

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-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
17 the spouse is not a fit and competent person to have that
18 custody and education. The guardian shall assist the ward in
19 the development of maximum self-reliance and independence. The
20 guardian of the person may petition the court for an order
21 directing the guardian of the estate to pay an amount
22 periodically for the provision of the services specified by the
23 court order. If the ward's estate is insufficient to provide

1 for education and the guardian of the ward's person fails to
2 provide education, the court may award the custody of the ward
3 to some other person for the purpose of providing education. If
4 a person makes a settlement upon or provision for the support
5 or education of a ward, the court may make an order for the
6 visitation of the ward by the person making the settlement or
7 provision as the court deems proper. A guardian of the person
8 may not admit a ward to a mental health facility except at the
9 ward's request as provided in Article IV of the Mental Health
10 and Developmental Disabilities Code and unless the ward has the
11 capacity to consent to such admission as provided in Article IV
12 of the Mental Health and Developmental Disabilities Code.

13 (a-5) If the ward filed a petition for dissolution of
14 marriage under the Illinois Marriage and Dissolution of
15 Marriage Act before the ward was adjudicated a disabled person
16 under this Article, the guardian of the ward's person and
17 estate may maintain that action for dissolution of marriage on
18 behalf of the ward. Upon petition by the guardian of the ward's
19 person or estate, the court may authorize and direct a guardian
20 of the ward's person or estate to file a petition for
21 dissolution of marriage under the Illinois Marriage and
22 Dissolution of Marriage Act on behalf of the ward if the court
23 finds by clear and convincing evidence that the dissolution is
24 in the ward's best interests. In making its determination, the
25 court shall consider the standards set forth in subsection (e)
26 of this Section.

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

16 (b) If the court directs, the guardian of the person shall
17 file with the court at intervals indicated by the court, a
18 report that shall state briefly: (1) the current mental,
19 physical, and social condition of the ward and the ward's minor
20 and adult dependent children; (2) their present living
21 arrangement, and a description and the address of every
22 residence where they lived during the reporting period and the
23 length of stay at each place; (3) a summary of the medical,
24 educational, vocational, and other professional services given
25 to them; (4) a resume of the guardian's visits with and
26 activities on behalf of the ward and the ward's minor and adult

1 dependent children; (5) a recommendation as to the need for
2 continued guardianship; (6) any other information requested by
3 the court or useful in the opinion of the guardian. The Office
4 of the State Guardian shall assist the guardian in filing the
5 report when requested by the guardian. The court may take such
6 action as it deems appropriate pursuant to the report.

7 (c) Absent court order pursuant to the Illinois Power of
8 Attorney Act directing a guardian to exercise powers of the
9 principal under an agency that survives disability, the
10 guardian has no power, duty, or liability with respect to any
11 personal or health care matters covered by the agency. This
12 subsection (c) applies to all agencies, whenever and wherever
13 executed.

14 (d) A guardian acting as a surrogate decision maker under
15 the Health Care Surrogate Act shall have all the rights of a
16 surrogate under that Act without court order including the
17 right to make medical treatment decisions such as decisions to
18 forgo or withdraw life-sustaining treatment. Any decisions by
19 the guardian to forgo or withdraw life-sustaining treatment
20 that are not authorized under the Health Care Surrogate Act
21 shall require a court order. Nothing in this Section shall
22 prevent an agent acting under a power of attorney for health
23 care from exercising his or her authority under the Illinois
24 Power of Attorney Act without further court order, unless a
25 court has acted under Section 2-10 of the Illinois Power of
26 Attorney Act. If a guardian is also a health care agent for the

1 ward under a valid power of attorney for health care, the
2 guardian acting as agent may execute his or her authority under
3 that act without further court order.

4 (e) Decisions made by a guardian on behalf of a ward shall
5 be made in accordance with the following standards for decision
6 making. Decisions made by a guardian on behalf of a ward may be
7 made by conforming as closely as possible to what the ward, if
8 competent, would have done or intended under the circumstances,
9 taking into account evidence that includes, but is not limited
10 to, the ward's personal, philosophical, religious and moral
11 beliefs, and ethical values relative to the decision to be made
12 by the guardian. Where possible, the guardian shall determine
13 how the ward would have made a decision based on the ward's
14 previously expressed preferences, and make decisions in
15 accordance with the preferences of the ward. If the ward's
16 wishes are unknown and remain unknown after reasonable efforts
17 to discern them, the decision shall be made on the basis of the
18 ward's best interests as determined by the guardian. In
19 determining the ward's best interests, the guardian shall weigh
20 the reason for and nature of the proposed action, the benefit
21 or necessity of the action, the possible risks and other
22 consequences of the proposed action, and any available
23 alternatives and their risks, consequences and benefits, and
24 shall take into account any other information, including the
25 views of family and friends, that the guardian believes the
26 ward would have considered if able to act for herself or

1 himself.

2 (f) Upon petition by any interested person (including the
3 standby or short-term guardian), with such notice to interested
4 persons as the court directs and a finding by the court that it
5 is in the best interest of the disabled person, the court may
6 terminate or limit the authority of a standby or short-term
7 guardian or may enter such other orders as the court deems
8 necessary to provide for the best interest of the disabled
9 person. The petition for termination or limitation of the
10 authority of a standby or short-term guardian may, but need
11 not, be combined with a petition to have another guardian
12 appointed for the disabled person.

13 (Source: P.A. 96-612, eff. 1-1-10.)

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.