A release allowing my supporter to see
24 confidential information under the Mental Health and

1 WARNING: PROTECTION FOR THE ADULT WITH A DISABILITY

2 IF A PERSON WHO RECEIVES A COPY OF THIS AGREEMENT OR IS AWARE
3 OF THE EXISTENCE OF THIS AGREEMENT HAS CAUSE TO BELIEVE THAT
4 THE ADULT WITH A DISABILITY IS BEING ABUSED, NEGLECTED, OR
5 EXPLOITED BY THE SUPPORTER, THE PERSON SHALL REPORT THE
6 ALLEGED ABUSE, NEGLECT, OR EXPLOITATION TO THE ADULT
7 PROTECTIVE SERVICES HOTLINE: 1-866-800-1409, 1-888-206-1327
8 (TTY)."

9 This form is not intended to exclude other forms or
10 agreements that identify the principal, supporter, and types
11 of supports.

12 (Source: P.A. 102-614, eff. 2-27-22.)

13 (755 ILCS 9/70)

14 Sec. 70. Term of agreement; revocation.

15 (a) A supported decision-making agreement extends until
16 ~~terminated by either party or by the terms of the agreement.~~

17 (b) A supported decision-making agreement is terminated
18 if:

19 (1) the Office of Inspector General or Adult
20 Protective Services substantiated an allegation of abuse
21 or neglect by the supporter; ~~or~~

22 (2) there is a restraining order against the supporter

1 by or on behalf of the principal;:-

2 (3) the principal revokes the agreement;

3 (4) the supporter resigns;

4 (5) ordered by a court; or

5 (6) the agreement includes a termination date.

6 (b-5) A supported decision-making agreement is suspended
7 while:

8 (1) the conditions of Section 15 of the Health Care
9 Surrogate Act are met;

10 (2) a medical or psychological evaluation has
11 concluded that the principal lacks decisional capacity but
12 a subsequent evaluation has not yet found the principal's
13 decisional capacity restored; or

14 (3) the agency established in a durable power of
15 attorney has begun but not yet terminated.

16 (c) A principal may revoke his or her supported
17 decision-making agreement and invalidate the supported
18 decision-making agreement at any time by:

19 (1) canceling or destroying the supported
20 decision-making agreement or directing another in the
21 presence of the principal to destroy the decision-making
22 agreement;

23 (2) executing a statement, in writing, that is signed
24 and dated by the principal, expressing his or her intent
25 to revoke the supported decision-making agreement; or

26 (3) verbally expressing the intent of the principal to

1 revoke the supported decision-making agreement in the
2 presence of 2 witnesses.

3 (d) Unless the supported decision-making agreement
4 provides a different method for the resignation of the
5 supporter ~~support~~, a supporter may resign by giving notice to
6 the principal.

7 (e) The last signed agreement holds.

8 (f) Upon the filing of a petition by an interested person,
9 a court may suspend or terminate a supported decision-making
10 agreement when necessary to ensure the well-being and safety
11 of the principal.

12 (Source: P.A. 102-614, eff. 2-27-22.)

1 INDEX

2 Statutes amended in order of appearance

3 755 ILCS 5/11a-10 from Ch. 110 1/2, par. 11a-10

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

5 755 ILCS 5/11a-19 from Ch. 110 1/2, par. 11a-19

6 755 ILCS 9/5

7 755 ILCS 9/10

8 755 ILCS 9/15

9 755 ILCS 9/30

10 755 ILCS 9/50

11 755 ILCS 9/70