



Sen. Jason A. Barickman

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10200HB0266sam001

LRB102 04304 LNS 26183 a

1 AMENDMENT TO HOUSE BILL 266

2 AMENDMENT NO. _____. Amend House Bill 266 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Probate Act of 1975 is amended by changing
5 Section 11a-17 as follows:

6 (755 ILCS 5/11a-17) (from Ch. 110 1/2, par. 11a-17)

7 Sec. 11a-17. Duties of personal guardian.

8 (a) To the extent ordered by the court and under the
9 direction of the court, the guardian of the person shall have
10 custody of the ward and the ward's minor and adult dependent
11 children and shall procure for them and shall make provision
12 for their support, care, comfort, health, education and
13 maintenance, and professional services as are appropriate, but
14 the ward's spouse may not be deprived of the custody and
15 education of the ward's minor and adult dependent children,
16 without the consent of the spouse, unless the court finds that

1 the spouse is not a fit and competent person to have that
2 custody and education. The guardian shall assist the ward in
3 the development of maximum self-reliance and independence. The
4 guardian of the person may petition the court for an order
5 directing the guardian of the estate to pay an amount
6 periodically for the provision of the services specified by
7 the court order. If the ward's estate is insufficient to
8 provide for education and the guardian of the ward's person
9 fails to provide education, the court may award the custody of
10 the ward to some other person for the purpose of providing
11 education. If a person makes a settlement upon or provision
12 for the support or education of a ward, the court may make an
13 order for the visitation of the ward by the person making the
14 settlement or provision as the court deems proper. A guardian
15 of the person may not admit a ward to a mental health facility
16 except at the ward's request as provided in Article IV of the
17 Mental Health and Developmental Disabilities Code and unless
18 the ward has the capacity to consent to such admission as
19 provided in Article IV of the Mental Health and Developmental
20 Disabilities Code.

21 (a-3) If a guardian of an estate has not been appointed,
22 the guardian of the person may, without an order of court,
23 open, maintain, and transfer funds to an ABLE account on
24 behalf of the ward and the ward's minor and adult dependent
25 children as specified under Section 16.6 of the State
26 Treasurer Act.

1 (a-5) If the ward filed a petition for dissolution of
2 marriage under the Illinois Marriage and Dissolution of
3 Marriage Act before the ward was adjudicated a person with a
4 disability under this Article, the guardian of the ward's
5 person and estate may maintain that action for dissolution of
6 marriage on behalf of the ward. Upon petition by the guardian
7 of the ward's person or estate, the court may authorize and
8 direct a guardian of the ward's person or estate to file a
9 petition for dissolution of marriage or to file a petition for
10 legal separation or declaration of invalidity of marriage
11 under the Illinois Marriage and Dissolution of Marriage Act on
12 behalf of the ward if the court finds by clear and convincing
13 evidence that the relief sought is in the ward's best
14 interests. In making its determination, the court shall
15 consider the standards set forth in subsection (e) of this
16 Section.

17 (a-10) Upon petition by the guardian of the ward's person
18 or estate, the court may authorize and direct a guardian of the
19 ward's person or estate to consent, on behalf of the ward, to
20 the ward's marriage pursuant to Part II of the Illinois
21 Marriage and Dissolution of Marriage Act if the court finds by
22 clear and convincing evidence that the marriage is in the
23 ward's best interests. In making its determination, the court
24 shall consider the standards set forth in subsection (e) of
25 this Section. Upon presentation of a court order authorizing
26 and directing a guardian of the ward's person and estate to

1 consent to the ward's marriage, the county clerk shall accept
2 the guardian's application, appearance, and signature on
3 behalf of the ward for purposes of issuing a license to marry
4 under Section 203 of the Illinois Marriage and Dissolution of
5 Marriage Act.

6 (b) If the court directs, the guardian of the person shall
7 file with the court at intervals indicated by the court, a
8 report that shall state briefly: (1) the current mental,
9 physical, and social condition of the ward and the ward's
10 minor and adult dependent children; (2) their present living
11 arrangement, and a description and the address of every
12 residence where they lived during the reporting period and the
13 length of stay at each place; (3) a summary of the medical,
14 educational, vocational, and other professional services given
15 to them; (4) a resume of the guardian's visits with and
16 activities on behalf of the ward and the ward's minor and adult
17 dependent children; (5) a recommendation as to the need for
18 continued guardianship; (6) any other information requested by
19 the court or useful in the opinion of the guardian. The Office
20 of the State Guardian shall assist the guardian in filing the
21 report when requested by the guardian. The court may take such
22 action as it deems appropriate pursuant to the report.

23 (c) Absent court order pursuant to the Illinois Power of
24 Attorney Act directing a guardian to exercise powers of the
25 principal under an agency that survives disability, the
26 guardian has no power, duty, or liability with respect to any

1 personal or health care matters covered by the agency. This
2 subsection (c) applies to all agencies, whenever and wherever
3 executed.

4 (d) A guardian acting as a surrogate decision maker under
5 the Health Care Surrogate Act shall have all the rights of a
6 surrogate under that Act without court order including the
7 right to make medical treatment decisions such as decisions to
8 forgo or withdraw life-sustaining treatment. Any decisions by
9 the guardian to forgo or withdraw life-sustaining treatment
10 that are not authorized under the Health Care Surrogate Act
11 shall require a court order. Nothing in this Section shall
12 prevent an agent acting under a power of attorney for health
13 care from exercising his or her authority under the Illinois
14 Power of Attorney Act without further court order, unless a
15 court has acted under Section 2-10 of the Illinois Power of
16 Attorney Act. If a guardian is also a health care agent for the
17 ward under a valid power of attorney for health care, the
18 guardian acting as agent may execute his or her authority
19 under that act without further court order.

20 (e) Decisions made by a guardian on behalf of a ward shall
21 be made in accordance with the following standards for
22 decision making. The guardian shall consider the ward's
23 current preferences to the extent the ward has the ability to
24 participate in decision making when those preferences are
25 known or reasonably ascertainable by the guardian. Decisions
26 by the guardian shall conform to the ward's current

1 preferences: (1) unless the guardian reasonably believes that
2 doing so would result in substantial harm to the ward's
3 welfare or personal or financial interests; and (2) so long as
4 such decisions give substantial weight ~~Decisions made by a~~
5 ~~guardian on behalf of a ward may be made by conforming as~~
6 ~~closely as possible~~ to what the ward, if competent, would have
7 done or intended under the circumstances, taking into account
8 evidence that includes, but is not limited to, the ward's
9 personal, philosophical, religious and moral beliefs, and
10 ethical values relative to the decision to be made by the
11 guardian. Where possible, the guardian shall determine how the
12 ward would have made a decision based on the ward's previously
13 expressed preferences, and make decisions in accordance with
14 the preferences of the ward. If the ward's wishes are unknown
15 and remain unknown after reasonable efforts to discern them,
16 or if the guardian reasonably believes that a decision made in
17 conformity with the ward's preferences would result in
18 substantial harm to the ward's welfare or personal or
19 financial interests, the decision shall be made on the basis
20 of the ward's best interests as determined by the guardian. In
21 determining the ward's best interests, the guardian shall
22 weigh the reason for and nature of the proposed action, the
23 benefit or necessity of the action, the possible risks and
24 other consequences of the proposed action, and any available
25 alternatives and their risks, consequences and benefits, and
26 shall take into account any other information, including the

1 views of family and friends, that the guardian believes the
2 ward would have considered if able to act for herself or
3 himself.

4 (f) Upon petition by any interested person (including the
5 standby or short-term guardian), with such notice to
6 interested persons as the court directs and a finding by the
7 court that it is in the best interest of the person with a
8 disability, the court may terminate or limit the authority of
9 a standby or short-term guardian or may enter such other
10 orders as the court deems necessary to provide for the best
11 interest of the person with a disability. The petition for
12 termination or limitation of the authority of a standby or
13 short-term guardian may, but need not, be combined with a
14 petition to have another guardian appointed for the person
15 with a disability.

16 (g) (1) Unless there is a court order to the contrary, the
17 guardian, consistent with the standards set forth in
18 subsection (e) of this Section, shall use reasonable efforts
19 to notify the ward's known adult children, who have requested
20 notification and provided contact information, of the ward's
21 admission to a hospital or hospice program, the ward's death,
22 and the arrangements for the disposition of the ward's
23 remains.

24 (2) If a guardian unreasonably prevents an adult child,
25 spouse, adult grandchild, parent, or adult sibling of the ward
26 from visiting the ward, the court, upon a verified petition,

1 may order the guardian to permit visitation between the ward
2 and the adult child, spouse, adult grandchild, parent, or
3 adult sibling. In making its determination, the court shall
4 consider the standards set forth in subsection (e) of this
5 Section. The court shall not allow visitation if the court
6 finds that the ward has capacity to evaluate and communicate
7 decisions regarding visitation and expresses a desire not to
8 have visitation with the petitioner. This subsection (g) does
9 not apply to duly appointed public guardians or the Office of
10 State Guardian.

11 (Source: P.A. 100-1054, eff. 1-1-19; 101-329, eff. 8-9-19.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law."