

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 11a-9, 11a-11, and 11a-12 as follows:

(755 ILCS 5/11a-9) (from Ch. 110 1/2, par. 11a-9)
Sec. 11a-9. Report.)

(a) The petition for adjudication of disability and for appointment of a guardian should be accompanied by a report which contains (1) a description of the nature and type of the respondent's disability and an assessment of how the disability impacts on the ability of the respondent to make decisions or to function independently; (2) an analysis and results of evaluations of the respondent's mental and physical condition and, where appropriate, educational condition, adaptive behavior and social skills, which have been performed within 3 months of the date of the filing of the petition; (3) an opinion as to whether guardianship is needed, the type and scope of the guardianship needed, and the reasons therefor; (4) a recommendation as to the most suitable living arrangement and, where appropriate, treatment or habilitation plan for the respondent and the reasons therefor; (5) the name, business address, business telephone number, and ~~the~~ signatures of all

persons who performed the evaluations upon which the report is based, one of whom shall be a licensed physician and a statement of the certification, license, or other credentials that qualify the evaluators who prepared the report.

(b) If for any reason no report accompanies the petition, the court shall order appropriate evaluations to be performed by a qualified person or persons and a report prepared and filed with the court at least 10 days prior to the hearing.

(b-5) Upon oral or written motion by the respondent or the guardian ad litem or upon the court's own motion, the court shall appoint one or more independent experts to examine the respondent. Upon the filing with the court of a verified statement of services rendered by the expert or experts, the court shall determine a reasonable fee for the services performed. If the respondent is unable to pay the fee, the court may enter an order upon the petitioner to pay the entire fee or such amount as the respondent is unable to pay. However, in cases where the Office of State Guardian is the petitioner, consistent with Section 30 of the Guardianship and Advocacy Act, no expert services fees shall be assessed against the Office of the State Guardian.

(c) Unless the court otherwise directs, any report prepared pursuant to this Section shall not be made part of the public record of the proceedings but shall be available to the court or an appellate court in which the proceedings are subject to review, to the respondent, the petitioner, the guardian, and

their attorneys, to the respondent's guardian ad litem, and to such other persons as the court may direct.

(Source: P.A. 89-396, eff. 8-20-95.)

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

Sec. 11a-11. Hearing.

(a) The respondent is entitled to be represented by counsel, to demand a jury of 6 persons, to present evidence, and to confront and cross-examine all witnesses. The hearing may be closed to the public on request of the respondent, the guardian ad litem, or appointed or other counsel for the respondent. Unless excused by the court upon a showing that the respondent refuses to be present or will suffer harm if required to attend, the respondent shall be present at the hearing.

(b) (Blank) .

(c) (Blank) ~~Upon oral or written motion by the respondent or the guardian ad litem or on the court's own motion, the court shall appoint one or more independent experts to examine the respondent. Upon the filing with the court of a verified statement of services rendered by the expert or experts, the court shall determine a reasonable fee for the services performed. If the respondent is unable to pay the fee, the court may enter an order upon the petitioner to pay the entire fee or such amount as the respondent is unable to pay. However, in cases where the Office of State Guardian is the petitioner,~~

~~consistent with Section 30 of the Guardianship and Advocacy Act, no expert services fees shall be assessed against the Office of the State Guardian.~~

(d) In an uncontested proceeding for the appointment of a guardian the person who prepared the report required by Section 11a-9 will only be required to testify at trial upon order of court for cause shown.

(e) At the hearing the court shall inquire regarding: (1) the nature and extent of respondent's general intellectual and physical functioning; (2) the extent of the impairment of his adaptive behavior if he is a person with a developmental disability, or the nature and severity of his mental illness if he is a person with mental illness; (3) the understanding and capacity of the respondent to make and communicate responsible decisions concerning his person; (4) the capacity of the respondent to manage his estate and his financial affairs; (5) the appropriateness of proposed and alternate living arrangements; (6) the impact of the disability upon the respondent's functioning in the basic activities of daily living and the important decisions faced by the respondent or normally faced by adult members of the respondent's community; and (7) any other area of inquiry deemed appropriate by the court.

(f) An authenticated transcript of the evidence taken in a judicial proceeding concerning the respondent under the Mental Health and Developmental Disabilities Code is admissible in

evidence at the hearing.

(g) If the petition is for the appointment of a guardian for a disabled beneficiary of the Veterans Administration, a certificate of the Administrator of Veterans Affairs or his representative stating that the beneficiary has been determined to be incompetent by the Veterans Administration on examination in accordance with the laws and regulations governing the Veterans Administration in effect upon the date of the issuance of the certificate and that the appointment of a guardian is a condition precedent to the payment of any money due the beneficiary by the Veterans Administration, is admissible in evidence at the hearing.

(Source: P.A. 88-32; 88-380; 88-670, eff. 12-2-94; 89-396, eff. 8-20-95.)

(755 ILCS 5/11a-12) (from Ch. 110 1/2, par. 11a-12)

Sec. 11a-12. Order of appointment.)

(a) If basis for the appointment of a guardian as specified in Section 11a-3 is not found, the court shall dismiss the petition.

(b) If the respondent is adjudged to be disabled and to lack some but not all of the capacity as specified in Section 11a-3, and if the court finds that guardianship is necessary for the protection of the disabled person, his or her estate, or both, the court shall appoint a limited guardian for the respondent's person or estate or both. The court shall enter a

written order stating the factual basis for its findings and specifying the duties and powers of the guardian and the legal disabilities to which the respondent is subject.

(c) If the respondent is adjudged to be disabled and to be totally without capacity as specified in Section 11a-3, and if the court finds that limited guardianship will not provide sufficient protection for the disabled person, his or her estate, or both, the court shall appoint a plenary guardian for the respondent's person or estate or both. The court shall enter a written order stating the factual basis for its findings.

(d) The selection of the guardian shall be in the discretion of the court, which shall give due consideration to the preference of the disabled person as to a guardian, as well as the qualifications of the proposed guardian, in making its appointment. However, the paramount concern in the selection of the guardian is the best interest and well-being of the disabled person.

(Source: P.A. 97-1093, eff. 1-1-13.)