



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB1250

Introduced 2/15/2007, by Rep. Dr. Patricia Reid Lindner

#### SYNOPSIS AS INTRODUCED:

755 ILCS 5/1-2.25 new  
755 ILCS 5/11-5.5 new  
755 ILCS 5/11-13.4 new

Amends the Probate Act of 1975. Provides a definition of "short-term military service guardian". Provides for a Short-term Military Service Guardian. Provides that a parent, adoptive parent, or adjudicated parent in active military service who has physical custody of a child and who does not share joint custody may appoint in writing, with notice to the other living parent of the child and to the court, a short-term military service guardian of the minor child. The written instrument appointing a guardian shall be (i) dated and identify the appointing parent, other living parent, minor, and the guardian; (ii) signed and witnessed by 2 witnesses unrelated to the parent or the guardian. Provides that a parent shall not appoint a guardian if the child has another living parent, adoptive parent or adjudicated parent (i) who has joint custody of the child, (ii) whose parental rights have not been terminated, (iii) whose whereabouts are known, and (iv) who is willing and able to make and carry out day-to-day child care decisions, unless the non-appointing parent consents. Provides that no later than 2 days after the written instrument was completed the parent must send copies by certified or registered mail, return receipt requested, to: (1) the other living parent; (2) the court that awarded custody; (3) the court which issued the last order concerning the child, or (4) the circuit court clerk in the county where the child resides. Provides that the guardianship is effective immediately, unless a later date is selected. Provides that no court approval is required. The short-term military service guardian shall have authority to act as guardian of the minor for 180 days. Provides that a reappointment or designating a successor short-term military service guardian may be completed similarly. Provides that the appointment of a short-term military service guardian does not affect the other parent's rights.

LRB095 04907 AJ0 24972 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 adding  
5 Sections 1-2.25, 11-5.5, and 11-13.4 as follows:

6 (755 ILCS 5/1-2.25 new)

7 Sec. 1-2.25. "Short-term military service guardian" means  
8 a guardian of the person of a minor, as appointed under Section  
9 11-5.5, effective on the date of the appointment or to become  
10 effective at a later date under Section 11-5.5, except that a  
11 short term military service guardian shall have the authority  
12 to apply for and receive on behalf of the minor benefits to  
13 which the child may be entitled from or under federal, State,  
14 or local organizations or programs.

15 (755 ILCS 5/11-5.5 new)

16 Sec. 11-5.5. Short-term military service guardian.

17 (a) A person who is in active military service and who is a  
18 parent, adoptive parent, or adjudicated parent who has physical  
19 custody of a minor child and who does not share joint custody  
20 of the child may appoint in writing, with notice to the other  
21 living parent of the child and to the court as described in  
22 subsection b, a short-term military service guardian of the

1 minor child. The written instrument appointing a short-term  
2 military service guardian shall be dated and shall identify the  
3 appointing parent, the other living parent, the minor, and the  
4 person appointed to be the short-term military service  
5 guardian. The written instrument shall be signed by, or at the  
6 direction of, the appointing parent in the presence of at least  
7 2 credible witnesses at least 18 years of age, neither of whom  
8 is related to the parent nor the person appointed as the  
9 short-term military service guardian. The person appointed as  
10 the short-term military service guardian shall also sign the  
11 written instrument, but need not sign at the same time as the  
12 appointing parent.

13 (b) A parent shall not appoint a short-term military  
14 service guardian of a minor child if the child has another  
15 living parent, adoptive parent or adjudicated parent (i) who  
16 has joint custody of the child, (ii) whose parental rights have  
17 not been terminated, (iii) whose whereabouts are known, and  
18 (iv) who is willing and able to make and carry out day-to-day  
19 child care decisions concerning the minor, unless the  
20 non-appointing parent consents to the appointment by signing  
21 the written instrument of appointment.

22 (c) The appointing parent shall attach to the written  
23 instrument his or her sworn statement of mailing that states he  
24 or she sent, no later than 2 days after the written instrument  
25 was completed, copies of his or her sworn statement of mailing  
26 and the written instrument containing all required signatures

1 and dates by certified or registered mail, return receipt  
2 requested, to:

3 (1) the last known address of the other living parent;

4 (2) the court which issued the order that awarded  
5 physical custody of the child to the appointing parent;

6 (3) the court (if different from the court that awarded  
7 physical custody of the child to the appointing parent)  
8 which issued the last order that concerns the child, the  
9 child's support, or custody of or visitation with the  
10 child; and

11 (4) if there is no court order, then to the circuit  
12 court clerk in the county in which the child resides.

13 (d) The appointment of the short-term military service  
14 guardian is effective immediately upon the date the written  
15 instrument is executed, unless the written instrument provides  
16 for the appointment to become effective upon a later specified  
17 date or event. The appointment is effective without court  
18 approval. The short-term military service guardian shall have  
19 authority to act as guardian of the minor as provided in  
20 Section 11-13.4 for a period of 180 days from the date the  
21 appointment is effective, unless the written instrument  
22 provides for the appointment to terminate upon an earlier  
23 specified date or event. Only one written instrument appointing  
24 a short-term military service guardian may be in force at any  
25 given time, but a written instrument prepared in accordance  
26 with the same requirements of this Section may reappoint the

1 short-term military service guardian or name a different  
2 successor short-term military service guardian for an  
3 additional period of 180 days. A reappointment or the  
4 appointment of a successor short-term military service  
5 guardian may be accomplished by a written instrument completed  
6 before the expiration of the first written instrument.

7 (e) Every appointment of a short-term military service  
8 guardian may be amended or revoked by the appointing parent of  
9 the minor at any time and in any manner communicated to the  
10 short-term military service guardian or to any other person.  
11 Any person other than the short-term military service guardian  
12 to whom a revocation or amendment is communicated or delivered  
13 shall make all reasonable efforts to inform the short-term  
14 military service guardian of that fact as promptly as possible.

15 (f) The appointment of a short-term military service  
16 guardian or successor short-term military service guardian  
17 does not affect the rights of the other parent in the minor.

18 (g) The written instrument appointing a short-term  
19 military service guardian may, but need not, be in the  
20 following form:

21 APPOINTMENT OF SHORT-TERM MILITARY SERVICE GUARDIAN

22 IT IS IMPORTANT TO READ THE FOLLOWING INSTRUCTIONS:

23 By properly completing this form, a parent of the minor  
24 child is appointing a short-term military service guardian of a

1 child of the parent for a period of up to 180 days. A separate  
2 form should be completed for each child. The person appointed  
3 as the short-term military service guardian must sign the form,  
4 but need not do so at the same time as the parent or parents.  
5 This form may be used to reappoint a short-term military  
6 service guardian or to appoint a successor short-term military  
7 service guardian so as to extend the entire time of the  
8 guardianship to a period of 360 days. Both living parents of a  
9 child may together appoint a short-term military service  
10 guardian of the child for a period of up to 360 days through  
11 the use of this form. If the short-term military service  
12 guardian is appointed by both living parents of the child, the  
13 parents need not sign the form at the same time.

14 1. Parent and Child. I, (insert name of appointing  
15 parent), currently residing at (insert address of  
16 appointing parent), am a parent of the following child:  
17 (insert name and date of birth of child).

18 2. Guardian. I hereby appoint the following person as  
19 the short-term military service guardian for the child:  
20 (insert name and address of appointed person).

21 3. Effective date. This appointment becomes effective:  
22 (check one if you wish it to be applicable)

23 ( ) On the date that I state in writing that I am  
24 no longer able to make and carry out day-to-day child  
25 care decisions concerning the child because of my  
26 active duty status in the military.

1                   ( ) On the following date: (insert date).

2                   ( ) Other: (insert other).

3                   (NOTE: If this item is not completed, the appointment is  
4 effective immediately upon the date the form is signed and  
5 dated below.)

6                   4. Termination. This appointment shall terminate 180  
7 days after the effective date, unless it terminates sooner  
8 as determined by the event or date I have indicated below:  
9 (check one if you wish it to be applicable)

10                   ( ) On the date that I state in writing that I am  
11 willing and able to make and carry out day-to-day child  
12 care decisions concerning the child.

13                   ( ) On the date which is (state a number of days,  
14 but no more than 180 days) days after the effective  
15 date.

16                   ( ) Other: (insert other). (NOTE: If this item is  
17 not completed, the appointment will be effective for a  
18 period of 180 days, beginning on the effective date.)

19                   5. Date and signature of appointing parent. This  
20 appointment is made this (insert day) day of (insert month  
21 and year).

22                   Signed: (appointing parent)

23                   6. Witnesses. I saw the appointing parent sign this  
24 instrument or I saw the parent direct someone to sign this  
25 instrument for the parent. Then I signed this instrument as  
26 a witness in the presence of the parent. I am not appointed

1 in this instrument to act as the short-term military  
2 service guardian for the child. I am not related to the  
3 parent or to the person appointed as the short-term  
4 military service guardian. (Insert space for names,  
5 addresses, and signatures of 2 witnesses)

6 7. Acceptance of short-term military service guardian.  
7 I accept this appointment as short-term military service  
8 guardian on this (insert day) day of (insert month and  
9 year).

10 Signed: (short-term military service guardian)

11 8. Consent of child's other parent-if applicable. I,  
12 (insert name of the child's other living parent), currently  
13 residing at (insert address of child's other living  
14 parent), hereby consent to this appointment on this (insert  
15 day) day of (insert month and year).

16 Signed: (consenting parent)

17 (NOTE: The signature of a consenting parent is not  
18 necessary if one of the following applies: (i) the other parent  
19 does not have joint custody of the child; (ii) the child's  
20 other parent has died; or (iii) the whereabouts of the child's  
21 other parent are not known; or (iv) the child's other parent is  
22 not willing or able to make and carry out day-to-day child care  
23 decisions concerning the child; (v) the child's parents were  
24 never married and no court has issued an order establishing  
25 parentage; or (vi) the parental rights of the child's other  
26 parent have been terminated by a court order.)



1           Sworn Statement of Mailing

2           I, (insert name of appointing parent), currently residing  
3           at (insert address of appointing parent) delivered a signed and  
4           dated copy of the attached APPOINTMENT OF SHORT-TERM MILITARY  
5           SERVICE GUARDIAN by depositing it in a United States post  
6           office or post office box, enclosed in an envelope, plainly  
7           addressed to each person or office at the appropriate address  
8           listed below, with postage fully prepaid for delivery by  
9           certified or registered mail to:

10           (1) (name of other living parent) (insert address of  
11           other living parent);

12           (2) name of the court which issued the order that  
13           awarded physical custody of the child to the appointing  
14           parent (insert address of court);

15           (3) the court which issued the last order that concerns  
16           the child, the child's support, custody or visitation with  
17           the child (insert address of court); and

18           (4) if there is no court order, then to the circuit  
19           court clerk in the county in which the child resides  
20           (insert address of circuit court clerk).

21           Date and Signature. Dated this (insert day) day of (insert  
22           month and year).

23           Signed: (designating parent or guardian)

24           County of \_\_\_\_\_

25           State of \_\_\_\_\_

26           On this (insert day) of (insert month and year) at (insert

1 city and state), (insert name of appointing parent), appeared  
2 before me, a notary public of and for the county and State  
3 first above written, and identified himself or herself to be,  
4 or personally known to me to be, (insert name of appointing  
5 parent) and being first duly sworn signed his or her signature  
6 above.

7 (Seal)

8 Signed: (name of notary public)

9 (printed name of notary public)

10 (755 ILCS 5/11-13.4 new)

11 Sec. 11-13.4. Duties of short-term military service  
12 guardian of a minor.

13 (a) Immediately upon the effective date of the appointment  
14 of a short-term military service guardian, the short-term  
15 military service guardian shall assume all duties as short-term  
16 military service guardian of the minor as provided in this  
17 Section. The short-term military service guardian of the person  
18 shall have authority to act as short-term military service  
19 guardian, without direction of court, for the duration of the  
20 appointment, which in no case shall exceed a period of 180  
21 days. The authority of the short-term military service guardian  
22 may be limited or terminated by a court of competent  
23 jurisdiction.

24 (b) Unless further specifically limited by the instrument  
25 appointing the short-term military service guardian, a

1 short-term military service guardian shall have the authority  
2 to act as a guardian of the person of a minor as prescribed in  
3 Section 11-13, but shall not have any authority to act as  
4 guardian of the estate of a minor, except that a short-term  
5 military service guardian shall have the authority to apply for  
6 and receive on behalf of the minor benefits to which the child  
7 may be entitled from or under federal, State, or local  
8 organizations or programs.