



Sen. Scott M. Bennett

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10000HB4687sam001

LRB100 17480 HEP 38799 a

1 AMENDMENT TO HOUSE BILL 4687

2 AMENDMENT NO. _____. Amend House Bill 4687 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 the
7 court order. If the ward's estate is insufficient to provide
8 for education and the guardian of the ward's person fails to
9 provide education, the court may award the custody of the ward
10 to some other person for the purpose of providing education. If
11 a person makes a settlement upon or provision for the support
12 or education of a ward, the court may make an order for the
13 visitation of the ward by the person making the settlement or
14 provision as the court deems proper. A guardian of the person
15 may not admit a ward to a mental health facility except at the
16 ward's request as provided in Article IV of the Mental Health
17 and Developmental Disabilities Code and unless the ward has the
18 capacity to consent to such admission as provided in Article IV
19 of the Mental Health and Developmental Disabilities Code.

20 (a-5) If the ward filed a petition for dissolution of
21 marriage under the Illinois Marriage and Dissolution of
22 Marriage Act before the ward was adjudicated a person with a
23 disability under this Article, the guardian of the ward's
24 person and estate may maintain that action for dissolution of
25 marriage on behalf of the ward. Upon petition by the guardian
26 of the ward's person or estate, the court may authorize and

1 direct a guardian of the ward's person or estate to file a
2 petition for dissolution of marriage or to file a petition for
3 legal separation or declaration of invalidity of marriage under
4 the Illinois Marriage and Dissolution of Marriage Act on behalf
5 of the ward if the court finds by clear and convincing evidence
6 that the relief sought is in the ward's best interests. In
7 making its determination, the court shall consider the
8 standards set forth in subsection (e) of this Section.

9 (a-10) Upon petition by the guardian of the ward's person
10 or estate, the court may authorize and direct a guardian of the
11 ward's person or estate to consent, on behalf of the ward, to
12 the ward's marriage pursuant to Part II of the Illinois
13 Marriage and Dissolution of Marriage Act if the court finds by
14 clear and convincing evidence that the marriage is in the
15 ward's best interests. In making its determination, the court
16 shall consider the standards set forth in subsection (e) of
17 this Section. Upon presentation of a court order authorizing
18 and directing a guardian of the ward's person and estate to
19 consent to the ward's marriage, the county clerk shall accept
20 the guardian's application, appearance, and signature on
21 behalf of the ward for purposes of issuing a license to marry
22 under Section 203 of the Illinois Marriage and Dissolution of
23 Marriage Act.

24 (b) If the court directs, the guardian of the person shall
25 file with the court at intervals indicated by the court, a
26 report that shall state briefly: (1) the current mental,

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

15 (c) Absent court order pursuant to the Illinois Power of
16 Attorney Act directing a guardian to exercise powers of the
17 principal under an agency that survives disability, the
18 guardian has no power, duty, or liability with respect to any
19 personal or health care matters covered by the agency. This
20 subsection (c) applies to all agencies, whenever and wherever
21 executed.

22 (d) A guardian acting as a surrogate decision maker under
23 the Health Care Surrogate Act shall have all the rights of a
24 surrogate under that Act without court order including the
25 right to make medical treatment decisions such as decisions to
26 forgo or withdraw life-sustaining treatment. Any decisions by

1 the guardian to forgo or withdraw life-sustaining treatment
2 that are not authorized under the Health Care Surrogate Act
3 shall require a court order. Nothing in this Section shall
4 prevent an agent acting under a power of attorney for health
5 care from exercising his or her authority under the Illinois
6 Power of Attorney Act without further court order, unless a
7 court has acted under Section 2-10 of the Illinois Power of
8 Attorney Act. If a guardian is also a health care agent for the
9 ward under a valid power of attorney for health care, the
10 guardian acting as agent may execute his or her authority under
11 that act without further court order.

12 (e) Decisions made by a guardian on behalf of a ward shall
13 be made in accordance with the following standards for decision
14 making. Decisions made by a guardian on behalf of a ward may be
15 made by conforming as closely as possible to what the ward, if
16 competent, would have done or intended under the circumstances,
17 taking into account evidence that includes, but is not limited
18 to, the ward's personal, philosophical, religious and moral
19 beliefs, and ethical values relative to the decision to be made
20 by the guardian. Where possible, the guardian shall determine
21 how the ward would have made a decision based on the ward's
22 previously expressed preferences, and make decisions in
23 accordance with the preferences of the ward. If the ward's
24 wishes are unknown and remain unknown after reasonable efforts
25 to discern them, the decision shall be made on the basis of the
26 ward's best interests as determined by the guardian. In

1 determining the ward's best interests, the guardian shall weigh
2 the reason for and nature of the proposed action, the benefit
3 or necessity of the action, the possible risks and other
4 consequences of the proposed action, and any available
5 alternatives and their risks, consequences and benefits, and
6 shall take into account any other information, including the
7 views of family and friends, that the guardian believes the
8 ward would have considered if able to act for herself or
9 himself.

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

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

1 arrangements for the disposition of the ward's remains.

2 (2) If a guardian unreasonably prevents an adult child,
3 spouse, adult grandchild, parent, or adult sibling of the ward
4 from visiting the ward, the court, upon a verified petition ~~by~~
5 ~~an adult child~~, may order the guardian to permit visitation
6 between the ward and the adult child, spouse, adult grandchild,
7 parent, or adult sibling ~~if the court finds that the visitation~~
8 ~~is in the ward's best interests~~. In making its determination,
9 the court shall consider the standards set forth in subsection
10 (e) of this Section. The court shall not allow visitation if
11 the court finds that the ward has capacity to evaluate and
12 communicate decisions regarding visitation and expresses a
13 desire not to have visitation with the petitioner. This
14 subsection (g) does not apply to duly appointed public
15 guardians or the Office of State Guardian.

16 (Source: P.A. 98-1107, eff. 8-26-14; 99-143, eff. 7-27-15;
17 99-821, eff. 1-1-17.)".