



Rep. Sara Feigenholtz

Filed: 6/1/2004

09300SB0938ham001

LRB093 03154 LCB 52027 a

1 AMENDMENT TO SENATE BILL 938

2 AMENDMENT NO. _____. Amend Senate Bill 938 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Probate Act of 1975 is amended by changing
5 Sections 11-3 and 11a-5 as follows:

6 (755 ILCS 5/11-3) (from Ch. 110 1/2, par. 11-3)

7 Sec. 11-3. Who may act as guardian.

8 (a) A person ~~who has attained the age of 18 years, is a~~
9 ~~resident of the United States, is not of unsound mind, is not~~
10 ~~an adjudged disabled person as defined in this Act, has not~~
11 ~~been convicted of a felony, and who the court finds is capable~~
12 ~~of providing an active and suitable program of guardianship for~~
13 ~~the minor~~ is qualified to act as guardian of the person and as
14 guardian of the estate if the court finds that the proposed
15 guardian is capable of providing an active and suitable program
16 of guardianship for the minor and that the proposed guardian:

17 (1) has attained the age of 18 years;

18 (2) is a resident of the United States;

19 (3) is not of unsound mind;

20 (4) is not an adjudged disabled person as defined in
21 this Act; and

22 (5) has not been convicted of a felony, unless the
23 court finds appointment of the person convicted of a felony
24 to be in the minor's best interests, and as part of the

1 best interest determination, the court has considered the
2 nature of the offense, the date of offense, and the
3 evidence of the proposed guardian's rehabilitation. No
4 person shall be appointed who has been convicted of a
5 felony, including a felony sexual offense, involving harm
6 or threat to a child.

7 One person may be appointed guardian of the person and another
8 person appointed guardian of the estate.

9 (b) The Department of Human Services or the Department of
10 Children and Family Services may with the approval of the court
11 designate one of its employees to serve without fees as
12 guardian of the estate of a minor patient in a State mental
13 hospital or a resident in a State institution when the value of
14 the personal estate does not exceed \$1,000.

15 (Source: P.A. 89-507, eff. 7-1-97; 90-430, eff. 8-16-97;
16 90-472, eff. 8-17-97.)

17 (755 ILCS 5/11a-5) (from Ch. 110 1/2, par. 11a-5)
18 Sec. 11a-5. Who may act as guardian.

19 (a) ~~A person who has attained the age of 18 years, is a~~
20 ~~resident of the United States, is not of unsound mind, is not~~
21 ~~an adjudged disabled person as defined in this Act, has not~~
22 ~~been convicted of a felony, and who the court finds is capable~~
23 ~~of providing an active and suitable program of guardianship for~~
24 ~~the disabled person~~ is qualified to act as guardian of the
25 person and as guardian of the estate of a disabled person if
26 the court finds that the proposed guardian is capable of
27 providing an active and suitable program of guardianship for
28 the disabled person and that the proposed guardian:

29 (1) has attained the age of 18 years;

30 (2) is a resident of the United States;

31 (3) is not of unsound mind;

32 (4) is not an adjudged disabled person as defined in

33 this Act; and

1 (5) has not been convicted of a felony, unless the
2 court finds appointment of the person convicted of a felony
3 to be in the disabled person's best interests, and as part
4 of the best interest determination, the court has
5 considered the nature of the offense, the date of offense,
6 and the evidence of the proposed guardian's
7 rehabilitation. No person shall be appointed who has been
8 convicted of a felony, including a felony sexual offense,
9 involving harm or threat to an elderly or disabled person.

10 (b) Any public agency, or not-for-profit corporation found
11 capable by the court of providing an active and suitable
12 program of guardianship for the disabled person, taking into
13 consideration the nature of such person's disability and the
14 nature of such organization's services, may be appointed
15 guardian of the person or of the estate, or both, of the
16 disabled person. The court shall not appoint as guardian an
17 agency which is directly providing residential services to the
18 ward. One person or agency may be appointed guardian of the
19 person and another person or agency appointed guardian of the
20 estate.

21 (c) Any corporation qualified to accept and execute trusts
22 in this State may be appointed guardian of the estate of a
23 disabled person.

24 (Source: P.A. 90-430, eff. 8-16-97; 90-472, eff. 8-17-97.)

25 Section 99. Effective date. This Act takes effect July 1,
26 2005."