

1 AN ACT concerning regulation.

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-5, 11a-15, and 23-2 and by adding Section 11a-26  
6 as follows:

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

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

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

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

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

16 (3) is not of unsound mind;

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

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

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

6 (b) Any public agency, private professional guardian as  
7 defined in Section 11a-26, or not-for-profit corporation found  
8 capable by the court of providing an active and suitable  
9 program of guardianship for the person with a disability,  
10 taking into consideration the nature of such person's  
11 disability and the nature of such organization's services, may  
12 be appointed guardian of the person or of the estate, or both,  
13 of the person with a disability. The court shall not appoint as  
14 guardian an agency or employee of an agency that is directly  
15 providing residential services to the ward. One person or  
16 agency may be appointed guardian of the person and another  
17 person or agency appointed guardian of the estate.

18 (b-5)(1) The court may appoint separate individuals or  
19 entities that are qualified to act as guardian under  
20 subsection (b) or (c) to act as the guardian of the person and  
21 the guardian of the estate of a person with a disability if the  
22 court finds it is in the best interests of the person with a  
23 disability that separate guardians be appointed. The court  
24 shall not appoint a separate person or entity to act as  
25 guardian of the person or guardian of the estate with a public  
26 guardian or the Office of State Guardian unless the public

1 guardian or the Office of State Guardian agrees to such an  
2 appointment.

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

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

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

18 (755 ILCS 5/11a-15) (from Ch. 110 1/2, par. 11a-15)

19 Sec. 11a-15. Successor guardian.

20 (a) Upon the death, incapacity, resignation, or removal of  
21 a guardian of the estate or person of a living ward, the court  
22 shall appoint a successor guardian or terminate the  
23 adjudication of disability. The powers and duties of the  
24 successor guardian shall be the same as those of the  
25 predecessor guardian unless otherwise modified.

1       **(b)** Notice of the time and place of the hearing on a  
2 petition for the appointment of a successor guardian shall be  
3 given not less than 3 days before the hearing for a successor  
4 to a temporary guardian and not less than 14 days before the  
5 hearing for a successor to a limited or plenary guardian. The  
6 notice shall be by mail or in person to the alleged person with  
7 a disability, to the proposed successor guardian, and to those  
8 persons whose names and addresses are listed in the petition  
9 for adjudication of disability and appointment of a guardian  
10 under Section 11a-8. The court, upon a finding of good cause,  
11 may waive the notice requirement under this Section.

12       **(c)** Notwithstanding the notice requirement in subsection  
13 (b), if a private professional guardian is serving as a  
14 limited or plenary guardian of a person with a disability and  
15 intends to name the Office of State Guardian or public  
16 guardian as successor, notice shall be provided to the court  
17 and the Office of State Guardian or a public guardian not less  
18 than 120 days before the hearing for a successor to a limited  
19 or plenary guardian. If the assets of the person with a  
20 disability at the time of the appointment of the limited or  
21 plenary guardian do not exceed the estimated amount necessary  
22 for funding of the needs of the person with a disability for a  
23 period of 120 days, this subsection does not apply. This  
24 subsection does not apply to temporary guardians.

25       (Source: P.A. 103-740, eff. 1-1-25; 104-417, eff. 8-15-25.)

1 (755 ILCS 5/11a-26 new)

2 Sec. 11a-26. Private professional guardian.

3 (a) As used in this Act, "private professional guardian"  
4 means:

5 (1) a person or entity who receives compensation for  
6 services as a guardian to 5 or more persons with  
7 disabilities who are not related to the guardian by blood  
8 or marriage; or

9 (2) a not-for-profit corporation qualified to act as  
10 guardian under Section 11a-5, including that corporation's  
11 officers, directors, employees, and agents.

12 "Private professional guardian" does not include a  
13 government agency, the Office of State Guardian, a public  
14 guardian, a corporation qualified to accept and execute trusts  
15 in this State, or a financial institution as defined by  
16 Section 2 of the Illinois Banking Act.

17 (b) A petitioner who nominates a private professional  
18 guardian to be appointed as temporary, limited, or plenary  
19 guardian for a person with a disability shall (i) attach an  
20 affidavit to the petition for guardianship stating the  
21 petitioner's efforts to contact the respondent's nearest  
22 relatives as defined in subsection (e) of Section 11a-8, agent  
23 under power of attorney, or other fiduciaries regarding the  
24 respondent's need for a guardian, if known or reasonably  
25 ascertainable, and (ii) provide notice of the petition for  
26 guardianship to the public guardian. This subsection does not

1 apply if a family member of the respondent nominates a private  
2 professional guardian.

3 (c) A private professional guardian may be appointed as  
4 guardian if, in addition to meeting the requirements of  
5 subsection (a) or (b) of Section 11a-5, that guardian complies  
6 with the following requirements:

7 (1) Before being appointed as guardian for a person  
8 with a disability, the private professional guardian shall  
9 certify, in open court or by affidavit: (i) that the  
10 private professional guardian has personally met with and  
11 assessed the respondent or, if not reasonably possible,  
12 consistent with the National Guardianship Association  
13 Standards of Practice, certify that the private  
14 professional guardian will meet with the respondent as  
15 soon as feasible after the appointment; (ii) that it is in  
16 the best interests of the respondent that a guardian be  
17 appointed and what is the least restrictive form of  
18 guardianship that is appropriate; and (iii) an initial  
19 evaluation of options regarding the respondent's living  
20 arrangements including community-based, least restrictive  
21 living settings that incorporate the respondent's values,  
22 preferences, and known wishes. The court may waive the  
23 requirements of this subsection upon good cause being  
24 shown by the petitioner.

25 (2) The president, director, or other corporate  
26 officer of a not-for-profit corporation qualified to act

1 as guardian in accordance with subsection (b) of Section  
2 11a-5 shall be named in the order appointing that private  
3 professional guardian as guardian of a person with a  
4 disability.

5 (3) A private professional guardian may not:

6 (i) have any direct or indirect beneficial  
7 interest, financial or otherwise, in entities or  
8 corporations that transact business with the estate or  
9 receive benefits, including referral fees, from  
10 persons, entities, or corporations that transact  
11 business with the estate or on behalf of the person  
12 under its guardianship, excluding any fixed salary  
13 received from its employer;

14 (ii) own, acquire, or possess any pecuniary  
15 interest adverse to the persons or estates under its  
16 guardianship; or

17 (iii) on behalf of a person with a disability  
18 under its guardianship, directly or indirectly  
19 purchase, rent, lease, or sell any property or service  
20 from or to any business entity in which the private  
21 professional guardian, a spouse, or an immediate  
22 family or household member is an owner, officer,  
23 partner, director, shareholder, or retains a financial  
24 interest.

25 (4) Within 2 years of the effective date of the  
26 amendatory Act of the 104th General Assembly, a person or

1       the president, director, or chief executive officer of a  
2       not-for-profit corporation who serves as a private  
3       professional guardian shall be certified as a national  
4       master guardian or a national certified guardian by the  
5       Center for Guardianship Certification or its successor  
6       organization. Within 2 years of the effective date of the  
7       amendatory Act, employees of the private professional  
8       guardian who are responsible for exercising the guardian's  
9       powers and duties as guardian of a person with a  
10       disability shall be certified as national certified  
11       guardians by the Center for Guardianship Certification or  
12       its successor organization.

13       (5) Use sound fiscal controls and policies in managing  
14       the estates under its guardianship and, for a private  
15       professional guardian that manages, in the aggregate, more  
16       than \$1 million of assets as a guardian of persons with a  
17       disability, arrange for an independent audit by a  
18       qualified examiner of its financial records on an annual  
19       basis. This report shall be made available to any court  
20       presiding over any persons with disabilities for whom the  
21       private professional guardian serves as guardian.

22       (6) File an annual sworn statement affirming continued  
23       compliance with paragraph (3) of subsection (c) of this  
24       Section.

25       (7) Maintain a current fee schedule that sets forth  
26       information about its hourly rate, costs for its most

1 common and anticipated services such as case management,  
2 social work, property management, and such other services  
3 as may be appropriate. The fee schedule shall be provided  
4 to the court before the appointment of the private  
5 professional guardian as guardian of a person with a  
6 disability.

7 (8) Upon presentation of its initial inventory and  
8 with every annual account thereafter, file a budget with  
9 the court that outlines the annual anticipated estate  
10 expenses that also includes a statement estimating the  
11 length of time the estate of the person with a disability  
12 can afford the services of the private professional  
13 guardian before the estate is depleted.

14 The private professional guardian shall promptly  
15 notify the court at such time that it estimates the estate  
16 of the person with a disability can no longer afford the  
17 services of the private professional guardian or, if the  
18 sale of respondent's residence would be required for the  
19 continued services of a private professional guardian,  
20 within 36 months or less. Upon providing the notification,  
21 the private professional guardian shall also present a  
22 transition plan for the guardianship of the person with a  
23 disability.

24 (d) Upon appointment and annually thereafter, a private  
25 professional guardian acting as temporary, limited, or plenary  
26 guardian of a person with a disability shall file an affidavit

1 with the court stating that all of its officers, directors,  
2 and employees who are responsible for exercising the  
3 guardian's powers and duties as guardian of a person with a  
4 disability have, within 5 years of the affidavit filing date,  
5 undergone an Illinois State Police background check. This  
6 background check shall include a State criminal history, a  
7 national criminal history, and the Child Abuse and Neglect  
8 Tracking System and be found to be in compliance with  
9 paragraph (5) of subsection (a) of Section 11a-5. The private  
10 professional guardian shall pay any fees and costs associated  
11 with the background checks.

12 (e) In addition to taking into consideration the  
13 requirements set forth in this Section and in Section 11a-12,  
14 the court may appoint a private professional guardian as  
15 guardian for a person with a disability only upon a finding  
16 that the appointment is in the best interests of the person  
17 with a disability, taking into consideration the respondent's  
18 immediate need for timely medical decision-making including,  
19 but not limited to, discharge planning and costs to the estate  
20 in appointing a private professional guardian as compared to  
21 other available and appropriate options.

22 (755 ILCS 5/23-2) (from Ch. 110 1/2, par. 23-2)

23 Sec. 23-2. Removal.

24 (a) On petition of any interested person or on the court's  
25 own motion, the court may remove a representative if:

1           (1) the representative is acting under letters secured  
2 by false pretenses;

3           (2) the representative is adjudged a person subject to  
4 involuntary admission under the Mental Health and  
5 Developmental Disabilities Code or is adjudged a person  
6 with a disability;

7           (3) the representative is convicted of a felony;

8           (4) the representative wastes or mismanages the  
9 estate;

10          (5) the representative conducts himself or herself in  
11 such a manner as to endanger any co-representative or the  
12 surety on the representative's bond;

13          (6) the representative fails to give sufficient bond  
14 or security, counter security or a new bond, after being  
15 ordered by the court to do so;

16          (7) the representative fails to file an inventory or  
17 accounting after being ordered by the court to do so;

18          (8) the representative conceals himself or herself so  
19 that process cannot be served upon the representative or  
20 notice cannot be given to the representative;

21          (9) the representative becomes incapable of or  
22 unsuitable for the discharge of the representative's  
23 duties; ~~or~~

24          (10) the representative is a private professional  
25 guardian that fails to comply with the requirements of  
26 Section 11a-26; or

1           (11) ~~(10)~~ there is other good cause.

2           (b) If the representative becomes a nonresident of the  
3 United States, the court may remove the representative as such  
4 representative.

5           (Source: P.A. 99-143, eff. 7-27-15.)