



Sen. Mattie Hunter

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1 AMENDMENT TO SENATE BILL 786

2 AMENDMENT NO. _____. Amend Senate Bill 786 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 11-10.1 and 11-13 as follows:

6 (755 ILCS 5/11-10.1) (from Ch. 110 1/2, par. 11-10.1)

7 Sec. 11-10.1. Procedure for appointment of a standby
8 guardian or a guardian of a minor.

9 (a) Unless excused by the court for good cause shown, it is
10 the duty of the petitioner to give notice of the time and place
11 of the hearing on the petition, in person or by mail, to the
12 minor, if the minor is 14 years, or older, and to the relatives
13 and the short-term guardian of the minor whose names and
14 addresses are stated in the petition, not less than 7 ~~3~~ days
15 before the hearing, but failure to give notice to any relative
16 is not jurisdictional.

1 (b) In any proceeding for the appointment of a standby
2 guardian or a guardian the court may appoint a guardian ad
3 litem to represent the minor in the proceeding.

4 (Source: P.A. 98-1082, eff. 1-1-15.)

5 (755 ILCS 5/11-13) (from Ch. 110 1/2, par. 11-13)

6 Sec. 11-13. Duties of guardian of a minor. Before a
7 guardian of a minor may act, the guardian shall be appointed by
8 the court of the proper county and, in the case of a guardian
9 of the minor's estate, the guardian shall give the bond
10 prescribed in Section 12-2. Except as provided in Section
11 11-13.1 and Section 11-13.2 with respect to the standby or
12 short-term guardian of the person of a minor, the court shall
13 have control over the person and estate of the ward. Under the
14 direction of the court:

15 (a) The guardian of the person shall have the custody,
16 nurture and tuition and shall provide education of the ward and
17 of his children, but the ward's spouse may not be deprived of
18 the custody and education of the spouse's children, without
19 consent of the spouse, unless the court finds that the spouse
20 is not a fit and competent person to have such custody and
21 education. If the ward's estate is insufficient to provide for
22 the ward's education and the guardian of his person fails to
23 provide education, the court may award the custody of the ward
24 to some other person for the purpose of providing education. If
25 a person makes a settlement upon or provision for the support

1 or education of a ward and if either parent of the ward is
2 dead, the court may make such order for the visitation of the
3 ward by the person making the settlement or provision as the
4 court deems proper. The guardian of the minor shall inform the
5 court of the minor's current address by certified mail, hand
6 delivery, or other method in accordance with court rules within
7 30 days of any change of residence.

8 (b) The guardian or other representative of the ward's
9 estate shall have the care, management and investment of the
10 estate, shall manage the estate frugally and shall apply the
11 income and principal of the estate so far as necessary for the
12 comfort and suitable support and education of the ward, his
13 children, and persons related by blood or marriage who are
14 dependent upon or entitled to support from him, or for any
15 other purpose which the court deems to be for the best
16 interests of the ward, and the court may approve the making on
17 behalf of the ward of such agreements as the court determines
18 to be for the ward's best interests. The representative may
19 make disbursement of his ward's funds and estate directly to
20 the ward or other distributee or in such other manner and in
21 such amounts as the court directs. If the estate of a ward is
22 derived in whole or in part from payments of compensation,
23 adjusted compensation, pension, insurance or other similar
24 benefits made directly to the estate by the Veterans
25 Administration, notice of the application for leave to invest
26 or expend the ward's funds or estate, together with a copy of

1 the petition and proposed order, shall be given to the
2 Veterans' Administration Regional Office in this State at least
3 7 days before the hearing on the application. The court, upon
4 petition of a guardian of the estate of a minor, may permit the
5 guardian to make a will or create a revocable or irrevocable
6 trust for the minor that the court considers appropriate in
7 light of changes in applicable tax laws that allow for
8 minimization of State or federal income, estate, or inheritance
9 taxes; however, the will or trust must make distributions only
10 to the persons who would be entitled to distributions if the
11 minor were to die intestate and the will or trust must make
12 distributions to those persons in the same amounts to which
13 they would be entitled if the minor were to die intestate.

14 (c) Upon the direction of the court which issued his
15 letters a representative may perform the contracts of his ward
16 which were legally subsisting at the time of the commencement
17 of the guardianship. The court may authorize the guardian to
18 execute and deliver any bill of sale, deed or other instrument.

19 (d) The representative of the estate of a ward shall appear
20 for and represent the ward in all legal proceedings unless
21 another person is appointed for that purpose as representative
22 or next friend. This does not impair the power of any court to
23 appoint a representative or next friend to defend the interests
24 of the ward in that court, or to appoint or allow any person as
25 the next friend of a ward to commence, prosecute or defend any
26 proceeding in his behalf. Any proceeding on behalf of a minor

1 may be commenced and prosecuted by his next friend, without any
2 previous authority or appointment by the court if the next
3 friend enters bond for costs and files it in the court where
4 the proceeding is pending. Without impairing the power of the
5 court in any respect, if the representative of the estate of a
6 minor and another person as next friend shall appear for and
7 represent the minor in a legal proceeding in which the
8 compensation of the attorney or attorneys representing the
9 guardian and next friend is solely determined under a
10 contingent fee arrangement, the guardian of the estate of the
11 minor shall not participate in or have any duty to review the
12 prosecution of the action, to participate in or review the
13 appropriateness of any settlement of the action, or to
14 participate in or review any determination of the
15 appropriateness of any fees awarded to the attorney or
16 attorneys employed in the prosecution of the action.

17 (e) Upon petition by any interested person (including the
18 standby or short-term guardian), with such notice to interested
19 persons as the court directs and a finding by the court that it
20 is in the best interest of the minor, the court may terminate
21 or limit the authority of a standby or short-term guardian or
22 may enter such other orders as the court deems necessary to
23 provide for the best interest of the minor. The petition for
24 termination or limitation of the authority of a standby or
25 short-term guardian may, but need not, be combined with a
26 petition to have a guardian appointed for the minor.

1 (f) The court may grant leave to the guardian of a minor
2 child or children to remove such child or children from
3 Illinois whenever such approval is in the best interests of
4 such child or children. The guardian may not remove a minor
5 from Illinois except as permitted under this Section and must
6 seek leave of the court prior to removing a child for 30 days
7 or more. The burden of proving that such removal is in the best
8 interests of such child or children is on the guardian. When
9 such removal is permitted, the court may require the guardian
10 removing such child or children from Illinois to give
11 reasonable security guaranteeing the return of such children.

12 The court shall consider the wishes of the minor's parent
13 or parents and the effect of removal on visitation and the
14 wishes of the minor if he or she is 14 years of age or older.
15 The court may not consider the availability of electronic
16 communication as a factor in support of the removal of a child
17 by the guardian from Illinois. The guardianship order may
18 incorporate language governing removal of the minor from the
19 State. Any order for removal, including one incorporated into
20 the guardianship order, must include the date of the removal,
21 the reason for removal, and the proposed residential and
22 mailing address of the minor after removal. A copy of the order
23 must be provided to any parent whose location is known, within
24 3 days of entry, either by personal delivery or by certified
25 mail, return receipt requested.

26 Before a minor child is temporarily removed from Illinois

1 for more than 48 hours but less than 30 days, the guardian
2 shall inform the parent or parents of the address and telephone
3 number where the child may be reached during the period of
4 temporary removal and the date on which the child shall return
5 to Illinois. The State of Illinois retains jurisdiction when
6 the minor child is absent from the State pursuant to this
7 subsection. The guardianship order may incorporate language
8 governing out-of-state travel with the minor.

9 (Source: P.A. 98-1082, eff. 1-1-15.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law."