



## 104TH GENERAL ASSEMBLY

### State of Illinois

2025 and 2026

HB1425

Introduced 1/28/2025, by Rep. Yolonda Morris

#### SYNOPSIS AS INTRODUCED:

755 ILCS 5/11a-1  
755 ILCS 5/11a-12

from Ch. 110 1/2, par. 11a-1  
from Ch. 110 1/2, par. 11a-12

Amends the Probate Act of 1975. Provides that for proceedings seeking a guardianship of a disabled adult, if the proposed guardian is otherwise qualified under the Act, the court must give first consideration to appointing a family member who petitions to be a guardian unless the person alleged to have a disability has designated some other person to be guardian under the Act. Continues to provide that the paramount concern in the selection of the guardian is the best interests and well-being of the person with a disability. Defines "family member" to mean any person related to the person alleged to have a disability.

LRB104 06542 JRC 16578 b

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 Sections 11a-1 and 11a-12 as follows:

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

7 Sec. 11a-1. "Developmental disability", "intellectual  
8 disability", and "related condition" defined.

9 "Developmental disability" means "developmental  
10 disability" as defined in Section 1-116 of the Mental Health  
11 and Developmental Disabilities Code.

12 "Family member" means any person related to the person  
13 alleged to have a disability.

14 "Intellectual disability" means "intellectual disability"  
15 as defined in Section 1-116 of the Mental Health and  
16 Developmental Disabilities Code.

17 "Related condition" means a condition that:

18 (1) is attributable to cerebral palsy, epilepsy, or  
19 any other condition, other than mental illness, found to  
20 be closely related to an intellectual disability because  
21 that condition results in impairment of general  
22 intellectual functioning or adaptive behavior similar to  
23 that of individuals with an intellectual disability, and

1 requires treatment or services similar to those required  
2 for those individuals. For purposes of this Act, autism is  
3 considered a related condition;

4 (2) is manifested before the individual reaches age  
5 22;

6 (3) is likely to continue indefinitely; and

7 (4) results in substantial functional limitation in 3  
8 or more of the following areas of major life activity:  
9 self-care, language, learning, mobility, self-direction,  
10 and capacity for independent living.

11 (Source: P.A. 102-72, eff. 1-1-22; 102-109, eff. 1-1-22;  
12 102-972, eff. 1-1-23.)

13 (755 ILCS 5/11a-12) (from Ch. 110 1/2, par. 11a-12)

14 Sec. 11a-12. Order of appointment.

15 (a) If basis for the appointment of a guardian as  
16 specified in Section 11a-3 is not found, the court shall  
17 dismiss the petition.

18 (b) If the respondent is adjudged to be a person with a  
19 disability and to lack some but not all of the capacity as  
20 specified in Section 11a-3, and if the court finds that  
21 guardianship is necessary for the protection of the person  
22 with a disability, his or her estate, or both, the court shall  
23 appoint a limited guardian for the respondent's person or  
24 estate or both. The court shall enter a written order stating  
25 the factual basis for its findings and specifying the duties

1 and powers of the guardian and the legal disabilities to which  
2 the respondent is subject.

3 (c) If the respondent is adjudged to be a person with a  
4 disability and to be totally without capacity as specified in  
5 Section 11a-3, and if the court finds that limited  
6 guardianship will not provide sufficient protection for the  
7 person with a disability, his or her estate, or both, the court  
8 shall appoint a plenary guardian for the respondent's person  
9 or estate or both. The court shall enter a written order  
10 stating the factual basis for its findings.

11 (d) The selection of the guardian shall be in the  
12 discretion of the court, which shall give due consideration to  
13 the preference of the person with a disability as to a  
14 guardian, as well as the qualifications of the proposed  
15 guardian, in making its appointment. If a family member  
16 petitions to be the guardian and is otherwise qualified under  
17 this Act, the court must give first consideration to  
18 appointing the family member as guardian unless the person  
19 alleged to have a disability has designated some other person  
20 to be guardian under Section 11a-6. However, the paramount  
21 concern in the selection of the guardian is the best interests  
22 and well-being of the person with a disability.

23 One person or agency may be appointed a limited or plenary  
24 guardian of the person and another person or corporate trustee  
25 appointed as a limited or plenary guardian of the estate. If  
26 different persons are appointed, the court shall consider the

1 factors set forth in subsection (b-5) of Section 11a-5. The  
2 court shall enter a written order stating the factual basis  
3 for its findings.

4 (e) The order of appointment of a guardian of the person  
5 shall include the requirement that the guardian of the person  
6 complete the training program as provided in Section 33.5 of  
7 the Guardianship and Advocacy Act that outlines the  
8 responsibilities of the guardian of the person and the rights  
9 of the person under guardianship and file with the court a  
10 certificate of completion one year from the date of issuance  
11 of the letters of guardianship, except that: (1) the chief  
12 judge of any circuit may order implementation of another  
13 training program by a suitable provider containing  
14 substantially similar content; (2) employees of the Office of  
15 the State Guardian, public guardians, attorneys currently  
16 authorized to practice law, corporate fiduciaries, and persons  
17 certified by the Center for Guardianship Certification are  
18 exempt from this training requirement; and (3) the court may,  
19 for good cause shown, exempt from this requirement an  
20 individual not otherwise listed in item (2). For the purposes  
21 of this subsection (e), good cause may be proven by affidavit.  
22 If the court finds good cause to exempt an individual from the  
23 training requirement, the order of appointment shall so state.  
24 (Source: P.A. 102-72, eff. 1-1-22; 102-770, eff. 1-1-23.)