

# HB2434



## 98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB2434

by Rep. Emily McAsey

### SYNOPSIS AS INTRODUCED:

755 ILCS 5/11-5.4

Amends the Probate Act of 1975. Provides that the appointment of a short-term guardian shall terminate upon the appointment of a temporary custodian for the minor under certain provisions of the Juvenile Court Act of 1987.

LRB098 08060 HEP 38151 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 Section 11-5.4 as follows:

6 (755 ILCS 5/11-5.4)

7 Sec. 11-5.4. Short-term guardian.

8 (a) A parent, adoptive parent, or adjudicated parent whose  
9 parental rights have not been terminated, or the guardian of  
10 the person of a minor may appoint in writing, without court  
11 approval, a short-term guardian of an unmarried minor or a  
12 child likely to be born. The written instrument appointing a  
13 short-term guardian shall be dated and shall identify the  
14 appointing parent or guardian, the minor, and the person  
15 appointed to be the short-term guardian. The written instrument  
16 shall be signed by, or at the direction of, the appointing  
17 parent in the presence of at least 2 credible witnesses at  
18 least 18 years of age, neither of whom is the person appointed  
19 as the short-term guardian. The person appointed as the  
20 short-term guardian shall also sign the written instrument, but  
21 need not sign at the same time as the appointing parent.

22 (b) A parent or guardian shall not appoint a short-term  
23 guardian of a minor if the minor has another living parent,

1 adoptive parent or adjudicated parent, whose parental rights  
2 have not been terminated, whose whereabouts are known, and who  
3 is willing and able to make and carry out day-to-day child care  
4 decisions concerning the minor, unless the nonappointing  
5 parent consents to the appointment by signing the written  
6 instrument of appointment.

7 (c) The appointment of the short-term guardian is effective  
8 immediately upon the date the written instrument is executed,  
9 unless the written instrument provides for the appointment to  
10 become effective upon a later specified date or event. Except  
11 as provided in subsection (c-5) of this Section, the ~~The~~  
12 short-term guardian shall have authority to act as guardian of  
13 the minor as provided in Section 11-13.2 for a period of 365  
14 days from the date the appointment is effective, unless the  
15 written instrument provides for the appointment to terminate  
16 upon an earlier specified date or event. Only one written  
17 instrument appointing a short-term guardian may be in force at  
18 any given time.

19 (c-5) The appointment of a short-term guardian under this  
20 Section shall terminate upon the appointment of a temporary  
21 custodian for the minor under Section 2-10, 3-12, or 4-6 of the  
22 Juvenile Court Act of 1987.

23 (d) Every appointment of a short-term guardian may be  
24 amended or revoked by the appointing parent or by the  
25 appointing guardian of the person of the minor at any time and  
26 in any manner communicated to the short-term guardian or to any

1 other person. Any person other than the short-term guardian to  
2 whom a revocation or amendment is communicated or delivered  
3 shall make all reasonable efforts to inform the short-term  
4 guardian of that fact as promptly as possible.

5 (e) The appointment of a short-term guardian or successor  
6 short-term guardian does not affect the rights of the other  
7 parent in the minor.

8 (f) The written instrument appointing a short-term  
9 guardian may, but need not, be in the following form:

10 APPOINTMENT OF SHORT-TERM GUARDIAN

11 [ IT IS IMPORTANT TO READ THE FOLLOWING INSTRUCTIONS:

12 By properly completing this form, a parent or the guardian  
13 of the person of the child is appointing a guardian of a child  
14 of the parent (or a minor ward of the guardian, as the case may  
15 be) for a period of up to 365 days. A separate form should be  
16 completed for each child. The person appointed as the guardian  
17 must sign the form, but need not do so at the same time as the  
18 parent or parents or guardian.

19 This form may not be used to appoint a guardian if there is  
20 a guardian already appointed for the child, except that if a  
21 guardian of the person of the child has been appointed, that  
22 guardian may use this form to appoint a short-term guardian.  
23 Both living parents of a child may together appoint a guardian  
24 of the child, or the guardian of the person of the child may

1 appoint a guardian of the child, for a period of up to 365 days  
2 through the use of this form. If the short-term guardian is  
3 appointed by both living parents of the child, the parents need  
4 not sign the form at the same time.]

5 1. Parent (or guardian) and Child. I, (insert name of  
6 appointing parent or guardian), currently residing at  
7 (insert address of appointing parent or guardian), am a  
8 parent (or the guardian of the person) of the following  
9 child (or of a child likely to be born): (insert name and  
10 date of birth of child, or insert the words "not yet born"  
11 to appoint a short-term guardian for a child likely to be  
12 born and the child's expected date of birth).

13 2. Guardian. I hereby appoint the following person as  
14 the short-term guardian for the child: (insert name and  
15 address of appointed person).

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

18 ( ) On the date that I state in writing that I am  
19 no longer either willing or able to make and carry out  
20 day-to-day child care decisions concerning the child.

21 ( ) On the date that a physician familiar with my  
22 condition certifies in writing that I am no longer  
23 willing or able to make and carry out day-to-day child  
24 care decisions concerning the child.

25 ( ) On the date that I am admitted as an in-patient  
26 to a hospital or other health care institution.

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 365  
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 that a physician familiar with my  
14 condition certifies in writing that I am willing and  
15 able to make and carry out day-to-day child care  
16 decisions concerning the child.

17           ( ) On the date that I am discharged from the  
18 hospital or other health care institution where I was  
19 admitted as an in-patient, which established the  
20 effective date.

21           ( ) On the date which is (state a number of days,  
22 but no more than 365 days) days after the effective  
23 date.

24           ( ) Other: (insert other).

25 [NOTE: If this item is not completed, the appointment will be  
26 effective for a period of 365 days, beginning on the effective

1 date.]

2 5. Date and signature of appointing parent or guardian.

3 This appointment is made this (insert day) day of (insert  
4 month and year).

5 Signed: (appointing parent)

6 6. Witnesses. I saw the parent (or the guardian of the  
7 person of the child) sign this instrument or I saw the  
8 parent (or the guardian of the person of the child) direct  
9 someone to sign this instrument for the parent (or the  
10 guardian). Then I signed this instrument as a witness in  
11 the presence of the parent (or the guardian). I am not  
12 appointed in this instrument to act as the short-term  
13 guardian for the child. (Insert space for names, addresses,  
14 and signatures of 2 witnesses)

15 7. Acceptance of short-term guardian. I accept this  
16 appointment as short-term guardian on this (insert day) day  
17 of (insert month and year).

18 Signed: (short-term guardian)

19 8. Consent of child's other parent. I, (insert name of  
20 the child's other living parent), currently residing at  
21 (insert address of child's other living parent), hereby  
22 consent to this appointment on this (insert day) day of  
23 (insert month and year).

24 Signed: (consenting parent)

25 [ NOTE: The signature of a consenting parent is not necessary if  
26 one of the following applies: (i) the child's other parent has

1 died; or (ii) the whereabouts of the child's other parent are  
2 not known; or (iii) the child's other parent is not willing or  
3 able to make and carry out day-to-day child care decisions  
4 concerning the child; or (iv) the child's parents were never  
5 married and no court has issued an order establishing  
6 parentage.]

7 (Source: P.A. 95-568, eff. 6-1-08.)