

SB0527



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB0527

Introduced 2/23/2021, by Sen. Julie A. Morrison

SYNOPSIS AS INTRODUCED:

755 ILCS 5/11a-4

from Ch. 110 1/2, par. 11a-4

Amends the Guardians For Adults With Disabilities Article of the Probate Act of 1975. Provides that a petition for the appointment of a temporary guardian for an alleged person with a disability shall be filed at the time of or subsequent to the filing of a petition for adjudication of disability and appointment of a guardian. Provides that the petition for the appointment of a temporary guardian shall state specific facts. Provides that notice of the time and place of the hearing on a petition for the appointment of a temporary guardian or petition to revoke the appointment of a temporary guardian shall be given not less than 3 days before the hearing.

LRB102 11663 LNS 16997 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 11a-4 as follows:

6 (755 ILCS 5/11a-4) (from Ch. 110 1/2, par. 11a-4)

7 Sec. 11a-4. Temporary guardian.

8 (a) Prior to the appointment of a guardian under this
9 Article, pending an appeal in relation to the appointment, or
10 pending the completion of a citation proceeding brought
11 pursuant to Section 23-3 of this Act, or upon a guardian's
12 death, incapacity, or resignation, the court may appoint a
13 temporary guardian upon a showing of the necessity therefor
14 for the immediate welfare and protection of the alleged person
15 with a disability or his or her estate ~~on such notice~~ and
16 subject to such conditions as the court may prescribe. A
17 petition for the appointment of a temporary guardian for an
18 alleged person with a disability shall be filed at the time of
19 or subsequent to the filing of a petition for adjudication of
20 disability and appointment of a guardian. The petition for the
21 appointment of a temporary guardian shall state the facts upon
22 which it is based and the name, the post office address, and,
23 in the case of an individual, the age and occupation of the

1 proposed temporary guardian. In determining the necessity for
2 temporary guardianship, the immediate welfare and protection
3 of the alleged person with a disability and his or her estate
4 shall be of paramount concern, and the interests of the
5 petitioner, any care provider, or any other party shall not
6 outweigh the interests of the alleged person with a
7 disability. The temporary guardian shall have the limited
8 powers and duties of a guardian of the person or of the estate
9 which are specifically enumerated by court order. The court
10 order shall state the actual harm identified by the court that
11 necessitates temporary guardianship or any extension thereof.

12 (a-5) Notice of the time and place of the hearing on a
13 petition for the appointment of a temporary guardian shall be
14 given, not less than 3 days before the hearing, by mail or in
15 person to the alleged person with a disability, the proposed
16 temporary guardian, and to those persons whose names and
17 addresses are listed in the petition for adjudication of
18 disability and appointment of a guardian under Section 11a-8.
19 The court, upon a finding of good cause, may waive the notice
20 requirement under this subsection.

21 (a-10) Notice of the time and place of the hearing on a
22 petition to revoke the appointment of a temporary guardian
23 shall be given, not less than 3 days before the hearing, by
24 mail or in person to the temporary guardian, to the petitioner
25 on whose petition the temporary guardian was appointed, and to
26 those persons whose names and addresses are listed in the

1 petition for adjudication of disability and appointment of a
2 guardian under Section 11a-8. The court, upon a finding of
3 good cause, may waive the notice requirement under this
4 subsection.

5 (b) The temporary guardianship shall expire within 60 days
6 after the appointment or whenever a guardian is regularly
7 appointed, whichever occurs first. No extension shall be
8 granted except:

9 (1) In a case where there has been an adjudication of
10 disability, an extension shall be granted:

11 (i) pending the disposition on appeal of an
12 adjudication of disability;

13 (ii) pending the completion of a citation
14 proceeding brought pursuant to Section 23-3;

15 (iii) pending the appointment of a successor
16 guardian in a case where the former guardian has
17 resigned, has become incapacitated, or is deceased; or

18 (iv) where the guardian's powers have been
19 suspended pursuant to a court order.

20 (2) In a case where there has not been an adjudication
21 of disability, an extension shall be granted pending the
22 disposition of a petition brought pursuant to Section
23 11a-8 so long as the court finds it is in the best interest
24 of the alleged person with a disability to extend the
25 temporary guardianship so as to protect the alleged person
26 with a disability from any potential abuse, neglect,

1 self-neglect, exploitation, or other harm and such
2 extension lasts no more than 120 days from the date the
3 temporary guardian was originally appointed.

4 The ward shall have the right any time after the
5 appointment of a temporary guardian is made to petition the
6 court to revoke the appointment of the temporary guardian.

7 (Source: P.A. 99-70, eff. 1-1-16; 99-143, eff. 7-27-15;
8 99-642, eff. 7-28-16.)