



Sen. Ira I. Silverstein

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09800SB2954sam001

LRB098 17135 HEP 56952 a

1 AMENDMENT TO SENATE BILL 2954

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2954 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 disabled person  
23 under this Article, the guardian of the ward's person and  
24 estate may maintain that action for dissolution of marriage on  
25 behalf of the ward. Upon petition by the guardian of the ward's  
26 person or estate, the court may authorize and direct a guardian

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

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

23 (b) If the court directs, the guardian of the person shall  
24 file with the court at intervals indicated by the court, a  
25 report that shall state briefly: (1) the current mental,  
26 physical, and social condition of the ward and the ward's minor

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

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

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

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

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

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

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

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

21 Section 99. Effective date. This Act takes effect upon  
22 becoming law."