

AN ACT concerning civil law.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Probate Act of 1975 is amended by changing Sections 11-1, 11-5, 11-5.3, 11-5.4, 11-8, 11-8.1, and 11-13.1 as follows:

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

Sec. 11-1. Definitions. As used in this Article: ~~Minor~~
defined.)

"Administrative separation" means a parent's, legal guardian's, legal custodian's, or primary caretaker's: (1) arrest, detention, incarceration, removal, or deportation in connection with federal immigration enforcement; or (2) receipt of official communication by federal, State, or local authorities regarding immigration enforcement that gives reasonable notice that care and supervision of the child by the parent, legal guardian, legal custodian, or primary caretaker will be interrupted or cannot be provided.

"Minor" means ~~A minor~~ is a person who has not attained the age of 18 years. A person who has attained the age of 18 years is of legal age for all purposes except as otherwise provided in the Illinois Uniform Transfers to Minors Act.

(Source: P.A. 84-915.)

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

Sec. 11-5. Appointment of guardian.

(a) Upon the filing of a petition for the appointment of a guardian or on its own motion, the court may appoint a guardian of the estate or of both the person and estate, of a minor, or may appoint a guardian of the person only of a minor or minors, as the court finds to be in the best interest of the minor or minors.

(a-1) A parent, adoptive parent or adjudicated parent, whose parental rights have not been terminated, may designate in any writing, including a will, a person qualified to act under Section 11-3 to be appointed as guardian of the person or estate, or both, of an unmarried minor or of a child likely to be born. A parent, adoptive parent or adjudicated parent, whose parental rights have not been terminated, or a guardian or a standby guardian of an unmarried minor or of a child likely to be born may designate in any writing, including a will, a person qualified to act under Section 11-3 to be appointed as successor guardian of the minor's person or estate, or both. The designation must be witnessed by 2 or more credible witnesses at least 18 years of age, neither of whom is the person designated as the guardian. The designation may be proved by any competent evidence. If the designation is executed and attested in the same manner as a will, it shall have prima facie validity. The designation of a guardian or

successor guardian does not affect the rights of the other parent in the minor.

(b) The court lacks jurisdiction to proceed on a petition for the appointment of a guardian of a minor if it finds that (i) the minor has a living parent, adoptive parent or adjudicated parent, whose parental rights have not been terminated, whose whereabouts are known, and who is willing and able to make and carry out day-to-day child care decisions concerning the minor, unless: (1) the parent or parents voluntarily relinquished physical custody of the minor; (2) after receiving notice of the hearing under Section 11-10.1, the parent or parents fail to object to the appointment at the hearing on the petition; ~~or~~ (3) the parent or parents consent to the appointment as evidenced by a written document that has been notarized and dated, or by a personal appearance and consent in open court; or (4) the parent or parents, due to an administrative separation, are unable to give consent to the appointment in person or by a notarized, written document as evidenced by a sworn affidavit submitted by the petitioner describing the parent's or parents' inability to receive notice or give consent; or (ii) there is a guardian for the minor appointed by a court of competent jurisdiction. There shall be a rebuttable presumption that a parent of a minor is willing and able to make and carry out day-to-day child care decisions concerning the minor, but the presumption may be rebutted by a preponderance of the evidence. If a short-term guardian has

been appointed for the minor prior to the filing of the petition and the petitioner for guardianship is not the short-term guardian, there shall be a rebuttable presumption that it is in the best interest of the minor to remain in the care of the short-term guardian. The petitioner shall have the burden of proving by a preponderance of the evidence that it is not in the child's best interest to remain with the short-term guardian.

(b-1) If the court finds the appointment of a guardian of the minor to be in the best interest of the minor, and if a standby guardian has previously been appointed for the minor under Section 11-5.3, the court shall appoint the standby guardian as the guardian of the person or estate, or both, of the minor unless the court finds, upon good cause shown, that the appointment would no longer be in the best interest of the minor.

(c) If the minor is 14 years of age or more, the minor may nominate the guardian of the minor's person and estate, subject to approval of the court. If the minor's nominee is not approved by the court or if, after notice to the minor, the minor fails to nominate a guardian of the minor's person or estate, the court may appoint the guardian without nomination.

(d) The court shall not appoint as guardian of the person of the minor any person whom the court has determined had caused or substantially contributed to the minor becoming a neglected or abused minor as defined in the Juvenile Court Act

of 1987, unless 2 years have elapsed since the last proven incident of abuse or neglect and the court determines that appointment of such person as guardian is in the best interests of the minor.

(e) Previous statements made by the minor relating to any allegations that the minor is an abused or neglected child within the meaning of the Abused and Neglected Child Reporting Act, or an abused or neglected minor within the meaning of the Juvenile Court Act of 1987, shall be admissible in evidence in a hearing concerning appointment of a guardian of the person or estate of the minor. No such statement, however, if uncorroborated and not subject to cross-examination, shall be sufficient in itself to support a finding of abuse or neglect.

(Source: P.A. 98-1082, eff. 1-1-15.)

(755 ILCS 5/11-5.3)

Sec. 11-5.3. Appointment of standby guardian.

(a) A parent, adoptive parent, or adjudicated parent whose parental rights have not been terminated, or the guardian of the person of a minor may designate in any writing, including a will, a person qualified to act under Section 11-3 to be appointed as standby guardian of the person or estate, or both, of an unmarried minor or of a child likely to be born. A parent, adoptive parent, or adjudicated parent whose parental rights have not been terminated, or the guardian of the person of a minor or a standby guardian of an unmarried minor or of a

child likely to be born may designate in any writing, including a will, a person qualified to act under Section 11-3 to be appointed as successor standby guardian of the minor's person or estate, or both. The designation must be witnessed by 2 or more credible witnesses at least 18 years of age, neither of whom is the person designated as the standby guardian. The designation may be proved by any competent evidence. If the designation is executed and attested in the same manner as a will, it shall have prima facie validity. The designation of a standby guardian or successor standby guardian does not affect the rights of the other parent in the minor.

(b) Upon the filing of a petition for the appointment of a standby guardian, the court may appoint a standby guardian of the person or estate, or both, of a minor as the court finds to be in the best interest of the minor.

(c) The court lacks jurisdiction to proceed on a petition for the appointment of a standby guardian of a minor if the minor has a living parent, adoptive parent or adjudicated parent, whose parental rights have not been terminated, whose whereabouts are known, and who is willing and able to make and carry out day-to-day child care decisions concerning the minor, unless the parent or parents: (1) consent to the appointment; (2) ~~or~~ after receiving notice of the hearing under Section 11-10.1, fail to object to the appointment at the hearing on the petition; or (3) due to an administrative separation, are unable to give consent to the appointment in person or by a

notarized, written document as evidenced by a sworn affidavit submitted by the petitioner describing the parent's or parents' inability to receive notice or give consent. There shall be a rebuttable presumption that a parent of a minor is willing and able to make and carry out day-to-day child care decisions concerning the minor, but the presumption may be rebutted by a preponderance of the evidence.

(d) The standby guardian shall take and file an oath or affirmation that the standby guardian will faithfully discharge the duties of the office of standby guardian according to law, and shall file in and have approved by the court a bond binding the standby guardian so to do, but shall not be required to file a bond until the standby guardian assumes all duties as guardian of the minor under Section 11-13.1.

(e) The designation of a standby guardian may, but need not, be in the following form:

DESIGNATION OF STANDBY GUARDIAN

[IT IS IMPORTANT TO READ THE FOLLOWING INSTRUCTIONS:

A standby guardian is someone who has been appointed by the court as the person who will act as guardian of the child when the child's parents or the guardian of the person of the child die or are no longer willing or able to make and carry out day-to-day child care decisions concerning the child. By

properly completing this form, a parent or the guardian of the person of the child is naming the person that the parent or the guardian wants to be appointed as the standby guardian of the child or children. Both parents of a child may join together and co-sign this form. Signing the form does not appoint the standby guardian; to be appointed, a petition must be filed in and approved by the court.]

1. Parent (or guardian) and Children. I, (insert name of designating parent or guardian), currently residing at (insert address of designating parent or guardian), am a parent (or the guardian of the person) of the following child or children (or of a child likely to be born): (insert name and date of birth of each child, or insert the words "not yet born" to designate a standby guardian for a child likely to be born and the child's expected date of birth).

2. Standby Guardian. I hereby designate the following person to be appointed as standby guardian for the child or children listed above (insert name and address of person designated).

3. Successor Standby Guardian. If the person named in item 2 above cannot or will not act as standby guardian, I designate the following person to be appointed as successor standby guardian for the child or children: (insert name and address of person designated).

4. Date and Signature. This designation is made this

(insert day) day of (insert month and year).

Signed: (designating parent or guardian)

5. Witnesses. I saw the parent (or the guardian of the person of the child) sign this designation or the parent (or the guardian of the person of the child) told me that (he or she) signed this designation. Then I signed the designation as a witness in the presence of the parent (or the guardian). I am not designated in this instrument to act as a standby guardian for the child or children. (insert space for names, addresses, and signatures of 2 witnesses).

(Source: P.A. 90-796, eff. 12-15-98.)

(755 ILCS 5/11-5.4)

Sec. 11-5.4. Short-term guardian.

(a) A parent, adoptive parent, or adjudicated parent whose parental rights have not been terminated, or the guardian of the person of a minor may appoint in writing, without court approval, a short-term guardian of an unmarried minor or a child likely to be born. The written instrument appointing a short-term guardian shall be dated and shall identify the appointing parent or guardian, the minor, and the person appointed to be the short-term guardian. The written instrument shall be signed by, or at the direction of, the appointing parent in the presence of at least 2 credible witnesses at least 18 years of age, neither of whom is the person appointed

as the short-term guardian. The person appointed as the short-term guardian shall also sign the written instrument, but need not sign at the same time as the appointing parent.

(b) A parent or guardian shall not appoint a short-term guardian of a minor if the minor has another living parent, adoptive parent or adjudicated parent, whose parental rights have not been terminated, whose whereabouts are known, and who is willing and able to make and carry out day-to-day child care decisions concerning the minor, unless the nonappointing parent consents to the appointment by signing the written instrument of appointment.

(c) The appointment of the short-term guardian is effective immediately upon the date the written instrument is executed, unless the written instrument provides for the appointment to become effective upon a later specified date or event. Except as provided in subsection (e-5) or (e-10) of this Section, the short-term guardian shall have authority to act as guardian of the minor as provided in Section 11-13.2 for a period of 365 days from the date the appointment is effective, unless the written instrument provides for the appointment to terminate upon a different specified date or event as permitted by this Section. Only one written instrument appointing a short-term guardian may be in force at any given time.

(d) Every appointment of a short-term guardian may be amended or revoked by the appointing parent or by the appointing guardian of the person of the minor at any time and

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

(d-5) Except as provided in subsection (e-5) or (e-10), a short-term guardian appointed as the result of an administrative separation may renew a short-term guardianship for an additional 365 days from the date the initial appointment expires if the administrative separation is still in effect, unless the written instrument provides for the appointment to terminate upon a different date or event as permitted by this Section.

(e) The appointment of a short-term guardian or successor short-term guardian does not affect the rights of the other parent in the minor. The short-term guardian appointment does not constitute consent for court appointment of a guardian.

(e-5) Any time after the appointment of a temporary custodian under Section 2-10, 3-12, 4-9, 5-410, or 5-501 of the Juvenile Court Act of 1987, and after notice to all parties, including the short-term guardian, as required by the Juvenile Court Act of 1987, a court may vacate any short-term guardianship for the minor appointed under this Section, provided the vacation is consistent with the minor's best interests as determined using the factors listed in paragraph (4.05) of Section 1-3 of the Juvenile Court Act of 1987.

(e-10) A parent or guardian who is a member of the Armed Forces of the United States, including any reserve component thereof, or the commissioned corps of the National Oceanic and Atmospheric Administration or the Public Health Service of the United States Department of Health and Human Services detailed by proper authority for duty with the Armed Forces of the United States, or who is required to enter or serve in the active military service of the United States under a call or order of the President of the United States or to serve on State active duty, may appoint a short-term guardian for a period of longer than 365 days if on active duty service. The writing appointing the short-term guardian under this subsection shall include the dates of the parent's or guardian's active duty service, and the appointment may not exceed the term of active duty plus 30 days.

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

APPOINTMENT OF SHORT-TERM GUARDIAN

[IT IS IMPORTANT TO READ THE FOLLOWING INSTRUCTIONS:

By properly completing this form, a parent or the guardian of the person of the child is appointing a guardian of a child of the parent (or a minor ward of the guardian, as the case may be) for a period of up to 365 days. A separate form should be completed for each child. The person appointed as the guardian

must sign the form, but need not do so at the same time as the parent or parents or guardian.

If you are a parent or guardian who is a member of the Armed Forces of the United States, including any reserve component thereof, or the commissioned corps of the National Oceanic and Atmospheric Administration or the Public Health Service of the United States Department of Health and Human Services detailed by proper authority for duty with the Armed Forces of the United States, or who is required to enter or serve in the active military service of the United States under a call or order of the President of the United States or to serve on State active duty, you may appoint a short-term guardian for your child for the period of your active duty service plus 30 days. When executing this form, include the date your active duty service is scheduled to begin in part 3 and the date your active duty service is scheduled to end in part 4.

This form may not be used to appoint a guardian if there is a guardian already appointed for the child, except that if a guardian of the person of the child has been appointed, that guardian may use this form to appoint a short-term guardian. Both living parents of a child may together appoint a guardian of the child, or the guardian of the person of the child may appoint a guardian of the child, for a period of up to 365 days through the use of this form. If the short-term guardian is appointed by both living parents of the child, the parents need

not sign the form at the same time.]

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

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

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

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

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

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

On the following date: (insert date).

On the date my active duty service begins: (insert date).

Upon an administrative separation, as defined in Section 11-1.

Other: (insert other).

[NOTE: If this item is not completed, the appointment is effective immediately upon the date the form is signed and dated below.]

4. Termination. This appointment shall terminate 365 days after the effective date, unless it terminates as determined by the event or date I have indicated below:

(check one if you wish it to be applicable)

On the date that I state in writing that I am willing and able to make and carry out day-to-day child care decisions concerning the child, but not more than 365 days after the effective date.

On the date that a physician familiar with my condition certifies in writing that I am willing and able to make and carry out day-to-day child care decisions concerning the child, but not more than 365 days after the effective date.

On the date that I am discharged from the hospital or other health care institution where I was admitted as an in-patient, which established the effective date, but not more than 365 days after the effective date.

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

date.

() On the date no more than 30 days after my active duty service is scheduled to end: (insert date active duty service is scheduled to end).

() In the event the administrative separation, as defined in Section 11-1, has been resolved.

() Other: (insert other).

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

5. Date and signature of appointing parent or guardian. This appointment is made this (insert day) day of (insert month and year).

Signed: (appointing parent)

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

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

Signed: (short-term guardian)

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

Signed: (consenting parent)

[NOTE: The signature of a consenting parent is not necessary if one of the following applies: (i) the child's other parent has died; or (ii) the whereabouts of the child's other parent are not known; or (iii) the child's other parent is not willing or able to make and carry out day-to-day child care decisions concerning the child; or (iv) the child's parents were never married and no court has issued an order establishing parentage.]

(Source: P.A. 98-568, eff. 1-1-14; 98-1082, eff. 1-1-15; 99-599, eff. 1-1-17.)

(755 ILCS 5/11-8) (from Ch. 110 1/2, par. 11-8)

Sec. 11-8. Petition for guardian of minor.

(a) The petition for appointment of a guardian of the estate, or of both the person and estate, of a minor, or for appointment of the guardian of the person only of a minor or minors must state, if known: (1) the name, date of birth and residence of the minor; (2) the names and post office addresses of the nearest relatives of the minor in the following order:

(i) the spouse, if any; if none, (ii) the parents, adult brothers and sisters, and the short-term guardian, if any; if none, (iii) the nearest adult kindred; (3) the name and post office address of the person having the custody of the minor; (4) the approximate value of the personal estate; (5) the amount of the anticipated gross annual income and other receipts; (6) the name, post office address and, in case of an individual, the age and occupation of the proposed guardian; (7) the facts concerning the execution or admission to probate of the written designation of the guardian, if any, a copy of which shall be attached to or filed with the petition; and (8) the facts concerning any juvenile, adoption, parentage, dissolution, or guardianship court proceedings ~~actions~~ pending concerning the minor or the parents of the minor and whether any guardian is currently acting for the minor. In addition, if the petition seeks the appointment of a previously appointed standby guardian as guardian of the minor, the petition must also state: (9) the facts concerning the standby guardian's previous appointment and (10) the date of death of the minor's parent or parents or the facts concerning the consent of the minor's parent or parents to the appointment of the standby guardian as guardian, or the willingness and ability of the minor's parent or parents to make and carry out day-to-day child care decisions concerning the minor.

The petition must include facts concerning an administrative separation of the parent or parents including

the date of the separation and the known or presumed location of the parent or parents and any documentation related to an administrative separation, including, but not limited to, information contained in the online detainee locator system. Documentation related to an administrative separation shall be attached to the petition as an exhibit.

If a short-term guardian who has been appointed by the minor's parent or guardian prior to the filing of the petition subsequently petitions for court-ordered guardianship of the minor, the petition shall state the facts concerning the appointment of the short-term guardian, including: (i) the date of the appointment; (ii) the circumstances surrounding the appointment; (iii) the date the short-term guardian appointment ends; and (iv) the reasons why a court-ordered guardian is also needed for the minor. A copy of the short-term guardianship appointment shall be attached to the petition.

(b) A single petition for appointment of only a guardian of the person of a minor may include more than one minor. The statements required in items (1) and (2) of subsection (a) shall be listed separately for each minor.

(Source: P.A. 98-1082, eff. 1-1-15.)

(755 ILCS 5/11-8.1)

Sec. 11-8.1. Petition for standby guardian of minor. The petition for appointment of a standby guardian of the person or the estate, or both, of a minor must state, if known: (a) the

name, date of birth, and residence of the minor; (b) the names and post office addresses of the nearest relatives of the minor in the following order: (1) the parents, if any; (2) the adult brothers and sisters, if any; if none, (3) the nearest adult kindred; (4) the short-term guardian, if any; (c) the name and post office address of the person having custody of the minor; (d) the name, post office address, and, in case of any individual, the age and occupation of the proposed standby guardian; (e) the facts concerning the consent of the minor's parent or parents or the guardian of the person of the minor to the appointment of the standby guardian, or the willingness and ability of the minor's parent or parents, if any, or the guardian of the person of the minor to make and carry out day-to-day child care decisions concerning the minor; (f) the facts concerning the execution or admission to probate of the written designation of the standby guardian, if any, a copy of which shall be attached to or filed with the petition; and (g) the facts concerning any juvenile, adoption, parentage, dissolution, or guardianship court proceedings ~~actions~~ pending concerning the minor or the parents of the minor and whether any guardian is currently acting for the minor. If a short-term guardian has been appointed by the minor's parent or guardian and subsequently petitions for standby guardianship of the minor, the petition shall state the facts concerning the appointment of the short-term guardian, including: (i) the date of the appointment; (ii) the circumstances surrounding the

appointment; (iii) the date the short-term guardian appointment ends; and (iv) the reasons why a standby guardian is also needed for the minor. A copy of the short-term guardianship appointment shall be attached to the petition.

The petition must include facts concerning an administrative separation of the parent or parents including the date of the separation and the known or presumed location of the parent or parents and any documentation related to an administrative separation, including, but not limited to, information contained in the online detainee locator system. Documentation related to an administrative separation shall be attached to the petition as an exhibit.

(Source: P.A. 98-1082, eff. 1-1-15.)

(755 ILCS 5/11-13.1)

Sec. 11-13.1. Duties of standby guardian of a minor.

(a) Before a standby guardian of a minor may act, the standby guardian must be appointed by the court of the proper county and, in the case of a standby guardian of the minor's estate, the standby guardian must give the bond prescribed in subsection (d) of Section 11-5.3 and Section 12-2.

(b) The standby guardian shall not have any duties or authority to act until the standby guardian receives knowledge ~~(i)~~ of: (i) the death or consent of the minor's parent or parents or of the guardian of the person of the minor; ~~or~~ (ii) the inability of the minor's parent or parents or of the

guardian of the person of the minor to make and carry out day-to-day child care decisions concerning the minor for whom the standby guardian has been appointed; or (iii) an administrative separation. This inability to make and carry out day-to-day child care decisions may be communicated either by the parent's or the guardian's own admission or by the written certification of the parent's or guardian's attending physician. Immediately upon receipt of that knowledge, the standby guardian shall assume all duties as guardian of the minor as previously determined by the order appointing the standby guardian, and as set forth in Section 11-13, and the standby guardian of the person shall have the authority to act as guardian of the person without direction of court for a period of up to 60 days, provided that the authority of the standby guardian may be limited or terminated by a court of competent jurisdiction.

(c) Within 60 days of the standby guardian's receipt of knowledge of (i) the death or consent of the minor's parent or parents or guardian or (ii) the inability of the minor's parent or parents or guardian to make and carry out day-to-day child care decisions concerning the minor, the standby guardian shall file or cause to be filed a petition for the appointment of a guardian of the person or estate, or both, of the minor under Section 11-5.

(Source: P.A. 90-796, eff. 12-15-98.)

Section 99. Effective date. This Act takes effect upon

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becoming law.