



## 96TH GENERAL ASSEMBLY

### State of Illinois

### 2009 and 2010

### SB1928

Introduced 2/20/2009, by Sen. Ira I. Silverstein

#### SYNOPSIS AS INTRODUCED:

20 ILCS 3955/5	from Ch. 91 1/2, par. 705
20 ILCS 3955/7	from Ch. 91 1/2, par. 707
20 ILCS 3955/14	from Ch. 91 1/2, par. 714
20 ILCS 3955/15	from Ch. 91 1/2, par. 715
20 ILCS 3955/16	from Ch. 91 1/2, par. 716
20 ILCS 3955/21	from Ch. 91 1/2, par. 721
20 ILCS 3955/24	from Ch. 91 1/2, par. 724
20 ILCS 3955/27	from Ch. 91 1/2, par. 727

Amends the Guardianship and Advocacy Act. Provides that Guardianship and Advocacy Commission, acting on a request from the Director of the Guardianship and Advocacy Commission, may disapprove any action of a regional authority, in which case the regional authority shall cease such action. Provides that the Commission shall operate subject to the provisions of the Illinois Procurement Code (instead of the Illinois Purchasing Act). Provides that the Director shall carry out the policies and programs of the Commission and coordinate the activities of its divisions and may delegate to the Human Rights Authority Director any specified duties. Transfers the authority of certain appointment duties from the Commission to the Director. Provides that reassignments of investigations for conflicts of interest and refusals to investigate shall be reviewed and approved by the Director and the Director may seek direction from the Commission. Provides that a regional authority may conduct investigations upon its own initiative if it has reason to believe that the rights of an eligible person have been violated in the region in which the authority sits, unless the Director (rather than Commission) finds that a conflict of interest exists and directs another regional authority to conduct the investigation. Provides that closed meetings by a regional authority are subject to the provisions of the Open Meetings Act. Transfers the authority for referrals for further action from the Commission to the Director. Provides that a regional authority may, by acting through the Director, propose to the Commission legislation for the purpose of safeguarding the rights of eligible persons.

LRB096 11257 MJR 21673 b

1 AN ACT concerning State government.

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

4 Section 5. The Guardianship and Advocacy Act is amended by  
5 changing Sections 5, 7, 14, 15, 16, 21, 24, and 27 as follows:

6 (20 ILCS 3955/5) (from Ch. 91 1/2, par. 705)

7 Sec. 5. (a) The Commission shall establish throughout the  
8 State such regions as it considers appropriate to effectuate  
9 the purposes of the Authority under this Act, taking into  
10 account the requirements of State and federal statutes;  
11 population; civic, health and social service boundaries; and  
12 other pertinent factors.

13 (b) The Commission shall act through its divisions as  
14 provided in this Act.

15 (c) The Commission shall establish general policy  
16 guidelines for the operation of the Legal Advocacy Service,  
17 Human Rights Authority and State Guardian in furtherance of  
18 this Act. Any action taken by a regional authority is subject  
19 to the review and approval of the Commission. The Commission,  
20 acting on a request from the Director, may disapprove any  
21 action of a regional authority, in which case the regional  
22 authority shall cease such action.

23 (d) The Commission shall hire a Director and staff to carry

1 out the powers and duties of the Commission and its divisions  
2 pursuant to this Act and the rules and regulations promulgated  
3 by the Commission. All staff other than the Director shall be  
4 subject to the Personnel Code.

5 (e) The Commission shall review and evaluate the operations  
6 of the divisions.

7 (f) The Commission shall operate subject to the provisions  
8 of the Illinois Procurement Code ~~The Illinois Purchasing Act~~.

9 (g) The Commission shall prepare its budget.

10 (h) The Commission shall prepare an annual report on its  
11 operations and submit the report to the Governor and the  
12 General Assembly.

13 The requirement for reporting to the General Assembly shall  
14 be satisfied by filing copies of the report with the Speaker,  
15 the Minority Leader and the Clerk of the House of  
16 Representatives and the President, the Minority Leader and the  
17 Secretary of the Senate and the Legislative Research Unit, as  
18 required by Section 3.1 of "An Act to revise the law in  
19 relation to the General Assembly", approved February 25, 1874,  
20 and filing such additional copies with the State Government  
21 Report Distribution Center for the General Assembly as is  
22 required under paragraph (t) of Section 7 of the State Library  
23 Act.

24 (i) The Commission shall establish rules and regulations  
25 for the conduct of the work of its divisions, including rules  
26 and regulations for the Legal Advocacy Service and the State

1 Guardian in evaluating an eligible person's or ward's financial  
2 resources for the purpose of determining whether the eligible  
3 person or ward has the ability to pay for legal or guardianship  
4 services received. The determination of the eligible person's  
5 financial ability to pay for legal services shall be based upon  
6 the number of dependents in the eligible person's family unit  
7 and the income, liquid assets and necessary expenses, as  
8 prescribed by rule of the Commission of: (1) the eligible  
9 person; (2) the eligible person's spouse; and (3) the parents  
10 of minor eligible persons. The determination of a ward's  
11 ability to pay for guardianship services shall be based upon  
12 the ward's estate. An eligible person or ward found to have  
13 sufficient financial resources shall be required to pay the  
14 Commission in accordance with standards established by the  
15 Commission. No fees may be charged for legal services given  
16 unless the eligible person is given notice at the start of such  
17 services that such fees might be charged. No fees may be  
18 charged for guardianship services given unless the ward is  
19 given notice of the request for fees filed with the probate  
20 court and the court approves the amount of fees to be assessed.  
21 All fees collected shall be deposited with the State Treasurer  
22 and placed in the Guardianship and Advocacy Fund. The  
23 Commission shall establish rules and regulations regarding the  
24 procedures of appeal for clients prior to termination or  
25 suspension of legal services. Such rules and regulations shall  
26 include, but not be limited to, client notification procedures

1 prior to the actual termination, the scope of issues subject to  
2 appeal, and procedures specifying when a final administrative  
3 decision is made.

4 (j) The Commission shall take such actions as it deems  
5 necessary and appropriate to receive private, federal and other  
6 public funds to help support the divisions and to safeguard the  
7 rights of eligible persons. Private funds and property may be  
8 accepted, held, maintained, administered and disposed of by the  
9 Commission, as trustee, for such purposes for the benefit of  
10 the People of the State of Illinois pursuant to the terms of  
11 the instrument granting the funds or property to the  
12 Commission.

13 (k) The Commission may expend funds under the State's plan  
14 to protect and advocate the rights of persons with a  
15 developmental disability established under the federal  
16 Developmental Disabilities Services and Facilities  
17 Construction Act (Public Law 94-103, Title II). If the Governor  
18 designates the Commission to be the organization or agency to  
19 provide the services called for in the State plan, the  
20 Commission shall make these protection and advocacy services  
21 available to persons with a developmental disability by  
22 referral or by contracting for these services to the extent  
23 practicable. If the Commission is unable to so make available  
24 such protection and advocacy services, it shall provide them  
25 through persons in its own employ.

26 (l) The Commission shall, to the extent funds are

1 available, monitor issues concerning the rights of eligible  
2 persons and the care and treatment provided to those persons,  
3 including but not limited to the incidence of abuse or neglect  
4 of eligible persons. For purposes of that monitoring the  
5 Commission shall have access to reports of suspected abuse or  
6 neglect and information regarding the disposition of such  
7 reports, subject to the provisions of the Mental Health and  
8 Developmental Disabilities Confidentiality Act.

9 (Source: P.A. 88-380.)

10 (20 ILCS 3955/7) (from Ch. 91 1/2, par. 707)

11 Sec. 7. The Director shall carry out the policies and  
12 programs of the Commission and coordinate the activities of its  
13 divisions and may delegate to the Human Rights Authority  
14 Director any duties described in Sections 14, 15, and 16 of  
15 this Act.

16 (Source: P.A. 80-1416.)

17 (20 ILCS 3955/14) (from Ch. 91 1/2, par. 714)

18 Sec. 14. Each regional authority shall consist of the 9  
19 members appointed by the Director, in accordance with this  
20 Section ~~Commission~~. Each regional authority shall include  
21 insofar as possible one professionally knowledgeable and  
22 broadly experienced employee or officer of a provider of each  
23 of the following services: mental health, developmental  
24 disabilities, and vocational rehabilitation. No other employee

1 or officer of a service provider shall be appointed to a  
2 regional authority. In making appointments, the Director  
3 ~~Commission~~ shall strive to ensure representation of minority  
4 groups and of eligible persons, and shall give due  
5 consideration to recommendations of persons and groups  
6 assisting eligible persons. The Director ~~Commission~~ may remove  
7 for incompetence, neglect of duty, or malfeasance in office any  
8 member of a regional authority. All actions taken by the  
9 Director to appoint or remove members shall be reported to the  
10 Commission at the next scheduled Commission meeting.

11 Each regional authority shall annually elect a chairman and  
12 any other officers it deems necessary. Members of the regional  
13 authorities shall serve for a term of 3 years, except that the  
14 terms of the first appointees shall be as follows: 3 members  
15 serving for a 1 year term; 3 members serving for a 2 year term;  
16 and 3 members serving for a 3 year term. Assignment of terms of  
17 such first appointees shall be by lot. No member shall serve  
18 for more than 2 consecutive 3 year terms. Five members shall  
19 constitute a quorum.

20 Vacancies in the regional authorities shall be filled in  
21 the same manner as original appointments.

22 Members of the regional authorities shall serve without  
23 compensation but shall be reimbursed for actual expenses  
24 incurred in the performance of their duties.

25 Each regional authority shall meet not less than once every  
26 2 months. Meetings may also be held upon call of the Regional

1 Chairman or upon written request of any 5 members of the  
2 regional authority.

3 (Source: P.A. 80-1487.)

4 (20 ILCS 3955/15) (from Ch. 91 1/2, par. 715)

5 Sec. 15. A regional authority which receives a complaint  
6 alleging that the rights of an eligible person have been  
7 violated in the region in which the authority sits, shall  
8 conduct an investigation unless it determines that the  
9 complaint is frivolous or beyond the scope of its authority or  
10 competence, or unless the Director ~~Commission~~ finds that a  
11 conflict of interest exists and directs another regional  
12 authority to conduct the investigation. The authority shall  
13 inform the complainant whether it will conduct an  
14 investigation, and if not, the reason therefor. The authority  
15 may advise a complainant as to other remedies which may be  
16 available. Reassignments of investigations for conflicts of  
17 interest and refusals to investigate shall be reviewed and  
18 approved by the Director and the Director may seek direction  
19 from the Commission.

20 (Source: P.A. 84-1358.)

21 (20 ILCS 3955/16) (from Ch. 91 1/2, par. 716)

22 Sec. 16. A regional authority may conduct investigations  
23 upon its own initiative if it has reason to believe that the  
24 rights of an eligible person have been violated in the region



1 in which the authority sits, unless the Director ~~Commission~~  
2 finds that a conflict of interest exists and directs another  
3 regional authority to conduct the investigation.

4 (Source: P.A. 84-1358.)

5 (20 ILCS 3955/21) (from Ch. 91 1/2, par. 721)

6 Sec. 21. A regional authority may, subject to the  
7 provisions of the Open Meetings Act, conduct closed meetings  
8 and hearings when necessary to ensure confidentiality or to  
9 protect the rights of any eligible person or provider of  
10 services or other person. However, it shall make public a  
11 summary of business conducted during any such meeting or  
12 hearing. Such summary shall not contain personally  
13 identifiable data.

14 (Source: P.A. 80-1487.)

15 (20 ILCS 3955/24) (from Ch. 91 1/2, par. 724)

16 Sec. 24. If a regional authority determines that further  
17 action is required, it may refer a matter to the Commission or  
18 another division thereof, any federal, State or local agency or  
19 other persons, as it may deem appropriate and as approved by  
20 the Director ~~Commission~~.

21 (Source: P.A. 80-1416.)

22 (20 ILCS 3955/27) (from Ch. 91 1/2, par. 727)

23 Sec. 27. A regional authority may, by acting through the

1 Director, propose to the Commission legislation for the purpose  
2 of safeguarding the rights of eligible persons.

3 (Source: P.A. 80-1487.)