

Estate Planning and Probate Law Section CLE Program Webinar April 27, 2022

Welcome/Announcements and Introduction

David Gower, Estate Planning and Probate Law Section Chair

12:00 PM – 1:00 PM

Program

Public Guardian 101 and Recent Changes in the Law 300-level

Matthew J. McQuaid, DuPage County Public Guardian and Bridget G. Wrobel, Law Offices of Bridget G. Wrobel

The presenters will discuss the role of the Public Guardian, how the Public Guardian is appointed, and some of the current DuPage County Public Guardian's personal experiences so far regarding Guardianship, the Public Guardian and the view of the community (especially in light of recent movies and public events). They will also provide an update on some new changes to the Probate Act for Guardianship, some recent cases, and how Guardianship might be impacted with the new supportive decision-making law. Finally, they will touch on some new info from the IL Supreme Court – the new order for Time Standards for Case Closures and the new Commission on Elder Law.

Link to Evaluation

The evaluation must be completed to receive CLE credit.

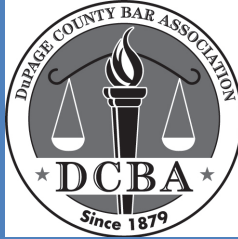
<https://www.surveymonkey.com/r/EstatePlanning04272022>

Next Meeting

May 25th – Pooled Special Needs Trusts– Mike Drabant and Scott Nixon

DCBA Events:

May 6th – [Presidents Ball](#) – Esplanade by Doubletree, Downers Grove



May 13th – [DCBA/KCBA Family Night at the Ballgame](#), Northwestern Medicine Field, Geneva

DCBA OnDemand CLE is Available on IICLE:

Members can find the link to The Illinois Institute for Continuing Legal Education (IICLE) catalog on the DCBA website under the menu item **CLE & Events**→**IICLE Online Library**. You must be logged into your DCBA Membership Profile to view courses for free or at a reduced price.

View & Print CLE Certificates through the DCBA Website:

Members can view and print their certificates for any DCBA CLE program attended by first signing into their account on the DCBA website. Hover over the **CLE & Events** menu item and select **Find My CLE Credits**. This page will list all the CLE credits earned with DCBA. To the left of each program is an icon to print or email the Statement of Credit.

Biography for Matthew McQuaid

Born on the southwest side of Chicago, I aspired to be a trial lawyer for as long as I can remember. I graduated from Knox College in Galesburg, Illinois in 1988. I attended UIC Law School at night while working during the day as a court clerk in the Circuit Court of Cook County from 1988 to 1992.

After being sworn in on November 15th, 1992, I was an assistant state's attorney in Cook County for 8 ½ years. In January of 2001, I began my solo practice in criminal defense which I maintain to this day. I predominantly represent people charged with serious felony offenses in state and federal courts. For the past 30 years, I have tried cases all over the state of Illinois.

I am a member of the Federal trial bar, the DCBA, the IACDL and the ISBA. I live in Naperville and have been a DuPage County resident since 1993.

In January of 2021, I was appointed to be the Public Guardian and Public Administrator for DuPage County. Although it is technically a "part-time" position, it has been much more than that. Along with experienced attorneys in this particular field of law, Brian Banahan and David Martin, I have dove into this very significant, important work and fulfilling work.

Bridget Greeley Wrobel opened her own firm in Geneva in January 2020. Bridget focuses her practice on Minor and Adult Guardianships, Estate and Trust Administration, Estate Planning, and Guardianship and Estate/Trust Litigation. She primarily practices in Cook, DeKalb, DuPage, Kane, Kendall, McHenry, & Will Counties.

Bridget attended University of Illinois at Urbana-Champaign for her undergraduate degree. She graduated with a Bachelor of Science in Early Childhood Education with a concentration in Psychology. After graduation, Bridget taught at an at-risk preschool in the Uptown neighborhood of Chicago for approximately a year.

Bridget left teaching to attend DePaul University College of Law. Bridget graduated from DePaul in 2001. She was on the Dean's List and received a CALI Award of Excellence in Entertainment Law. Bridget began her legal career with the Cook County Office of the Public Guardian as an attorney and Guardian ad Litem representing children who were abused and neglected. After 12 years with the Cook County Public Guardians' Office and prior to opening her own firm, Bridget worked at a small Elder Law firm in St. Charles. Bridget has spent her professional career advocating on behalf of children and families.

Bridget lives in Geneva with her husband, daughter, and son. Bridget volunteers for the Arthritis Foundation to raise awareness and increase research for Juvenile Idiopathic Arthritis. Bridget is also a devout fan of the Illini, Bears, and Cubs. Bridget is on the Board of Directors for the Geneva Academic Foundation and is the Chartered Organization Representative for Cub Scout Pack 239. Bridget is a member of the ISBA, KCBA, DCBA, and National Association of Elder Law Attorneys (NAELA).



*President Kiley M. Whitty Cordially Invites
You to the*

DCBA PRESIDENTS BALL

Oh, What a Night!

FRIDAY, MAY 6, 2022
5:30 PM

Esplanade Lakes

2111 BUTTERFIELD RD.
DOWNERS GROVE, IL

PLEASE RSVP BY APRIL 28, 2022
ONLINE: WWW.DCBA.ORG/22GALA OR PHONE: 630-653-7779

Information maintained by the Legislative Reference Bureau

Updating the database of the Illinois Compiled Statutes (ILCS) is an ongoing process. Recent laws may not yet be included in the ILCS database, but they are found on this site as [Public Acts](#) soon after they become law. For information concerning the relationship between statutes and Public Acts, refer to the [Guide](#).

Because the statute database is maintained primarily for legislative drafting purposes, statutory changes are sometimes included in the statute database before they take effect. If the source note at the end of a Section of the statutes includes a Public Act that has not yet taken effect, the version of the law that is currently in effect may have already been removed from the database and you should refer to that Public Act to see the changes made to the current law.

ESTATES (755 ILCS 5/) Probate Act of 1975.

(755 ILCS 5/Art. XIII heading)

ARTICLE XIII

PUBLIC ADMINISTRATORS, GUARDIANS AND CONSERVATORS

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

Sec. 13-1. Appointment and term of public administrator and public guardian.

(a) Except as provided in Section 13-1.1, before the first Monday of December, 1977 and every 4 years thereafter, and as often as vacancies occur, the Governor, by and with the advice and consent of the Senate, shall appoint in each county a suitable person to serve as public administrator and a suitable person to serve as public guardian of the county. The Governor may designate, without the advice and consent of the Senate, the Office of State Guardian as an interim public guardian to fill a vacancy in one or more counties having a population of 500,000 or less if the designation:

(1) is specifically designated as an interim appointment for a term of the lesser of one year or until the Governor appoints, with the advice and consent of the Senate, a county public guardian to fill the vacancy;

(2) requires the Office of State Guardian to affirm its availability to act in the county; and

(3) expires in a pending case of a person with a disability in the county at such a time as the court appoints a qualified successor guardian of the estate and person for the person with a disability.

When appointed as an interim public guardian, the State Guardian will perform the powers and duties assigned under the Guardianship and Advocacy Act.

The Governor may appoint the same person to serve as public guardian and public administrator in one or more counties. In considering the number of counties of service for any prospective public guardian or public administrator the Governor may consider the population of the county and the ability of the prospective public guardian or public administrator to travel to multiple counties and manage estates in multiple counties. Each person so appointed holds his office for 4 years from the first Monday of December, 1977 and every 4 years thereafter or until his successor is appointed and qualified.

(b) Within 14 days of notification to the current public guardian of the appointment by the Governor of a new public guardian pursuant to this Section, the outgoing public guardian shall provide the incoming successor public guardian with a list of current guardianships. Within 60 days of receipt of the list of guardianships, the incoming public guardian may petition the court for a transfer of a guardianship to the incoming public guardian. The transfer of a guardianship of the person, estate,

or both shall be made if it is in the best interests of the ward as determined by the court on a case-by-case basis.

Factors for the court to consider include, but are not limited to, the following:

- (1) the ward's preference as to the transfer of the guardianship;
- (2) the recommendation of the guardian ad litem, the ward's family members, and other interested parties;
- (3) the length of time in which the outgoing public guardian has served as guardian for the ward;
- (4) the ward's relationship with the outgoing public guardian's office;
- (5) the nature and extent of the ward's disabilities;
- (6) the ward's current residential placement, his or her current support network, and ongoing needs;
- (7) the costs involved in the transfer of the ward's estate;
- (8) the status of pending legal matters or other matters germane to the ward's care or the management of the ward's estate;
- (9) the obligation to post bond and the cost thereof;
- (10) the guardians' status with regard to certification by the Center for Guardianship Certification; and
- (11) other good causes.

If the court approves a transfer to the incoming public guardian, the outgoing public guardian shall file a final account of his or her activities on behalf of the ward within 30 days or within such other time that the court may allow. The outgoing public guardian may file a petition for final fees pursuant to subsection (b) of Section 13-3.1.

(Source: P.A. 102-72, eff. 1-1-22.)

(755 ILCS 5/13-1.1) (from Ch. 110 1/2, par. 13-1.1)

Sec. 13-1.1. Appointment and term of public guardian in counties having a population in excess of 1,000,000.) As soon as practicable after the effective date of this amendatory Act, the chief judge of the Circuit Court in each circuit shall appoint for each county in the circuit having a population in excess of 1,000,000 to the office of public guardian a duly licensed attorney who shall hold office, death or resignation not intervening, at the pleasure of the chief judge; and whenever a vacancy occurs in the office it shall be filled in a like manner.

(Source: P.A. 81-1052.)

(755 ILCS 5/13-1.2)

Sec. 13-1.2. Certification requirement. Each person appointed as a public guardian by the Governor shall be certified as a National Certified Guardian by the Center for Guardianship Certification within 6 months after his or her appointment. The Guardianship and Advocacy Commission shall provide public guardians with information about certification requirements and procedures for testing and certification offered by the Center for Guardianship Certification. The cost of certification shall be considered an expense connected with the operation of the public guardian's office within the meaning of subsection (b) of Section 13-3.1 of this Article.

(Source: P.A. 100-483, eff. 9-8-18.)

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

Sec. 13-2. Bond and oath.) Before entering upon the performance of his duties, every public administrator and every

public guardian shall take and file in the court an oath or affirmation that he will support the Constitution of the United States and the Constitution of the State of Illinois and will faithfully discharge the duties of his office and shall enter into a bond payable to the people of the State of Illinois in a sum of not less than \$5,000 with security as provided by this Act and approved by the court of the county in which he is appointed, conditioned that he will faithfully discharge the duties of his office. The court may from time to time require additional security of the public administrator or guardian and may require him to give the usual bond required of representatives of estates of decedents, or persons with disabilities in other cases. In default of his giving bond within 60 days after receiving his commission or of his giving additional security within 60 days after being ordered by the court to do so, his office is deemed vacant and upon certificate of a judge of the court of that fact the Governor or the Circuit Court shall fill the vacancy.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/13-3) (from Ch. 110 1/2, par. 13-3)

Sec. 13-3. Compensation of public administrator.

(a) In counties having a population in excess of 1,000,000 the public administrator shall pay all the fees collected by the office into the county treasury. Each year, the county board shall appropriate an amount to be paid to the public administrator as compensation for the public administrator's performance of his or her duties and such compensation shall be paid at a minimum level of \$20,000 annually. That amount shall be paid from the fees collected by the office of the public administrator. The county board in such counties shall fix the amount for the public administrator's compensation and necessary clerk hire, assistants, and office expense in the annual county budget and appropriation ordinances, which shall be paid from the county treasury. In such counties all fees of the office of public administrator are subject to audit the same as are fees of other county officers.

(b) In counties having a population of 1,000,000 or less the public administrator may receive all the fees of his office and shall bear the expenses connected with the operation of such office.

(Source: P.A. 89-135, eff. 7-14-95.)

(755 ILCS 5/13-3.1) (from Ch. 110 1/2, par. 13-3.1)

Sec. 13-3.1. Compensation of public guardian.

(a) In counties having a population in excess of 1,000,000 the public guardian shall be paid an annual salary, to be set by the County Board at a figure not to exceed the salary of the public defender for the county. All expenses connected with the operation of the office shall be subject to the approval of the County Board and shall be paid from the county treasury. All fees collected shall be paid into the county treasury.

(b) In counties having a population of 1,000,000 or less the public guardian shall receive all the fees of his office and bear the expenses connected with the operation of the office. A public guardian shall be entitled to reasonable and appropriate compensation for services related to guardianship duties but all fees must be reviewed and approved by the court. A public guardian may petition the court for the payment of reasonable and appropriate fees. In counties having a population of 1,000,000 or less, the public guardian shall do so on not less than a yearly basis, or sooner as approved by the court. Any fees or expenses charged by a public guardian shall be documented through billings and maintained by the guardian and

supplied to the court for review. In considering the reasonableness of any fee petition brought by a public guardian under this Section, the court shall consider the following:

- (1) the powers and duties assigned to the public guardian by the court;
- (2) the necessity of any services provided;
- (3) the time required, the degree of difficulty, and the experience needed to complete the task;
- (4) the needs of the ward and the costs of alternatives; and
- (5) other facts and circumstances material to the best interests of the ward or his or her estate.

(c) When the public guardian is appointed as the temporary guardian of an adult with a disability pursuant to an emergency petition under circumstances when the court finds that the immediate establishment of a temporary guardianship is necessary to protect the health, welfare, or estate of the adult with a disability, the public guardian shall be entitled to reasonable and appropriate fees, as determined by the court, for the period of the temporary guardianship, including fees directly associated with establishing the temporary guardianship.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/13-4) (from Ch. 110 1/2, par. 13-4)

Sec. 13-4. Powers and duties of public administrator.) (a) When a person dies owning any real or personal estate in this State and there is no person in this State having a prior right to administer his estate, the public administrator of the county of which the decedent was a resident, or of the county in which his estate is situated, if the decedent was a nonresident of this State, may take such measures as he deems proper to protect and secure the estate from waste, loss or embezzlement until letters of office on the estate are issued to the person entitled thereto or until a demand for the removal of the personal estate from this State is made by a nonresident representative pursuant to the authority granted by this Act. When letters of office are issued to the public administrator, he has the same powers and duties as other representatives of decedents' estates appointed under this Act until he is discharged or his authority is sooner terminated by order of court.

(b) In counties having a population in excess of 1,000,000 inhabitants, a public administrator shall retain his or her records in accordance with the Local Records Act.

(Source: P.A. 97-882, eff. 1-1-13.)

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

Sec. 13-5. Powers and duties of public guardian.) The court may appoint the public guardian as the guardian of any adult with a disability who is in need of a public guardian and whose estate exceeds \$25,000. When an adult with a disability who has a smaller estate is in need of guardianship services, the court shall appoint the State guardian pursuant to Section 30 of the Guardianship and Advocacy Act. If the public guardian is appointed guardian of an adult with a disability and the estate of the adult with a disability is thereafter reduced to less than \$25,000, the court may, upon the petition of the public guardian and the approval by the court of a final accounting of the estate of the adult with a disability, discharge the public guardian and transfer the guardianship to the State guardian. The public guardian shall serve not less than 14 days' notice to the State guardian of the hearing date regarding the transfer. When appointed by the court, the public guardian has the same powers and duties as other guardians appointed under this Act,

with the following additions and modifications:

(a) The public guardian shall monitor the ward and his care and progress on a continuous basis. Monitoring shall at minimum consist of monthly contact with the ward, and the receipt of periodic reports from all individuals and agencies, public or private, providing care or related services to the ward.

(b) Placement of a ward outside of the ward's home may be made only after the public guardian or his representative has visited the facility in which placement is proposed.

(c) The public guardian shall prepare an inventory of the ward's belongings and assets and shall maintain insurance on all of the ward's real and personal property, unless the court determines, and issues an order finding, that (1) the real or personal property lacks sufficient equity, (2) the estate lacks sufficient funds to pay for insurance, or (3) the property is otherwise uninsurable. No personal property shall be removed from the ward's possession except for storage pending final placement or for liquidation in accordance with this Act.

(d) The public guardian shall make no substantial distribution of the ward's estate without a court order.

(e) The public guardian may liquidate assets of the ward to pay for the costs of the ward's care and for storage of the ward's personal property only after notice of such pending action is given to all potential heirs at law, unless notice is waived by the court; provided, however, that a person who has been so notified may elect to pay for care or storage or to pay fair market value of the asset or assets sought to be sold in lieu of liquidation.

(f) Real property of the ward may be sold at fair market value after an appraisal of the property has been made by a licensed appraiser; provided, however, that the ward's residence may be sold only if the court finds that the ward is not likely to be able to return home at a future date.

(g) The public guardian shall, at such intervals as the court may direct, submit to the court an affidavit setting forth in detail the services he has provided for the benefit of the ward.

(h) Upon the death of the ward, the public guardian shall turn over to the court-appointed administrator all of the ward's assets and an account of his receipt and administration of the ward's property. A guardian ad litem shall be appointed for an accounting when the estate exceeds the amount set in Section 25-1 of this Act for administration of small estates.

(i)(1) On petition of any person who appears to have an interest in the estate, the court by temporary order may restrain the public guardian from performing specified acts of administration, disbursement or distribution, or from exercise of any powers or discharge of any duties of his office, or make any other order to secure proper performance of his duty, if it appears to the court that the public guardian might otherwise take some action contrary to the best interests of the ward. Persons with whom the public guardian may transact business may be made parties.

(2) The matter shall be set for hearing within 10 days unless the parties otherwise agree or unless for good cause shown the court determines that additional time is required. Notice as the court directs shall be given to the public guardian and his attorney of record, if any, and to any other parties named defendant in the petition.

(j) On petition of the public guardian, the court in its discretion may for good cause shown transfer guardianship to the State guardian.

(k) No later than January 31 of each year, the public guardian shall file an annual report with the clerk of the

Circuit Court, indicating, with respect to the period covered by the report, the number of cases which he has handled, the date on which each case was assigned, the date of termination of each case which has been closed during the period, the disposition of each terminated case, and the total amount of fees collected during the period from each ward.

(1) (Blank).

(Source: P.A. 99-143, eff. 7-27-15.)

Anyone, 5 years of age and older, is eligible to receive the COVID-19 vaccine. Find your nearest vaccination location at [vaccines.gov](https://www.vaccines.gov/).
(<https://www.vaccines.gov/>).

Illinois Board, Commission, Task Force and Council List

Boards and Commissions Detail | [Skip to Member Names](#) | [View all Boards and Commissions \(/sites/bac/SitePages/AppointmentsListing.aspx\)](#)

Title:	Public Administrators And Public Guardians
Contact Name:	Local County Clerk's Office for each appointed Member
Function:	Public Administrators will administer estate of person who dies owning real or personal estate and no person in Illinois has prior right to administer estate. If person was a nonresident of Illinois, administrator may take such measures to protect estate. Public Guardians are appointed for disabled adults needing guardianship services to monitor their care and administer their estate ((A Guardianship Estate under \$25,000, the case can be transferred to the Office of State Guardianship 1-866-274-8023 any inquires statewide)). (Contact the Circuit Clerk and Circuit Judge of your County for direction).
Term:	4 years from 1st Monday in December and every 4 years thereafter until his successor is appointed and qualified.
Senate Confirmation:	Yes
Party Affiliation:	N/A
Qualifications:	Guardian in Cook County must be a licensed attorney.
Compensation:	In Cook County, a minimum of \$20,000 payable from fees actually collected. In other counties, all fees.
Composition:	1 public administrator in each county appointed by Governor with advice and consent of Senate; 1 public guardian in each county appointed by Governor with advice and consent of Senate; Public guardian in Cook County is appointed by Chief Judge of Circuit Court and must be a licensed attorney.
Authority:	755 ILCS 5/13-1

Member Names

Showing 1 to 100 of 102 entries

Name (Last, First) 	Term Expires 	Member Since 	Affiliation 	Appointed By 	Position 	County 
Scholz, Christopher	12/4/2025	2/25/2013		Governor	PA/PG	Adams

Name (Last, First) ↑↓	Term Expires ↑↓	Member Since ↑↓	Affiliation ↑↓	Appointed By ↑↓	Position ↑↓	County ↓
O'Neill, Rebecca	12/4/2025	4/12/2022		Governor	PA/PG	Alexander
Sybert, Kevin	12/1/2014	7/3/2013		Governor	PA/PG	Bond
Gaziano, Mary	12/4/2025	12/21/2017		Governor	PA/PG	Boone
Scholz, Christopher	12/4/2025	2/25/2013		Governor	PA/PG	Brown
Russell, Andrew	12/4/2025	2/7/2014		Governor	PA/PG	Bureau
VACANT				Governor	PA/PG	Calhoun
Considine, Dana	12/4/2025	12/29/2021		Governor	PA/PG	Carroll
Carpenter, Eddie	12/4/2025	12/20/2021		Governor	PA/PG	Cass
Brown, John	12/4/2025	1/6/2012		Governor	PA/PG	Champaign
Coady-Carter, Michelle	12/3/2021	10/18/2019		Governor	PA/PG	Christian
VACANT				Governor	PA/PG	Clark
VACANT				Governor	PA/PG	Clay
VACANT	12/4/2021			Governor	PA/PG	Clinton
Finet, Kelly	12/4/2025	12/20/2021		Governor	PA/PG	Coles
Apostol, Lou	12/4/2025	1/3/2018		Governor	PA	Cook
VACANT				Governor	PA/PG	Crawford
Gibson, Roy	12/1/2014	12/2/2003		Governor	PA/PG	Cumberland
Weatherford, Andrew	12/4/2021	2/22/2021		Governor	PA/PG	De Witt
Lewis, Jeffrey	12/3/2021	7/25/2016		Governor	PA/PG	DeKalb
Finet, Kelly	12/4/2025	12/20/2021		Governor	PA/PG	Douglas
McQuaid, Matthew	12/4/2025	1/22/2021		Governor	PA	DuPage
VACANT	12/1/2014			Governor	PA/PG	Edgar
VACANT				Governor	PA/PG	Edwards
Nohren, Elizabeth	12/4/2025	2/18/2022		Governor	PA/PG	Effingham
Nohren, Elizabeth	12/4/2025	2/18/2022		Governor	PA/PG	Fayette
VACANT				Governor	PA/PG	Ford

Name (Last, First) ↑↓	Term Expires ↑↓	Member Since ↑↓	Affiliation ↑↓	Appointed By ↑↓	Position ↑↓	County ↓	
O'Neill, Rebecca	12/4/2025	4/12/2022		Governor	PA/PG	Franklin	
Weber, Ron J.	12/3/2001	10/14/1999		Governor	PA/PG	Fulton	
Wooden, Lawrence	12/4/2025	6/13/2016		Governor	PA/PG		Gallatin
VACANT				Governor	PA/PG	Greene	
Weekly, Dawn	12/4/2025	4/12/2022		Governor	PA/PG	Grundy	
Ghibaudy, Joseph	12/4/2025	6/27/2016		Governor	PA/PG	Hamilton	
Scholz, Christopher	12/4/2025	2/25/2022		Governor	PA/PG	Hancock	
O'Neill, Rebecca	12/4/2025	4/12/2022		Governor	PA/PG	Hardin	
Long, Chad	12/4/2025	12/20/2021		Governor	PA/PG	Henderson	
Ford, Curtis J.	12/7/2015	5/21/1997		Governor	PA/PG	Henry	
VACANT				Governor	PA/PG	Iroquois	
VACANT				Governor	PA/PG	Jackson	
VACANT				Governor	PA/PG	Jasper	
VACANT				Governor	PA/PG	Jefferson	
Schultz, Scott	12/4/2025	6/12/2021		Governor	PA/PG	Jersey	
Rudy, Sharon	12/4/2025	6/14/2021		Governor	PA/PG	Jo Daviess	
O'Neill, Rebecca	12/4/2025	4/12/2022		Governor	PA/PG	Johnson	
Law, Diana	12/4/2025	4/12/2012		Governor	PA/PG	Kane	
Weekly, Dawn	12/4/2025	4/12/2022		Governor	PA/PG	Kankakee	
Law, Rick	12/4/2025	2/22/2016		Governor	PA/PG	Kendall	
Long, Chad	12/4/2025	10/18/2019		Governor	PA/PG	Knox	
Hood, Thomas	12/4/2025	12/20/2021		Governor	PA/PG	Lake	
Justice, Jerry	12/4/2025	11/2/2020		Governor	PA/PG	LaSalle	
VACANT				Governor	PA/PG	Lawrence	
Considine, Dana M.	12/4/2025	3/18/2011		Governor	PA/PG	Lee	
VACANT				Governor	PA/PG	Livingston	
Porter, Robert	12/4/2025	12/20/2021		Governor	PA/PG	Logan	

Name (Last, First) ↑↓	Term Expires ↑↓	Member Since ↑↓	Affiliation ↑↓	Appointed By ↑↓	Position ↑↓	County ↓
Weatherford, Andrew	12/4/2021	2/22/2021		Governor	PA.PG	Macon
Bellm, Aaron	12/2/2013	7/3/2013		Governor	PA/PG	Macoupin
Butler, Rene M. Bassett	12/4/2025	8/26/2006		Governor	PA/PG	Madison
VACANT	12/4/2021			Governor	PA/PG	Marion
VACANT				Governor	PA/PG	Marshall
Brewer, Thomas	12/4/2021	12/4/2019		Governor	PA/PG	Mason
O'Neill, Rebecca	12/4/2025	4/12/2022		Governor	PA/PG	Massac
VACANT	12/1/2014	2/7/2014		Governor	PA/PG	McDonough
Barry, Gregory John	12/4/2025	10/18/2019		Governor	PA/PG	McHenry
Porter, Robert William	12/1/2025	8/3/2021		Governor	PA/PG	Mclean
VACANT				Governor	PA/PG	Menard
VACANT				Governor	PA/PG	Mercer
Traughber, Arlie	12/4/2017	1/11/2010		Governor	PA/PG	Monroe
Nohren, Elizabeth	12/4/2025	2/18/2022		Governor	PA/PG	Montgomery
Carpenter, Eddie	12/4/2025	12/10/1997		Governor	PA/PG	Morgan
McDermott, Kevin	12/4/2025	7/27/2020		Governor	PA/PG	Moultrie
Rudy, Sharon	12/4/2025	6/14/2021		Governor	PA/PG	Ogle
Wentworth, David	12/4/2021	6/20/2013		Governor	PA/PG	Peoria
O'Neill, Rebecca	12/4/2025	4/12/2022		Governor	PA/PG	Perry
Finet, Kelly	12/4/2025	3/26/1998		Governor	PA/PG	Piatt
Carpenter, Eddie	12/4/2025	12/20/2021		Governor	PA/PG	Pike
O'Neill, Rebecca	12/4/2025	4/12/2022		Governor	PA/PG	Pope
O'Neill, Rebecca	12/4/2025	4/12/2022		Governor	PA/PG	Pulaski

Name (Last, First) ↑↓	Term Expires ↑↓	Member Since ↑↓	Affiliation ↑↓	Appointed By ↑↓	Position ↑↓	County ↓
Russell, Andrew	12/4/2025	12/20/2021		Governor	PA/PG	Putnam
O'Neill, Rebecca	12/4/2025	4/12/2022		Governor	PA/PG	Randolph
VACANT				Governor	PA/PG	Richland
Brown, Mary Ann	12/4/2025	9/20/2019		Governor	PA/PG	Rock Island
O'Neill, Rebecca	12/4/2025	4/12/2022		Governor	PA/PG	Saline
McDermott, Kevin	12/4/2025	10/18/2019		Governor	PA/PG	Sangamon
Scholz, Christopher	12/4/2025	2/25/2022		Governor	PA/PG	Schuyler
Carpenter, Eddie	12/4/2025	12/20/2021		Governor	PA/PG	Scott
Nohren, Elizabeth	12/4/2025	6/26/2013		Governor	PA/PG	Shelby
Hoerner, Carolee Maxine	12/4/2025	4/25/2022		Governor	PA/PG	St. Clair
Leezer, John A.	12/4/2025	5/1/1998		Governor	PA/PG	Stark
Rudy, Sharon	12/4/2025	6/14/2021		Governor	PA/PG	Stephenson
Brewer, Thomas	12/1/2021	8/26/2019		Governor	PA/PG	Tazewell
O'Neill, Rebecca	12/4/2025	4/12/2022		Governor	PA/PG	Union
Weller, George	12/4/2025	1/3/2018		Governor	PA/PG	Vermilion
Ghibaudy, Joseph	12/4/2025	6/27/2016		Governor	PA/PG	Wabash
Long, Chad	12/4/2025	10/18/2019		Governor	PA/PG	Warren
VACANT				Governor	PA/PG	Washington
Leonard, Vickie	12/3/2001	12/23/2009		Governor	PA/PG	Wayne
Ghibaudy, Joseph	12/4/2023	6/27/2016		Governor	PA/PG	White
Lee, William	12/4/2025	3/8/2013		Governor	PA/PG	Whiteside
Wengler, Colleen	12/4/2025	2/2/2018		Governor	PA/PG	Will
O'Neill, Rebecca	12/4/2025	4/12/2022	Other	Governor	PA/PG	Williamson

Title:	Public Administrators And Public Guardians
Contact Name:	Local County Clerk's Office for each appointed Member
Function:	Public Administrators will administer estate of person who dies owning real or personal estate and no person in Illinois has prior right to administer estate. If person was a nonresident of Illinois, administrator may take such measures to protect estate. Public Guardians are appointed for disabled adults needing guardianship services to monitor their care and administer their estate ((A Guardianship Estate under \$25,000, the case can be transferred to the Office of State Guardianship 1-866-274-8023 any inquires statewide)). (Contact the Circuit Clerk and Circuit Judge of your County for direction).
Term:	4 years from 1st Monday in December and every 4 years thereafter until his successor is appointed and qualified.
Senate Confirmation:	
Party Affiliation:	
Qualifications:	Guardian in Cook County must be a licensed attorney.
Compensation:	In Cook County, a minimum of \$20,000 payable from fees actually collected. In other counties, all fees.
Composition:	1 public administrator in each county appointed by Governor with advice and consent of Senate; 1 public guardian in each county appointed by Governor with advice and consent of Senate; Public guardian in Cook County is appointed by Chief Judge of Circuit Court and must be a licensed attorney.
Authority:	755 ILCS 5/13-1

Member Names

Showing 101 to 102 of 102 entries

Name (Last, First) 	Term Expires 	Member Since 	Affiliation 	Appointed By 	Position 	County 
Gaziano, Mary	12/4/2025	12/21/2017		Governor	PA/PG	Winnebago

Name (Last, First) ↑↓	Term Expires ↑↓	Member Since ↑↓	Affiliation ↑↓	Appointed By ↑↓	Position ↑↓	County ↓	
Wentworth, David	12/4/2021	7/30/2020		Governor	PA/PG		Woodford



[_\(/\).](#)

[Web Accessibility \(http://www.dhs.state.il.us/page.aspx?item=32765\).](http://www.dhs.state.il.us/page.aspx?item=32765)

[Missing & Exploited Children \(http://www.missingkids.com/\).](http://www.missingkids.com/)

[Amber Alerts \(http://www.amberillinois.org/\).](http://www.amberillinois.org/)

[Illinois Privacy Info \(https://www.illinois.gov/about/privacy.html\).](https://www.illinois.gov/about/privacy.html)

[Governor JB Pritzker \(/sites/gov\).](/sites/gov)

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Because the statute database is maintained primarily for legislative drafting purposes, statutory changes are sometimes included in the statute database before they take effect. If the source note at the end of a Section of the statutes includes a Public Act that has not yet taken effect, the version of the law that is currently in effect may have already been removed from the database and you should refer to that Public Act to see the changes made to the current law.

ESTATES (755 ILCS 5/) Probate Act of 1975.

(755 ILCS 5/Art. XIa heading)

ARTICLE XIa

GUARDIANS FOR ADULTS WITH DISABILITIES

(Source: P.A. 99-143, eff. 7-27-15.)

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

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

"Developmental disability" means a disability that is attributable to an intellectual disability or a related condition.

"Intellectual disability" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested before the age of 22 years.

"Related condition" means a condition that:

(1) is attributable to cerebral palsy, epilepsy, or any other condition, other than mental illness, found to be closely related to an intellectual disability because that condition results in impairment of general intellectual functioning or adaptive behavior similar to that of individuals with an intellectual disability, and requires treatment or services similar to those required for those individuals. For purposes of this Act, autism is considered a related condition;

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

(3) is likely to continue indefinitely; and

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

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

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

Sec. 11a-2. "Person with a disability" defined.) "Person with a disability" means a person 18 years or older who (a) because of mental deterioration or physical incapacity is not fully able to manage his person or estate, or (b) is a person with mental illness or a person with a developmental disability and who because of his mental illness or developmental disability is not fully able to manage his person or estate, or (c) because of gambling, idleness, debauchery or excessive use of intoxicants or drugs, so spends or wastes his estate as to expose himself or his family to want or suffering, or (d) is diagnosed with fetal alcohol syndrome or fetal alcohol effects.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-3) (from Ch. 110 1/2, par. 11a-3)

Sec. 11a-3. Adjudication of disability; Power to appoint guardian.

(a) Upon the filing of a petition by a reputable person or by the alleged person with a disability himself or on its own motion, the court may adjudge a person to be a person with a disability, but only if it has been demonstrated by clear and convincing evidence that the person is a person with a disability as defined in Section 11a-2. If the court adjudges a person to be a person with a disability, the court may appoint (1) a guardian of his person, if it has been demonstrated by clear and convincing evidence that because of his disability he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning the care of his person, or (2) a guardian of his estate, if it has been demonstrated by clear and convincing evidence that because of his disability he is unable to manage his estate or financial affairs, or (3) a guardian of his person and of his estate. The court may appoint co-guardians in accordance with Section 11a-15.

(b) Guardianship shall be utilized only as is necessary to promote the well-being of the person with a disability, to protect him from neglect, exploitation, or abuse, and to encourage development of his maximum self-reliance and independence. Guardianship shall be ordered only to the extent necessitated by the individual's actual mental, physical and adaptive limitations. The order shall conform with Sections 11a-12 and 11a-14.

(Source: P.A. 102-72, eff. 1-1-22.)

(755 ILCS 5/11a-3.1)

Sec. 11a-3.1. Appointment of standby guardian.

(a) The guardian of a person with a disability may designate in any writing, including a will, a person qualified to act under Section 11a-5 to be appointed as standby guardian of the person or estate, or both, of the person with a disability. The guardian may designate in any writing, including a will, a person qualified to act under Section 11a-5 to be appointed as successor standby guardian of the person or estate of the person with a disability, or both. The designation must be witnessed by 2 or more credible witnesses at least 18 years of age, neither of whom is the person designated as the standby guardian. The designation may be proved by any competent evidence. If the designation is executed and attested in the same manner as a will, it shall have prima facie validity. Prior to designating a proposed standby guardian, the guardian shall consult with the person with a disability to determine the preference of the person with a disability as to the person who will serve as standby guardian. The guardian shall give due consideration to the preference of the person with a disability in selecting a standby guardian.

(b) Upon the filing of a petition for the appointment of a standby guardian, the court may appoint a standby guardian of the person or estate, or both, of the person with a disability as the court finds to be in the best interests of the person with a disability. The court shall apply the same standards used in determining the suitability of a plenary or limited guardian in determining the suitability of a standby guardian, giving due consideration to the preference of the person with a disability as to a standby guardian. The court may not appoint the Office of State Guardian, pursuant to Section 30 of the Guardianship and Advocacy Act, or a public guardian, pursuant to Section 13-5 of this Act, as a standby guardian, without the written consent of the State Guardian or public guardian or an authorized

representative of the State Guardian or public guardian.

(c) The standby guardian shall take and file an oath or affirmation that the standby guardian will faithfully discharge the duties of the office of standby guardian according to law, and shall file in and have approved by the court a bond binding the standby guardian so to do, but shall not be required to file a bond until the standby guardian assumes all duties as guardian of the person with a disability under Section 11a-18.2.

(d) The designation of a standby guardian may, but need not, be in the following form:

DESIGNATION OF STANDBY GUARDIAN

[IT IS IMPORTANT TO READ THE FOLLOWING INSTRUCTIONS:

A standby guardian is someone who has been appointed by the court as the person who will act as guardian of the person with a disability when the guardian of the person with a disability dies or is no longer willing or able to make and carry out day-to-day care decisions concerning the person with a disability. By properly completing this form, a guardian is naming the person that the guardian wants to be appointed as the standby guardian of the person with a disability. Signing the form does not appoint the standby guardian; to be appointed, a petition must be filed in and approved by the court.]

1. Guardian and Ward. I, (insert name of designating guardian), currently residing at (insert address of designating guardian), am the guardian of the following person with a disability: (insert name of ward).

2. Standby Guardian. I hereby designate the following person to be appointed as standby guardian for my ward listed above: (insert name and address of person designated).

3. Successor Standby Guardian. If the person named in item 2 above cannot or will not act as standby guardian, I designate the following person to be appointed as successor standby guardian for my ward: (insert name and address of person designated).

4. Date and Signature. This designation is made this (insert day) day of (insert month and year).

Signed: (designating guardian)

5. Witnesses. I saw the guardian sign this designation or the guardian told me that the guardian signed this designation. Then I signed the designation as a witness in the presence of the guardian. I am not designated in this instrument to act as a standby guardian for the guardian's ward. (insert space for names, addresses, and signatures of 2 witnesses)

[END OF FORM]

(Source: P.A. 102-72, eff. 1-1-22.)

(755 ILCS 5/11a-3.2)

Sec. 11a-3.2. Short-term guardian.

(a) The guardian of a person with a disability may appoint in writing, without court approval, a short-term guardian of the person with a disability to take over the guardian's duties, to the extent provided in Section 11a-18.3, each time the guardian is unavailable or unable to carry out those duties. The guardian shall consult with the person with a disability to determine the preference of the person with a disability concerning the person to be appointed as short-term guardian and the guardian shall give due consideration to the preference of the person with a disability in choosing a short-term guardian. The written instrument appointing a short-term guardian shall be dated and shall identify the appointing guardian, the person with a disability, the person appointed to be the short-term guardian,

and the termination date of the appointment. The written instrument shall be signed by, or at the direction of, the appointing guardian in the presence of at least 2 credible witnesses at least 18 years of age, neither of whom is the person appointed as the short-term guardian. The person appointed as the short-term guardian shall also sign the written instrument, but need not sign at the same time as the appointing guardian. A guardian may not appoint the Office of State Guardian or a public guardian as a short-term guardian, without the written consent of the State Guardian or public guardian or an authorized representative of the State Guardian or public guardian.

(b) The appointment of the short-term guardian is effective immediately upon the date the written instrument is executed, unless the written instrument provides for the appointment to become effective upon a later specified date or event. A short-term guardian appointed by the guardian shall have authority to act as guardian of the person with a disability for a cumulative total of 60 days during any 12-month period. Only one written instrument appointing a short-term guardian may be in force at any given time.

(c) Every appointment of a short-term guardian may be amended or revoked by the appointing guardian at any time and in any manner communicated to the short-term guardian or to any other person. Any person other than the short-term guardian to whom a revocation or amendment is communicated or delivered shall make all reasonable efforts to inform the short-term guardian of that fact as promptly as possible.

(d) The appointment of a short-term guardian or successor short-term guardian does not affect the rights in the person with a disability of any guardian other than the appointing guardian.

(e) The written instrument appointing a short-term guardian may, but need not, be in the following form:

APPOINTMENT OF SHORT-TERM GUARDIAN

[IT IS IMPORTANT TO READ THE FOLLOWING INSTRUCTIONS:

By properly completing this form, a guardian is appointing a short-term guardian of the person with a disability for a cumulative total of up to 60 days during any 12-month period. A separate form shall be completed each time a short-term guardian takes over guardianship duties. The person or persons appointed as the short-term guardian shall sign the form, but need not do so at the same time as the guardian.]

1. Guardian and Ward. I, (insert name of appointing guardian), currently residing at (insert address of appointing guardian), am the guardian of the following person with a disability: (insert name of ward).

2. Short-term Guardian. I hereby appoint the following person as the short-term guardian for my ward: (insert name and address of appointed person).

3. Effective date. This appointment becomes effective: (check one if you wish it to be applicable)

() On the date that I state in writing that I am no longer either willing or able to make and carry out day-to-day care decisions concerning my ward.

() On the date that a physician familiar with my condition certifies in writing that I am no longer willing or able to make and carry out day-to-day care decisions concerning my ward.

() On the date that I am admitted as an in-patient to a hospital or other health care institution.

() On the following date: (insert date).

() Other: (insert other).

[NOTE: If this item is not completed, the appointment is effective immediately upon the date the form is signed and dated below.]

4. Termination. This appointment shall terminate on: (enter a date corresponding to 60 days from the current date, less the number of days within the past 12 months that any short-term guardian has taken over guardianship duties), unless it terminates sooner as determined by the event or date I have indicated below: (check one if you wish it to be applicable)

() On the date that I state in writing that I am willing and able to make and carry out day-to-day care decisions concerning my ward.

() On the date that a physician familiar with my condition certifies in writing that I am willing and able to make and carry out day-to-day care decisions concerning my ward.

() On the date that I am discharged from the hospital or other health care institution where I was admitted as an in-patient, which established the effective date.

() On the date which is (state a number of days) days after the effective date.

() Other: (insert other).

[NOTE: If this item is not completed, the appointment will be effective until the 60th day within the past year during which time any short-term guardian of this ward had taken over guardianship duties from the guardian, beginning on the effective date.]

5. Date and signature of appointing guardian. This appointment is made this (insert day) day of (insert month and year).

Signed: (appointing guardian)

6. Witnesses. I saw the guardian sign this instrument or I saw the guardian direct someone to sign this instrument for the guardian. Then I signed this instrument as a witness in the presence of the guardian. I am not appointed in this instrument to act as the short-term guardian for the guardian's ward. (insert space for names, addresses, and signatures of 2 witnesses)

7. Acceptance of short-term guardian. I accept this appointment as short-term guardian on this (insert day) day of (insert month and year).

Signed: (short-term guardian)

[END OF FORM]

(f) Each time the guardian appoints a short-term guardian, the guardian shall: (i) provide the person with a disability with the name, address, and telephone number of the short-term guardian; (ii) advise the person with a disability that he has the right to object to the appointment of the short-term guardian by filing a petition in court; and (iii) notify the person with a disability when the short-term guardian will be taking over guardianship duties and the length of time that the short-term guardian will be acting as guardian.
(Source: P.A. 102-72, eff. 1-1-22.)

(755 ILCS 5/11a-4)

Sec. 11a-4. Temporary guardian.

(a) Prior to the appointment of a guardian under this Article, pending an appeal in relation to the appointment, or pending the completion of a citation proceeding brought pursuant to Section 23-3 of this Act, or upon a guardian's death, incapacity, or resignation, the court may appoint a temporary

guardian upon a showing of the necessity therefor for the immediate welfare and protection of the alleged person with a disability or his or her estate and subject to such conditions as the court may prescribe. A petition for the appointment of a temporary guardian for an alleged person with a disability shall be filed at the time of or subsequent to the filing of a petition for adjudication of disability and appointment of a guardian. The petition for the appointment of a temporary guardian shall state the facts upon which it is based and the name, the post office address, and, in the case of an individual, the age and occupation of the proposed temporary guardian. In determining the necessity for temporary guardianship, the immediate welfare and protection of the alleged person with a disability and his or her estate shall be of paramount concern, and the interests of the petitioner, any care provider, or any other party shall not outweigh the interests of the alleged person with a disability. The temporary guardian shall have the limited powers and duties of a guardian of the person or of the estate which are specifically enumerated by court order. The court order shall state the actual harm identified by the court that necessitates temporary guardianship or any extension thereof.

(a-5) Notice of the time and place of the hearing on a petition for the appointment of a temporary guardian shall be given, not less than 3 days before the hearing, by mail or in person to the alleged person with a disability, to the proposed temporary guardian, and to those persons whose names and addresses are listed in the petition for adjudication of disability and appointment of a guardian under Section 11a-8. The court, upon a finding of good cause, may waive the notice requirement under this subsection.

(a-10) Notice of the time and place of the hearing on a petition to revoke the appointment of a temporary guardian shall be given, not less than 3 days before the hearing, by mail or in person to the temporary guardian, to the petitioner on whose petition the temporary guardian was appointed, and to those persons whose names and addresses are listed in the petition for adjudication of disability and appointment of a guardian under Section 11a-8. The court, upon a finding of good cause, may waive the notice requirements under this subsection.

(b) The temporary guardianship shall expire within 60 days after the appointment or whenever a guardian is regularly appointed, whichever occurs first. No extension shall be granted except:

(1) In a case where there has been an adjudication of disability, an extension shall be granted:

(i) pending the disposition on appeal of an adjudication of disability;

(ii) pending the completion of a citation proceeding brought pursuant to Section 23-3;

(iii) pending the appointment of a successor guardian in a case where the former guardian has resigned, has become incapacitated, or is deceased; or

(iv) where the guardian's powers have been suspended pursuant to a court order.

(2) In a case where there has not been an adjudication of disability, an extension shall be granted pending the disposition of a petition brought pursuant to Section 11a-8 so long as the court finds it is in the best interests of the alleged person with a disability to extend the temporary guardianship so as to protect the alleged person with a disability from any potential abuse, neglect, self-neglect, exploitation, or other harm and such

extension lasts no more than 120 days from the date the temporary guardian was originally appointed.

The ward shall have the right any time after the appointment of a temporary guardian is made to petition the court to revoke the appointment of the temporary guardian.

(Source: P.A. 102-72, eff. 1-1-22; 102-120, eff. 7-23-21; 102-687, eff. 12-17-21.)

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

Sec. 11a-5. Who may act as guardian.

(a) A person is qualified to act as guardian of the person and as guardian of the estate of a person with a disability if the court finds that the proposed guardian is capable of providing an active and suitable program of guardianship for the person with a disability and that the proposed guardian:

(1) has attained the age of 18 years;

(2) is a resident of the United States;

(3) is not of unsound mind;

(4) is not an adjudged person with a disability as defined in this Act; and

(5) has not been convicted of a felony, unless the court finds appointment of the person convicted of a felony to be in the best interests of the person with a disability, and as part of the best interests determination, the court has considered the nature of the offense, the date of offense, and the evidence of the proposed guardian's rehabilitation. No person shall be appointed who has been convicted of a felony involving harm or threat to a minor or an elderly person or a person with a disability, including a felony sexual offense.

(b) Any public agency, or not-for-profit corporation found capable by the court of providing an active and suitable program of guardianship for the person with a disability, taking into consideration the nature of such person's disability and the nature of such organization's services, may be appointed guardian of the person or of the estate, or both, of the person with a disability. The court shall not appoint as guardian an agency or employee of an agency that is directly providing residential services to the ward. One person or agency may be appointed guardian of the person and another person or agency appointed guardian of the estate.

(b-5)(1) The court may appoint separate individuals or entities to act as the guardian of the person and the guardian of the estate of a person with a disability if the court finds it is in the best interests of the person with a disability that separate guardians be appointed. The court shall not appoint a separate person or entity to act as guardian of the person or guardian of the estate with a public guardian or the Office of State Guardian unless the public guardian or the Office of State Guardian agrees to such an appointment.

(2) The court may appoint co-guardians to act as guardian of the person, guardian of the estate, or both the guardian of the person and the guardian of the estate if the court finds it is in the best interests of the person with a disability. When considering appointing co-guardians, the court shall consider the proposed co-guardians' history of cooperating and working together on behalf of the person with a disability. The court shall appoint only co-guardians who agree to serve together. The court shall not appoint a public guardian or the Office of State Guardian as a co-guardian for a person with a disability.

(c) Any corporation qualified to accept and execute trusts in this State may be appointed guardian or limited guardian of the estate of a person with a disability.

(Source: P.A. 102-72, eff. 1-1-22.)

(755 ILCS 5/11a-5.1)

Sec. 11a-5.1. Multiple guardianships. The court may not appoint an individual the guardian of the person or estate of an adult with disabilities before the individual has disclosed to the court the number of adults with disabilities over which the individual is currently appointed as guardian. If the court determines that an individual is appointed guardian over more than 5 adults with disabilities, then the court shall issue an order directing the circuit court clerk to notify the Guardianship and Advocacy Commission, in a form and manner prescribed by the Guardianship and Advocacy Commission. The clerk shall notify the Guardianship and Advocacy Commission no later than 7 days after the entry of the order. The Guardianship and Advocacy Commission shall maintain a list of all notifications it receives under this Section for reference by other agencies or units of government or the public. This Section does not apply to the Office of the State Guardian or a public guardian.

(Source: P.A. 100-659, eff. 1-1-19.)

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

Sec. 11a-6. Designation of Guardian.) A person, while of sound mind and memory, may designate in writing a person, corporation or public agency qualified to act under Section 11a-5, to be appointed as guardian or as successor guardian of his person or of his estate or both, in the event he is adjudged to be a person with a disability. The designation may be proved by any competent evidence, but if it is executed and attested in the same manner as a will, it shall have prima facie validity. If the court finds that the appointment of the one designated will serve the best interests and welfare of the ward, it shall make the appointment in accordance with the designation. The selection of the guardian shall be in the discretion of the court whether or not a designation is made.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-7) (from Ch. 110 1/2, par. 11a-7)

Sec. 11a-7. Venue.) If the alleged ward is a resident of this State, the proceeding shall be instituted in the court of the county in which he resides. If the alleged ward is not a resident of this State, the proceeding shall be instituted in the court of a county in which his real or personal estate is located.

(Source: P.A. 80-1415.)

(755 ILCS 5/11a-8) (from Ch. 110 1/2, par. 11a-8)

Sec. 11a-8. Petition. The petition for adjudication of disability and for the appointment of a guardian of the estate or the person or both of an alleged person with a disability must state, if known or reasonably ascertainable: (a) the relationship and interest of the petitioner to the respondent; (b) the name, date of birth, and place of residence of the respondent; (c) the reasons for the guardianship; (d) the name and post office address of the respondent's guardian, if any, or of the respondent's agent or agents appointed under the Illinois Power of Attorney Act, if any; (e) the name and post office addresses of the nearest relatives of the respondent in the following order: (1) the spouse and adult children, parents and adult brothers and sisters, if any; if none, (2) nearest adult kindred known to the petitioner; (f) the name and address of the person with whom or the facility in which the respondent is residing; (g) the approximate value of the personal and real estate; (h) the amount of the anticipated annual gross income

and other receipts; (i) the name, post office address and in case of an individual, the age, relationship to the respondent and occupation of the proposed guardian. In addition, if the petition seeks the appointment of a previously appointed standby guardian as guardian of the person with a disability, the petition must also state: (j) the facts concerning the standby guardian's previous appointment and (k) the date of death of the guardian of the person with a disability or the facts concerning the consent of the guardian of the person with a disability to the appointment of the standby guardian as guardian, or the willingness and ability of the guardian of the person with a disability to make and carry out day-to-day care decisions concerning the person with a disability. A petition for adjudication of disability and the appointment of a guardian of the estate or the person or both of an alleged person with a disability may not be dismissed or withdrawn without leave of the court. A petitioner who seeks to revoke or construe a power of attorney for the alleged person with a disability, or review the agent's conduct, shall do so in conformity with the Illinois Power of Attorney Act, and as set forth in subsection (c) of Section 11a-17 and subsection (e) of Section 11a-18 of this Act. (Source: P.A. 102-72, eff. 1-1-22.)

(755 ILCS 5/11a-8.1)

Sec. 11a-8.1. Petition for standby guardian of the person with a disability. The petition for appointment of a standby guardian of the person or the estate, or both, of a person with a disability must state, if known: (a) the name, date of birth, and residence of the person with a disability; (b) the names and post office addresses of the nearest relatives of the person with a disability in the following order: (1) the spouse and adult children, parents and adult brothers and sisters, if any; if none, (2) nearest adult kindred known to the petitioner; (c) the name and post office address of the person having guardianship of the person with a disability, and of any person or persons acting as agents of the person with a disability under the Illinois Power of Attorney Act; (d) the name, post office address, and, in case of any individual, the age and occupation of the proposed standby guardian; (e) the preference of the person with a disability as to the choice of standby guardian; (f) the facts concerning the consent of the guardian of the person with a disability to the appointment of the standby guardian, or the willingness and ability of the guardian of the person with a disability to make and carry out day-to-day care decisions concerning the person with a disability; (g) the facts concerning the execution or admission to probate of the written designation of the standby guardian, if any, a copy of which shall be attached to or filed with the petition; (h) the facts concerning any guardianship court actions pending concerning the person with a disability; and (i) the facts concerning the willingness of the proposed standby guardian to serve, and in the case of the Office of State Guardian and any public guardian, evidence of a written acceptance to serve signed by the State Guardian or public guardian or an authorized representative of the State Guardian or public guardian, consistent with subsection (b) of Section 11a-3.1. (Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-9) (from Ch. 110 1/2, par. 11a-9)

Sec. 11a-9. Report.

(a) The petition for adjudication of disability and for appointment of a guardian should be accompanied by a report which contains (1) a description of the nature and type of the respondent's disability and an assessment of how the disability

impacts on the ability of the respondent to make decisions or to function independently; (2) an analysis and results of evaluations of the respondent's mental and physical condition and, where appropriate, educational condition, adaptive behavior and social skills, which have been performed within 3 months of the date of the filing of the petition, or, in the case of an intellectual disability, a psychological evaluation of the respondent that has been performed by a clinical psychologist licensed under the Clinical Psychologist Licensing Act, within one year of the date of the filing of the petition; (3) an opinion as to whether guardianship is needed, the type and scope of the guardianship needed, and the reasons therefor; (4) a recommendation as to the most suitable living arrangement and, where appropriate, treatment or habilitation plan for the respondent and the reasons therefor; (5) the name, business address, business telephone number, and signatures of all persons who performed the evaluations upon which the report is based, one of whom shall be a licensed physician, or may, in the case of an intellectual disability, be a clinical psychologist licensed under the Clinical Psychologist Licensing Act, and a statement of the certification, license, or other credentials that qualify the evaluators who prepared the report.

(b) If for any reason no report accompanies the petition, the court shall order appropriate evaluations to be performed by a qualified person or persons and a report prepared and filed with the court at least 10 days prior to the hearing.

(b-5) Upon oral or written motion by the respondent or the guardian ad litem or upon the court's own motion, the court shall appoint one or more independent experts to examine the respondent. Upon the filing with the court of a verified statement of services rendered by the expert or experts, the court shall determine a reasonable fee for the services performed. If the respondent is unable to pay the fee, the court may enter an order upon the petitioner to pay the entire fee or such amount as the respondent is unable to pay. However, in cases where the Office of State Guardian is the petitioner, consistent with Section 30 of the Guardianship and Advocacy Act, no expert services fees shall be assessed against the Office of the State Guardian.

(c) Unless the court otherwise directs, any report prepared pursuant to this Section shall not be made part of the public record of the proceedings but shall be available to the court or an appellate court in which the proceedings are subject to review, to the respondent, the petitioner, the guardian, and their attorneys, to the respondent's guardian ad litem, and to such other persons as the court may direct.

(Source: P.A. 102-109, eff. 1-1-22.)

(755 ILCS 5/11a-10) (from Ch. 110 1/2, par. 11a-10)

(Text of Section from P.A. 100-427)

Sec. 11a-10. Procedures preliminary to hearing.

(a) Upon the filing of a petition pursuant to Section 11a-8, the court shall set a date and place for hearing to take place within 30 days. The court shall appoint a guardian ad litem to report to the court concerning the respondent's best interests consistent with the provisions of this Section, except that the appointment of a guardian ad litem shall not be required when the court determines that such appointment is not necessary for the protection of the respondent or a reasonably informed decision on the petition. If the guardian ad litem is not a licensed attorney, he or she shall be qualified, by training or experience, to work with or advocate for persons with developmental disabilities, the mentally ill, persons with physical disabilities, the elderly, or persons with a disability

due to mental deterioration, depending on the type of disability that is alleged in the petition. The court may allow the guardian ad litem reasonable compensation. The guardian ad litem may consult with a person who by training or experience is qualified to work with persons with a developmental disability, persons with mental illness, persons with physical disabilities, or persons with a disability due to mental deterioration, depending on the type of disability that is alleged. The guardian ad litem shall personally observe the respondent prior to the hearing and shall inform him orally and in writing of the contents of the petition and of his rights under Section 11a-11. The guardian ad litem shall also attempt to elicit the respondent's position concerning the adjudication of disability, the proposed guardian, a proposed change in residential placement, changes in care that might result from the guardianship, and other areas of inquiry deemed appropriate by the court. Notwithstanding any provision in the Mental Health and Developmental Disabilities Confidentiality Act or any other law, a guardian ad litem shall have the right to inspect and copy any medical or mental health record of the respondent which the guardian ad litem deems necessary, provided that the information so disclosed shall not be utilized for any other purpose nor be redisclosed except in connection with the proceedings. At or before the hearing, the guardian ad litem shall file a written report detailing his or her observations of the respondent, the responses of the respondent to any of the inquiries detailed in this Section, the opinion of the guardian ad litem or other professionals with whom the guardian ad litem consulted concerning the appropriateness of guardianship, and any other material issue discovered by the guardian ad litem. The guardian ad litem shall appear at the hearing and testify as to any issues presented in his or her report.

(b) The court (1) may appoint counsel for the respondent, if the court finds that the interests of the respondent will be best served by the appointment, and (2) shall appoint counsel upon respondent's request or if the respondent takes a position adverse to that of the guardian ad litem. The respondent shall be permitted to obtain the appointment of counsel either at the hearing or by any written or oral request communicated to the court prior to the hearing. The summons shall inform the respondent of this right to obtain appointed counsel. The court may allow counsel for the respondent reasonable compensation.

(c) If the respondent is unable to pay the fee of the guardian ad litem or appointed counsel, or both, the court may enter an order for the petitioner to pay all such fees or such amounts as the respondent or the respondent's estate may be unable to pay. However, in cases where the Office of State Guardian is the petitioner, consistent with Section 30 of the Guardianship and Advocacy Act, where the public guardian is the petitioner, consistent with Section 13-5 of this Act, where an adult protective services agency is the petitioner, pursuant to Section 9 of the Adult Protective Services Act, or where the Department of Children and Family Services is the petitioner under subparagraph (d) of subsection (1) of Section 2-27 of the Juvenile Court Act of 1987, no guardian ad litem or legal fees shall be assessed against the Office of State Guardian, the public guardian, the adult protective services agency, or the Department of Children and Family Services.

(d) The hearing may be held at such convenient place as the court directs, including at a facility in which the respondent resides.

(e) Unless he is the petitioner, the respondent shall be personally served with a copy of the petition and a summons not less than 14 days before the hearing. The summons shall be

printed in large, bold type and shall include the following notice:

NOTICE OF RIGHTS OF RESPONDENT

You have been named as a respondent in a guardianship petition asking that you be declared a person with a disability. If the court grants the petition, a guardian will be appointed for you. A copy of the guardianship petition is attached for your convenience.

The date and time of the hearing are:

The place where the hearing will occur is:

The Judge's name and phone number is:

If a guardian is appointed for you, the guardian may be given the right to make all important personal decisions for you, such as where you may live, what medical treatment you may receive, what places you may visit, and who may visit you. A guardian may also be given the right to control and manage your money and other property, including your home, if you own one. You may lose the right to make these decisions for yourself.

You have the following legal rights:

(1) You have the right to be present at the court hearing.

(2) You have the right to be represented by a lawyer, either one that you retain, or one appointed by the Judge.

(3) You have the right to ask for a jury of six persons to hear your case.

(4) You have the right to present evidence to the court and to confront and cross-examine witnesses.

(5) You have the right to ask the Judge to appoint an independent expert to examine you and give an opinion about your need for a guardian.

(6) You have the right to ask that the court hearing be closed to the public.

(7) You have the right to tell the court whom you prefer to have for your guardian.

You do not have to attend the court hearing if you do not want to be there. If you do not attend, the Judge may appoint a guardian if the Judge finds that a guardian would be of benefit to you. The hearing will not be postponed or canceled if you do not attend. If you are unable to attend the hearing in person or you will suffer harm if you attend, the Judge can decide to hold the hearing at a place that is convenient. The Judge can also follow the rule of the Supreme Court of this State, or its local equivalent, and decide if a video conference is appropriate.

IT IS VERY IMPORTANT THAT YOU ATTEND THE HEARING IF YOU DO NOT WANT A GUARDIAN OR IF YOU WANT SOMEONE OTHER THAN THE PERSON NAMED IN THE GUARDIANSHIP PETITION TO BE YOUR GUARDIAN. IF YOU DO NOT WANT A GUARDIAN OR IF YOU HAVE ANY OTHER PROBLEMS, YOU SHOULD CONTACT AN ATTORNEY OR COME TO COURT AND TELL THE JUDGE.

Service of summons and the petition may be made by a private person 18 years of age or over who is not a party to the action.

(f) Notice of the time and place of the hearing shall be given by the petitioner by mail or in person to those persons, including the proposed guardian, whose names and addresses appear in the petition and who do not waive notice, not less than 14 days before the hearing.

(Source: P.A. 99-143, eff. 7-27-15; 99-642, eff. 7-28-16; 100-201, eff. 8-18-17; 100-427, eff. 1-1-18.)

(Text of Section from P.A. 102-72)

Sec. 11a-10. Procedures preliminary to hearing.

(a) Upon the filing of a petition pursuant to Section 11a-8, the court shall set a date and place for hearing to take place within 30 days. The court shall appoint a guardian ad litem to report to the court concerning the respondent's best interests

consistent with the provisions of this Section, except that the appointment of a guardian ad litem shall not be required when the court determines that such appointment is not necessary for the protection of the respondent or a reasonably informed decision on the petition. If the guardian ad litem is not a licensed attorney, he or she shall be qualified, by training or experience, to work with or advocate for persons with developmental disabilities, the mentally ill, persons with physical disabilities, the elderly, or persons with a disability due to mental deterioration, depending on the type of disability that is alleged in the petition. The court may allow the guardian ad litem reasonable compensation. The guardian ad litem may consult with a person who by training or experience is qualified to work with persons with a developmental disability, persons with mental illness, persons with physical disabilities, or persons with a disability due to mental deterioration, depending on the type of disability that is alleged. The guardian ad litem shall personally observe the respondent prior to the hearing and shall inform him orally and in writing of the contents of the petition and of his rights, including providing a copy of the notice of rights required under subsection (e). The guardian ad litem shall also attempt to elicit the respondent's position concerning the adjudication of disability, the proposed guardian, a proposed change in residential placement, changes in care that might result from the guardianship, and other areas of inquiry deemed appropriate by the court. Notwithstanding any provision in the Mental Health and Developmental Disabilities Confidentiality Act or any other law, a guardian ad litem shall have the right to inspect and copy any medical or mental health record of the respondent which the guardian ad litem deems necessary, provided that the information so disclosed shall not be utilized for any other purpose nor be redisclosed except in connection with the proceedings. At or before the hearing, the guardian ad litem shall file a written report detailing his or her observations of the respondent, the responses of the respondent to any of the inquiries detailed in this Section, the opinion of the guardian ad litem or other professionals with whom the guardian ad litem consulted concerning the appropriateness of guardianship, and any other material issue discovered by the guardian ad litem. The guardian ad litem shall appear at the hearing and testify as to any issues presented in his or her report.

(b) The court (1) may appoint counsel for the respondent, if the court finds that the interests of the respondent will be best served by the appointment, and (2) shall appoint counsel upon respondent's request or if the respondent takes a position adverse to that of the guardian ad litem. The respondent shall be permitted to obtain the appointment of counsel either at the hearing or by any written or oral request communicated to the court prior to the hearing. The summons shall inform the respondent of this right to obtain appointed counsel. The court may allow counsel for the respondent reasonable compensation.

(c) If the respondent is unable to pay the fee of the guardian ad litem or appointed counsel, or both, the court may enter an order for the petitioner to pay all such fees or such amounts as the respondent or the respondent's estate may be unable to pay. However, in cases where the Office of State Guardian is the petitioner, consistent with Section 30 of the Guardianship and Advocacy Act, where the public guardian is the petitioner, consistent with Section 13-5 of this Act, where an adult protective services agency is the petitioner, pursuant to Section 9 of the Adult Protective Services Act, or where the Department of Children and Family Services is the petitioner under subparagraph (d) of subsection (1) of Section 2-27 of the Juvenile Court Act of 1987, no guardian ad litem or legal fees

shall be assessed against the Office of State Guardian, the public guardian, the adult protective services agency, or the Department of Children and Family Services.

(d) The hearing may be held at such convenient place as the court directs, including at a facility in which the respondent resides.

(e) Unless he is the petitioner, the respondent shall be personally served with a copy of the petition and a summons not less than 14 days before the hearing. The summons shall be printed in large, bold type and shall include the following:

NOTICE OF RIGHTS OF RESPONDENT

You have been named as a respondent in a guardianship petition asking that you be declared a person with a disability. If the court grants the petition, a guardian will be appointed for you. A copy of the guardianship petition is attached for your convenience.

The date and time of the hearing are:

The place where the hearing will occur is:

The Judge's name and phone number is:

If a guardian is appointed for you, the guardian may be given the right to make all important personal decisions for you, such as where you may live, what medical treatment you may receive, what places you may visit, and who may visit you. A guardian may also be given the right to control and manage your money and other property, including your home, if you own one. You may lose the right to make these decisions for yourself.

You have the following legal rights:

(1) You have the right to be present at the court hearing.

(2) You have the right to be represented by a lawyer, either one that you retain, or one appointed by the Judge.

(3) You have the right to ask for a jury of six persons to hear your case.

(4) You have the right to present evidence to the court and to confront and cross-examine witnesses.

(5) You have the right to ask the Judge to appoint an independent expert to examine you and give an opinion about your need for a guardian.

(6) You have the right to ask that the court hearing be closed to the public.

(7) You have the right to tell the court whom you prefer to have for your guardian.

(8) You have the right to ask a judge to find that although you lack some capacity to make your own decisions, you can make other decisions, and therefore it is best for the court to appoint only a limited guardian for you.

You do not have to attend the court hearing if you do not want to be there. If you do not attend, the Judge may appoint a guardian if the Judge finds that a guardian would be of benefit to you. The hearing will not be postponed or canceled if you do not attend. If you are unable to attend the hearing in person or you will suffer harm if you attend, the Judge can decide to hold the hearing at a place that is convenient. The Judge can also follow the rule of the Supreme Court of this State, or its local equivalent, and decide if a video conference is appropriate.

IT IS VERY IMPORTANT THAT YOU ATTEND THE HEARING IF YOU DO NOT WANT A GUARDIAN OR IF YOU WANT SOMEONE OTHER THAN THE PERSON NAMED IN THE GUARDIANSHIP PETITION TO BE YOUR GUARDIAN. IF YOU DO NOT WANT A GUARDIAN OR IF YOU HAVE ANY OTHER PROBLEMS, YOU SHOULD CONTACT AN ATTORNEY OR COME TO COURT AND TELL THE JUDGE.

Service of summons and the petition may be made by a private person 18 years of age or over who is not a party to the action.

[END OF FORM].

(f) Notice of the time and place of the hearing shall be given by the petitioner by mail or in person to those persons, including the proposed guardian, whose names and addresses appear in the petition and who do not waive notice, not less than 14 days before the hearing.

(Source: P.A. 102-72, eff. 1-1-22.)

(Text of Section from P.A. 102-191)

Sec. 11a-10. Procedures preliminary to hearing.

(a) Upon the filing of a petition pursuant to Section 11a-8, the court shall set a date and place for hearing to take place within 30 days. The court shall appoint a guardian ad litem to report to the court concerning the respondent's best interests consistent with the provisions of this Section, except that the appointment of a guardian ad litem shall not be required when the court determines that such appointment is not necessary for the protection of the respondent or a reasonably informed decision on the petition. If the guardian ad litem is not a licensed attorney, he or she shall be qualified, by training or experience, to work with or advocate for persons with developmental disabilities, the mentally ill, persons with physical disabilities, the elderly, or persons with a disability due to mental deterioration, depending on the type of disability that is alleged in the petition. The court may allow the guardian ad litem reasonable compensation. The guardian ad litem may consult with a person who by training or experience is qualified to work with persons with a developmental disability, persons with mental illness, persons with physical disabilities, or persons with a disability due to mental deterioration, depending on the type of disability that is alleged. The guardian ad litem shall personally observe the respondent prior to the hearing and shall inform him orally and in writing of the contents of the petition and of his rights under Section 11a-11. The guardian ad litem shall also attempt to elicit the respondent's position concerning the adjudication of disability, the proposed guardian, a proposed change in residential placement, changes in care that might result from the guardianship, and other areas of inquiry deemed appropriate by the court. Notwithstanding any provision in the Mental Health and Developmental Disabilities Confidentiality Act or any other law, a guardian ad litem shall have the right to inspect and copy any medical or mental health record of the respondent which the guardian ad litem deems necessary, provided that the information so disclosed shall not be utilized for any other purpose nor be redisclosed except in connection with the proceedings. At or before the hearing, the guardian ad litem shall file a written report detailing his or her observations of the respondent, the responses of the respondent to any of the inquiries detailed in this Section, the opinion of the guardian ad litem or other professionals with whom the guardian ad litem consulted concerning the appropriateness of guardianship, and any other material issue discovered by the guardian ad litem. The guardian ad litem shall appear at the hearing and testify as to any issues presented in his or her report.

(b) The court (1) may appoint counsel for the respondent, if the court finds that the interests of the respondent will be best served by the appointment, and (2) shall appoint counsel upon respondent's request or if the respondent takes a position adverse to that of the guardian ad litem. The respondent shall be permitted to obtain the appointment of counsel either at the hearing or by any written or oral request communicated to the court prior to the hearing. The summons shall inform the respondent of this right to obtain appointed counsel. The court may allow counsel for the respondent reasonable compensation.

(c) The allocation of guardian ad litem fees and costs is within the discretion of the court. No legal fees, appointed counsel fees, guardian ad litem fees, or costs shall be assessed against the Office of the State Guardian, the public guardian, an adult protective services agency, the Department of Children and Family Services, or the agency designated by the Governor under Section 1 of the Protection and Advocacy for Persons with Developmental Disabilities Act.

(d) The hearing may be held at such convenient place as the court directs, including at a facility in which the respondent resides.

(e) Unless he is the petitioner, the respondent shall be personally served with a copy of the petition and a summons not less than 14 days before the hearing. The summons shall be printed in large, bold type and shall include the following notice:

NOTICE OF RIGHTS OF RESPONDENT

You have been named as a respondent in a guardianship petition asking that you be declared a person with a disability. If the court grants the petition, a guardian will be appointed for you. A copy of the guardianship petition is attached for your convenience.

The date and time of the hearing are:

The place where the hearing will occur is:

The Judge's name and phone number is:

If a guardian is appointed for you, the guardian may be given the right to make all important personal decisions for you, such as where you may live, what medical treatment you may receive, what places you may visit, and who may visit you. A guardian may also be given the right to control and manage your money and other property, including your home, if you own one. You may lose the right to make these decisions for yourself.

You have the following legal rights:

(1) You have the right to be present at the court hearing.

(2) You have the right to be represented by a lawyer, either one that you retain, or one appointed by the Judge.

(3) You have the right to ask for a jury of six persons to hear your case.

(4) You have the right to present evidence to the court and to confront and cross-examine witnesses.

(5) You have the right to ask the Judge to appoint an independent expert to examine you and give an opinion about your need for a guardian.

(6) You have the right to ask that the court hearing be closed to the public.

(7) You have the right to tell the court whom you prefer to have for your guardian.

You do not have to attend the court hearing if you do not want to be there. If you do not attend, the Judge may appoint a guardian if the Judge finds that a guardian would be of benefit to you. The hearing will not be postponed or canceled if you do not attend. If you are unable to attend the hearing in person or you will suffer harm if you attend, the Judge can decide to hold the hearing at a place that is convenient. The Judge can also follow the rule of the Supreme Court of this State, or its local equivalent, and decide if a video conference is appropriate.

IT IS VERY IMPORTANT THAT YOU ATTEND THE HEARING IF YOU DO NOT WANT A GUARDIAN OR IF YOU WANT SOMEONE OTHER THAN THE PERSON NAMED IN THE GUARDIANSHIP PETITION TO BE YOUR GUARDIAN. IF YOU DO NOT WANT A GUARDIAN OR IF YOU HAVE ANY OTHER PROBLEMS, YOU SHOULD CONTACT AN ATTORNEY OR COME TO COURT AND TELL THE JUDGE.

Service of summons and the petition may be made by a private person 18 years of age or over who is not a party to the action.

(f) Notice of the time and place of the hearing shall be given by the petitioner by mail or in person to those persons, including the proposed guardian, whose names and addresses appear in the petition and who do not waive notice, not less than 14 days before the hearing.

(Source: P.A. 102-191, eff. 1-1-22.)

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

Sec. 11a-10.1. Domestic Violence: Order of Protection. An order of protection, as defined in the Illinois Domestic Violence Act of 1986, may be issued in conjunction with a proceeding for adjudication of disability and appointment of guardian if the petition for an order of protection alleges that a person who is party to or the subject of the proceeding has been abused by or has abused a family or household member or has been neglected or exploited as defined in the Illinois Domestic Violence Act of 1986.

If the subject of the order of protection is a high-risk adult with disabilities for whom a guardian has been appointed, the court may appoint a temporary substitute guardian under the provisions of this Act. The court shall appoint a temporary substitute guardian if the appointed guardian is named as a respondent in a petition for an order of protection under the Illinois Domestic Violence Act of 1986. The Illinois Domestic Violence Act of 1986 shall govern the issuance, enforcement and recording of orders of protection issued under this Section.

(Source: P.A. 102-72, eff. 1-1-22.)

(755 ILCS 5/11a-10.2)

Sec. 11a-10.2. Procedure for appointment of a standby guardian or a guardian of a person with a disability. In any proceeding for the appointment of a standby guardian or a guardian the court may appoint a guardian ad litem to represent the person with a disability in the proceeding.

(Source: P.A. 99-143, eff. 7-27-15.)

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

Sec. 11a-11. Hearing.

(a) The respondent is entitled to be represented by counsel, to demand a jury of 6 persons, to present evidence, and to confront and cross-examine all witnesses. The hearing may be closed to the public on request of the respondent, the guardian ad litem, or appointed or other counsel for the respondent. Unless excused by the court upon a showing that the respondent refuses to be present or will suffer harm if required to attend, the respondent shall be present at the hearing.

(b) (Blank).

(c) (Blank).

(d) In an uncontested proceeding for the appointment of a guardian the person who prepared the report required by Section 11a-9 will only be required to testify at trial upon order of court for cause shown.

(e) At the hearing the court shall inquire regarding: (1) the nature and extent of respondent's general intellectual and physical functioning; (2) the extent of the impairment of his adaptive behavior if he is a person with a developmental disability, or the nature and severity of his mental illness if he is a person with mental illness; (3) the understanding and capacity of the respondent to make and communicate responsible decisions concerning his person; (4) the capacity of the respondent to manage his estate and his financial affairs; (5) the appropriateness of proposed and alternate living arrangements; (6) the impact of the disability upon the respondent's functioning in the basic activities of daily living

and the important decisions faced by the respondent or normally faced by adult members of the respondent's community; and (7) any other area of inquiry deemed appropriate by the court.

(f) An authenticated transcript of the evidence taken in a judicial proceeding concerning the respondent under the Mental Health and Developmental Disabilities Code is admissible in evidence at the hearing.

(g) If the petition is for the appointment of a guardian for a beneficiary of the Veterans Administration who has a disability, a certificate of the Administrator of Veterans Affairs or his representative stating that the beneficiary has been determined to be incompetent by the Veterans Administration on examination in accordance with the laws and regulations governing the Veterans Administration in effect upon the date of the issuance of the certificate and that the appointment of a guardian is a condition precedent to the payment of any money due the beneficiary by the Veterans Administration, is admissible in evidence at the hearing.

(Source: P.A. 98-1094, eff. 1-1-15; 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-11.5)

Sec. 11a-11.5. Video conferencing. Any circuit court of this State may adopt rules consistent with the rules of the Supreme Court of this State permitting the use of video conferencing equipment in any hearing under Section 11a-11. No rule shall preclude a party from seeking the presentation of testimony in accordance with Supreme Court Rule 241.

(Source: P.A. 100-427, eff. 1-1-18.)

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

Sec. 11a-12. Order of appointment.

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

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

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

(d) The selection of the guardian shall be in the discretion of the court, which shall give due consideration to the preference of the person with a disability as to a guardian, as well as the qualifications of the proposed guardian, in making its appointment. However, the paramount concern in the selection of the guardian is the best interests and well-being of the person with a disability.

One person or agency may be appointed a limited or plenary guardian of the person and another person or corporate trustee appointed as a limited or plenary guardian of the estate. If different persons are appointed, the court shall consider the factors set forth in subsection (b-5) of Section 11a-5. The

court shall enter a written order stating the factual basis for its findings.

(e) The order of appointment of a guardian of the person in any county with a population of less than 3 million shall include the requirement that the guardian of the person complete the training program as provided in Section 33.5 of the Guardianship and Advocacy Act that outlines the responsibilities of the guardian of the person and the rights of the person under guardianship and file with the court a certificate of completion one year from the date of issuance of the letters of guardianship, except that: (1) the chief judge of any circuit may order implementation of another training program by a suitable provider containing substantially similar content; (2) employees of the Office of the State Guardian, public guardians, attorneys currently authorized to practice law, corporate fiduciaries, and persons certified by the Center for Guardianship Certification are exempt from this training requirement; and (3) the court may, for good cause shown, exempt from this requirement an individual not otherwise listed in item (2). For the purposes of this subsection (e), good cause may be proven by affidavit. If the court finds good cause to exempt an individual from the training requirement, the order of appointment shall so state.

(Source: P.A. 102-72, eff. 1-1-22.)

(755 ILCS 5/11a-13) (from Ch. 110 1/2, par. 11a-13)
Sec. 11a-13. Costs in certain cases.)

(a) No costs may be taxed or charged by any public officer in any proceeding for the appointment of a guardian or for any subsequent proceeding or report made in pursuance of the appointment when the primary purpose of the appointment is as set forth in Section 11-11 or is the management of the estate of a person with a mental disability who resides in a state mental health or developmental disabilities facility when the value of the personal estate does not exceed \$1,000.

(b) No costs shall be taxed or charged against the Office of the State Guardian by any public officer in any proceeding for the appointment of a guardian or for any subsequent proceeding or report made in pursuance of the appointment.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-13.5)

Sec. 11a-13.5. Guardian fees. A guardian is entitled to reasonable and appropriate compensation for services related to guardianship duties, but all fees must be reviewed and approved by the court pursuant to a fee petition. In considering the reasonableness of any fee petition brought by a guardian under this Section, the court shall consider the following:

(1) the powers and duties assigned to the guardian by the court;

(2) the necessity of any services provided;

(3) the time required, the degree of difficulty, and the experience needed to complete the task;

(4) the needs of the ward and the costs of alternatives; and

(5) other facts and circumstances material to the best interests of the ward or his or her estate.

Upon the death of the ward, fees and costs awarded under this Section shall be considered as a first-class claim for administrative expenses as set forth in Section 18-10 and may be paid from the guardianship estate or from the decedent's estate.

(Source: P.A. 102-72, eff. 1-1-22.)

(755 ILCS 5/11a-14) (from Ch. 110 1/2, par. 11a-14)

Sec. 11a-14. Legal disabilities of ward.) (a) An order appointing a limited guardian of the person under this Article removes from the ward only that authority provided under Section 11a-17 which is specifically conferred on the limited guardian by the order.

(b) An order appointing a limited guardian of the estate under this Article confers on the limited guardian the authority provided under Section 11a-18 not specifically reserved to the ward.

(c) The appointment of a limited guardian under this Article shall not constitute a finding of legal incompetence.

(d) An order appointing a plenary guardian under this Article confers on the plenary guardian of the person the authority provided under Section 11a-17 and on the plenary guardian of the estate the authority provided under Section 11a-18.

(Source: P.A. 81-795.)

(755 ILCS 5/11a-14.1) (from Ch. 110 1/2, par. 11a-14.1)

Sec. 11a-14.1. Residential placement.) No guardian appointed under this Article, except for duly appointed Public Guardians and the Office of State Guardian, shall have the power, unless specified by court order, to place his ward in a residential facility. The guardianship order may specify the conditions on which the guardian may admit the ward to a residential facility without further court order. In making residential placement decisions, the guardian shall make decisions in conformity with the preferences of the ward unless the guardian is reasonably certain that the decisions will result in substantial harm to the ward or to the ward's estate. When the preferences of the ward cannot be ascertained or where they will result in substantial harm to the ward or to the ward's estate, the guardian shall make decisions with respect to the ward's placement which are in the best interests of the ward. The guardian shall not remove the ward from his or her home or separate the ward from family and friends unless such removal is necessary to prevent substantial harm to the ward or to the ward's estate. The guardian shall have a duty to investigate the availability of reasonable residential alternatives. The guardian shall monitor the placement of the ward on an on-going basis to ensure its continued appropriateness, and shall pursue appropriate alternatives as needed.

(Source: P.A. 90-250, eff. 7-29-97.)

(755 ILCS 5/11a-15) (from Ch. 110 1/2, par. 11a-15)

Sec. 11a-15. Successor guardian.) Upon the death, incapacity, resignation or removal of a guardian of the estate or person of a living ward, the court shall appoint a successor guardian or terminate the adjudication of disability. The powers and duties of the successor guardian shall be the same as those of the predecessor guardian unless otherwise modified.

(Source: P.A. 81-795.)

(755 ILCS 5/11a-16) (from Ch. 110 1/2, par. 11a-16)

Sec. 11a-16. Testamentary guardian.) A parent of a person with a disability may designate by will a person, corporation or public agency qualified to act under Section 11a-5, to be appointed as guardian or as successor guardian of the person or of the estate or both of that person. If a conservator appointed under a prior law or a guardian appointed under this Article is acting at the time of the death of the parent, the designation shall become effective only upon the death, incapacity, resignation or removal of the conservator or guardian. If no

conservator or guardian is acting at the time of the death of the parent, the person, corporation or public agency so designated or any other person may petition the court having jurisdiction over the person or estate or both of the child for the appointment of the one so designated. The designation shall be proved in the manner provided for proof of will. Admission of the will to probate in any other jurisdiction shall be conclusive proof of the validity of the designation. If the court finds that the appointment of the one so designated will serve the best interests and welfare of the ward, it shall appoint the one so designated. The selection of a guardian shall be in the discretion of the court, whether or not a designation is made.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-17) (from Ch. 110 1/2, par. 11a-17)

(Text of Section from P.A. 102-72)

Sec. 11a-17. Duties of personal guardian.

(a) To the extent ordered by the court and under the direction of the court, the guardian of the person shall have custody of the ward and the ward's minor and adult dependent children and shall procure for them and shall make provision for their support, care, comfort, health, education and maintenance, and professional services as are appropriate, but the ward's spouse may not be deprived of the custody and education of the ward's minor and adult dependent children, without the consent of the spouse, unless the court finds that the spouse is not a fit and competent person to have that custody and education. The guardian shall assist the ward in the development of maximum self-reliance and independence. The guardian of the person may petition the court for an order directing the guardian of the estate to pay an amount periodically for the provision of the services specified by the court order. If the ward's estate is insufficient to provide for education and the guardian of the ward's person fails to provide education, the court may award the custody of the ward to some other person for the purpose of providing education. If a person makes a settlement upon or provision for the support or education of a ward, the court may make an order for the visitation of the ward by the person making the settlement or provision as the court deems proper. A guardian of the person may not admit a ward to a mental health facility except at the ward's request as provided in Article IV of the Mental Health and Developmental Disabilities Code and unless the ward has the capacity to consent to such admission as provided in Article IV of the Mental Health and Developmental Disabilities Code.

(a-3) If a guardian of an estate has not been appointed, the guardian of the person may, without an order of court, open, maintain, and transfer funds to an ABLE account on behalf of the ward and the ward's minor and adult dependent children as specified under Section 16.6 of the State Treasurer Act.

(a-5) If the ward filed a petition for dissolution of marriage under the Illinois Marriage and Dissolution of Marriage Act before the ward was adjudicated a person with a disability under this Article, the guardian of the ward's person and estate may maintain that action for dissolution of marriage on behalf of the ward. Upon petition by the guardian of the ward's person or estate, the court may authorize and direct a guardian of the ward's person or estate to file a petition for dissolution of marriage or to file a petition for legal separation or declaration of invalidity of marriage under the Illinois Marriage and Dissolution of Marriage Act on behalf of the ward if the court finds by clear and convincing evidence that the relief sought is in the ward's best interests. In making its

determination, the court shall consider the standards set forth in subsection (e) of this Section.

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

(b) If the court directs, the guardian of the person shall file with the court at intervals indicated by the court, a report that shall state briefly: (1) the current mental, physical, and social condition of the ward and the ward's minor and adult dependent children; (2) their present living arrangement, and a description and the address of every residence where they lived during the reporting period and the length of stay at each place; (3) a summary of the medical, educational, vocational, and other professional services given to them; (4) a resume of the guardian's visits with and activities on behalf of the ward and the ward's minor and adult dependent children; (5) a recommendation as to the need for continued guardianship; (6) any other information requested by the court or useful in the opinion of the guardian. The Office of the State Guardian shall assist the guardian in filing the report when requested by the guardian. The court may take such action as it deems appropriate pursuant to the report.

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

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

(e) Decisions made by a guardian on behalf of a ward shall be made in accordance with the following standards for decision making. Decisions made by a guardian on behalf of a ward may be made by conforming as closely as possible to what the ward, if competent, would have done or intended under the circumstances, taking into account evidence that includes, but is not limited to, the ward's personal, philosophical, religious and moral beliefs, and ethical values relative to the decision to be made by the guardian. Where possible, the guardian shall determine how the ward would have made a decision based on the ward's

previously expressed preferences, and make decisions in accordance with the preferences of the ward. If the ward's wishes are unknown and remain unknown after reasonable efforts to discern them, the decision shall be made on the basis of the ward's best interests as determined by the guardian. In determining the ward's best interests, the guardian shall weigh the reason for and nature of the proposed action, the benefit or necessity of the action, the possible risks and other consequences of the proposed action, and any available alternatives and their risks, consequences and benefits, and shall take into account any other information, including the views of family and friends, that the guardian believes the ward would have considered if able to act for herself or himself.

(f) Upon petition by any interested person (including the standby or short-term guardian), with such notice to interested persons as the court directs and a finding by the court that it is in the best interests of the person with a disability, the court may terminate or limit the authority of a standby or short-term guardian or may enter such other orders as the court deems necessary to provide for the best interests of the person with a disability. The petition for termination or limitation of the authority of a standby or short-term guardian may, but need not, be combined with a petition to have another guardian appointed for the person with a disability.

(g) (1) Unless there is a court order to the contrary, the guardian, consistent with the standards set forth in subsection (e) of this Section, shall use reasonable efforts to notify the ward's known adult children, who have requested notification and provided contact information, of the ward's admission to a hospital, hospice or palliative care program, the ward's death, and the arrangements for the disposition of the ward's remains.

(2) If a guardian unreasonably prevents an adult child, spouse, adult grandchild, parent, or adult sibling of the ward from visiting the ward, the court, upon a verified petition, may order the guardian to permit visitation between the ward and the adult child, spouse, adult grandchild, parent, or adult sibling. In making its determination, the court shall consider the standards set forth in subsection (e) of this Section. The court shall not allow visitation if the court finds that the ward has capacity to evaluate and communicate decisions regarding visitation and expresses a desire not to have visitation with the petitioner. This subsection (g) does not apply to duly appointed public guardians or the Office of State Guardian. (Source: P.A. 101-329, eff. 8-9-19; 102-72, eff. 1-1-22.)

(Text of Section from P.A. 102-258)

Sec. 11a-17. Duties of personal guardian.

(a) To the extent ordered by the court and under the direction of the court, the guardian of the person shall have custody of the ward and the ward's minor and adult dependent children and shall procure for them and shall make provision for their support, care, comfort, health, education and maintenance, and professional services as are appropriate, but the ward's spouse may not be deprived of the custody and education of the ward's minor and adult dependent children, without the consent of the spouse, unless the court finds that the spouse is not a fit and competent person to have that custody and education. The guardian shall assist the ward in the development of maximum self-reliance and independence. The guardian of the person may petition the court for an order directing the guardian of the estate to pay an amount periodically for the provision of the services specified by the court order. If the ward's estate is insufficient to provide for education and the guardian of the ward's person fails to provide education, the court may award

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

(a-3) If a guardian of an estate has not been appointed, the guardian of the person may, without an order of court, open, maintain, and transfer funds to an ABLE account on behalf of the ward and the ward's minor and adult dependent children as specified under Section 16.6 of the State Treasurer Act.

(a-5) If the ward filed a petition for dissolution of marriage under the Illinois Marriage and Dissolution of Marriage Act before the ward was adjudicated a person with a disability under this Article, the guardian of the ward's person and estate may maintain that action for dissolution of marriage on behalf of the ward. Upon petition by the guardian of the ward's person or estate, the court may authorize and direct a guardian of the ward's person or estate to file a petition for dissolution of marriage or to file a petition for legal separation or declaration of invalidity of marriage under the Illinois Marriage and Dissolution of Marriage Act on behalf of the ward if the court finds by clear and convincing evidence that the relief sought is in the ward's best interests. In making its determination, the court shall consider the standards set forth in subsection (e) of this Section.

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

(b) If the court directs, the guardian of the person shall file with the court at intervals indicated by the court, a report that shall state briefly: (1) the current mental, physical, and social condition of the ward and the ward's minor and adult dependent children; (2) their present living arrangement, and a description and the address of every residence where they lived during the reporting period and the length of stay at each place; (3) a summary of the medical, educational, vocational, and other professional services given to them; (4) a resume of the guardian's visits with and activities on behalf of the ward and the ward's minor and adult dependent children; (5) a recommendation as to the need for continued guardianship; (6) any other information requested by the court or useful in the opinion of the guardian. The Office of the State Guardian shall assist the guardian in filing the report when requested by the guardian. The court may take such action as it deems appropriate pursuant to the report.

(c) Absent court order pursuant to the Illinois Power of Attorney Act directing a guardian to exercise powers of the principal under an agency that survives disability, the guardian

has no power, duty, or liability with respect to any personal or health care matters covered by the agency. This subsection (c) applies to all agencies, whenever and wherever executed.

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

(e) Decisions made by a guardian on behalf of a ward shall be made in accordance with the following standards for decision making. The guardian shall consider the ward's current preferences to the extent the ward has the ability to participate in decision making when those preferences are known or reasonably ascertainable by the guardian. Decisions by the guardian shall conform to the ward's current preferences: (1) unless the guardian reasonably believes that doing so would result in substantial harm to the ward's welfare or personal or financial interests; and (2) so long as such decisions give substantial weight to what the ward, if competent, would have done or intended under the circumstances, taking into account evidence that includes, but is not limited to, the ward's personal, philosophical, religious and moral beliefs, and ethical values relative to the decision to be made by the guardian. Where possible, the guardian shall determine how the ward would have made a decision based on the ward's previously expressed preferences, and make decisions in accordance with the preferences of the ward. If the ward's wishes are unknown and remain unknown after reasonable efforts to discern them, or if the guardian reasonably believes that a decision made in conformity with the ward's preferences would result in substantial harm to the ward's welfare or personal or financial interests, the decision shall be made on the basis of the ward's best interests as determined by the guardian. In determining the ward's best interests, the guardian shall weigh the reason for and nature of the proposed action, the benefit or necessity of the action, the possible risks and other consequences of the proposed action, and any available alternatives and their risks, consequences and benefits, and shall take into account any other information, including the views of family and friends, that the guardian believes the ward would have considered if able to act for herself or himself.

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

(g)(1) Unless there is a court order to the contrary, the guardian, consistent with the standards set forth in subsection

(e) of this Section, shall use reasonable efforts to notify the ward's known adult children, who have requested notification and provided contact information, of the ward's admission to a hospital or hospice program, the ward's death, and the arrangements for the disposition of the ward's remains.

(2) If a guardian unreasonably prevents an adult child, spouse, adult grandchild, parent, or adult sibling of the ward from visiting the ward, the court, upon a verified petition, may order the guardian to permit visitation between the ward and the adult child, spouse, adult grandchild, parent, or adult sibling. In making its determination, the court shall consider the standards set forth in subsection (e) of this Section. The court shall not allow visitation if the court finds that the ward has capacity to evaluate and communicate decisions regarding visitation and expresses a desire not to have visitation with the petitioner. This subsection (g) does not apply to duly appointed public guardians or the Office of State Guardian. (Source: P.A. 101-329, eff. 8-9-19; 102-258, eff. 8-6-21.)

(755 ILCS 5/11a-17.1)

Sec. 11a-17.1. Sterilization of ward.

(a) A guardian of the person shall not consent to the sterilization of the ward without first obtaining an order from the court granting the guardian the authority to provide consent. For purposes of this Article XIa, "sterilization" means any procedure that has as its purpose rendering the ward permanently incapable of reproduction; provided, however, that an order from the court is not required for a procedure that is medically necessary to preserve the life of the ward or to prevent serious impairment to the health of the ward and which may result in sterilization.

(b) A guardian seeking authority to consent to the sterilization of the ward shall seek such authority by filing a verified motion. The verified motion shall allege facts which demonstrate that the proposed sterilization is warranted under subsection (f), (g) or (h) of this Section. The guardian ad litem will notify the ward of the motion in the manner set forth in subsection (c) of this Section.

(c) Upon the filing of a verified motion for authority to consent to sterilization, the court shall appoint a guardian ad litem to report to the court consistent with the provisions of this Section. If the guardian ad litem is not a licensed attorney, he or she shall be qualified, by training or experience, to work with or advocate for persons with a developmental disability, mental illness, physical disability, or disability because of mental deterioration, depending on the type of disability of the ward that is alleged in the motion. The court may allow the guardian ad litem reasonable compensation. The guardian ad litem may consult with a person who by training or experience is qualified to work with persons with a developmental disability, mental illness, physical disability, or disability because of mental deterioration, depending on the type of disability of the ward that is alleged. The guardian ad litem may also consult with health care providers knowledgeable about reproductive health matters including sterilization, other forms of contraception, and childbirth. Outside the presence of the guardian, the guardian ad litem shall personally observe the ward prior to the hearing and shall inform the ward orally and in writing of the contents of the verified motion for authority to consent to sterilization. Outside the presence of the guardian, the guardian ad litem shall also attempt to elicit the ward's position concerning the motion, and any other areas of inquiry deemed appropriate by the court. At or before the hearing, the

guardian ad litem shall file a written report detailing his or her observations of the ward; the responses of the ward to any of the inquiries detailed in this Section; the opinion of the guardian ad litem and any other professionals with whom the guardian ad litem consulted concerning the ward's understanding of and desire for or objection to, as well as what is in the ward's best interests relative to, sterilization, other forms of contraception, and childbirth; and any other material issue discovered by the guardian ad litem. The guardian ad litem shall appear at the hearing and testify, and may present witnesses, as to any issues presented in his or her report.

(d) The court (1) may appoint counsel for the ward if the court finds that the interests of the ward will be best served by the appointment, and (2) shall appoint counsel upon the ward's request, if the ward is objecting to the proposed sterilization, or if the ward takes a position adverse to that of the guardian ad litem. The ward shall be permitted to obtain the appointment of counsel either at the hearing or by any written or oral request communicated to the court prior to the hearing. The court shall inform the ward of this right to obtain appointed counsel. The court may allow counsel for the ward reasonable compensation.

(e) The court shall order a medical and psychological evaluation of the ward. The evaluation shall address the ward's decision-making capacity with respect to the proposed sterilization, the existence of any less permanent alternatives, and any other material issue.

(f) The court shall determine, as a threshold inquiry, whether the ward has capacity to consent or withhold consent to the proposed sterilization and, if the ward lacks such capacity, whether the ward is likely to regain such capacity. The ward shall not be deemed to lack such capacity solely on the basis of the adjudication of disability and appointment of a guardian. In determining capacity, the court shall consider whether the ward is able, after being provided appropriate information, to understand the relationship between sexual activity and reproduction; the consequences of reproduction; and the nature and consequences of the proposed sterilization procedure. If the court finds that (1) the ward has capacity to consent or withhold consent to the proposed sterilization, and (2) the ward objects or consents to the procedure, the court shall enter an order consistent with the ward's objection or consent and the proceedings on the verified motion shall be terminated.

(g) If the court finds that the ward does not have capacity to consent or withhold consent to the proposed sterilization and is unlikely to regain such capacity, the court shall determine whether the ward is expressing a clear desire for the proposed sterilization. If the ward is expressing a clear desire for the proposed sterilization, the court's decision regarding the proposed sterilization shall be made in accordance with the standards set forth in subsection (e) of Section 11a-17 of this Act.

(h) If the court finds that the ward does not have capacity to consent or withhold consent to the proposed sterilization and is unlikely to regain such capacity, and that the ward is not expressing a clear desire for the proposed sterilization, the court shall consider the standards set forth in subsection (e) of Section 11a-17 of this Act and enter written findings of fact and conclusions of law addressing those standards. In addition, the court shall not authorize the guardian to consent to the proposed sterilization unless the court finds, by clear and convincing evidence and based on written findings of fact and conclusions of law, that all of the following factors are

present:

(1) The ward lacks decisional capacity regarding the proposed sterilization.

(2) The ward is fertile and capable of procreation.

(3) The benefits to the ward of the proposed sterilization outweigh the harm.

(4) The court has considered less intrusive alternatives and found them to be inadequate in this case.

(5) The proposed sterilization is in the best interests of the ward. In considering the ward's best interests, the court shall consider the following factors:

(A) The possibility that the ward will experience trauma or psychological damage if he or she has a child and, conversely, the possibility of trauma or psychological damage from the proposed sterilization.

(B) The ward is or is likely to become sexually active.

(C) The inability of the ward to understand reproduction or contraception and the likely permanence of that inability.

(D) Any other factors that assist the court in determining the best interests of the ward relative to the proposed sterilization.

(Source: P.A. 102-72, eff. 1-1-22.)

(755 ILCS 5/11a-18) (from Ch. 110 1/2, par. 11a-18)

Sec. 11a-18. Duties of the estate guardian.

(a) To the extent specified in the order establishing the guardianship, the guardian of the estate shall have the care, management and investment of the estate, shall manage the estate frugally and shall apply the income and principal of the estate so far as necessary for the comfort and suitable support and education of the ward, his minor and adult dependent children, and persons related by blood or marriage who are dependent upon or entitled to support from him, or for any other purpose which the court deems to be for the best interests of the ward, and the court may approve the making on behalf of the ward of such agreements as the court determines to be for the ward's best interests. The guardian may make disbursement of his ward's funds and estate directly to the ward or other distributee or in such other manner and in such amounts as the court directs. If the estate of a ward is derived in whole or in part from payments of compensation, adjusted compensation, pension, insurance or other similar benefits made directly to the estate by the Veterans Administration, notice of the application for leave to invest or expend the ward's funds or estate, together with a copy of the petition and proposed order, shall be given to the Veterans' Administration Regional Office in this State at least 7 days before the hearing on the application.

(a-5) The probate court, upon petition of a guardian, other than the guardian of a minor, and after notice to all other persons interested as the court directs, may authorize the guardian to exercise any or all powers over the estate and business affairs of the ward that the ward could exercise if present and not under disability. The court may authorize the taking of an action or the application of funds not required for the ward's current and future maintenance and support in any manner approved by the court as being in keeping with the ward's wishes so far as they can be ascertained. The court must consider the permanence of the ward's disabling condition and the natural objects of the ward's bounty. In ascertaining and carrying out the ward's wishes the court may consider, but shall not be limited to, minimization of State or federal income, estate, or inheritance taxes; and providing gifts to charities,

relatives, and friends that would be likely recipients of donations from the ward. The ward's wishes as best they can be ascertained shall be carried out, whether or not tax savings are involved. Actions or applications of funds may include, but shall not be limited to, the following:

- (1) making gifts of income or principal, or both, of the estate, either outright or in trust;
- (2) conveying, releasing, or disclaiming his or her contingent and expectant interests in property, including marital property rights and any right of survivorship incident to joint tenancy or tenancy by the entirety;
- (3) releasing or disclaiming his or her powers as trustee, personal representative, custodian for minors, or guardian;
- (4) exercising, releasing, or disclaiming his or her powers as donee of a power of appointment;
- (5) entering into contracts;
- (6) creating for the benefit of the ward or others, revocable or irrevocable trusts of his or her property that may extend beyond his or her disability or life;
- (7) exercising options of the ward to purchase or exchange securities or other property;
- (8) exercising the rights of the ward to elect benefit or payment options, to terminate, to change beneficiaries or ownership, to assign rights, to borrow, or to receive cash value in return for a surrender of rights under any one or more of the following:
 - (i) life insurance policies, plans, or benefits,
 - (ii) annuity policies, plans, or benefits,
 - (iii) mutual fund and other dividend investment plans,
 - (iv) retirement, profit sharing, and employee welfare plans and benefits;
- (9) exercising his or her right to claim or disclaim an elective share in the estate of his or her deceased spouse and to renounce any interest by testate or intestate succession or by inter vivos transfer;
- (10) changing the ward's residence or domicile; or
- (11) modifying by means of codicil or trust amendment the terms of the ward's will or any revocable trust created by the ward, as the court may consider advisable in light of changes in applicable tax laws.

The guardian in his or her petition shall briefly outline the action or application of funds for which he or she seeks approval, the results expected to be accomplished thereby, and the tax savings, if any, expected to accrue. The proposed action or application of funds may include gifts of the ward's personal property or real estate, but transfers of real estate shall be subject to the requirements of Section 20 of this Act. Gifts may be for the benefit of prospective legatees, devisees, or heirs apparent of the ward or may be made to individuals or charities in which the ward is believed to have an interest. The guardian shall also indicate in the petition that any planned disposition is consistent with the intentions of the ward insofar as they can be ascertained, and if the ward's intentions cannot be ascertained, the ward will be presumed to favor reduction in the incidents of various forms of taxation and the partial distribution of his or her estate as provided in this subsection. The guardian shall not, however, be required to include as a beneficiary or fiduciary any person who he has reason to believe would be excluded by the ward. A guardian shall be required to investigate and pursue a ward's eligibility for governmental benefits.

(a-6) The guardian may, without an order of court, open,

maintain, and transfer funds to an ABLE account on behalf of the ward and the ward's minor and adult dependent children as specified under Section 16.6 of the State Treasurer Act.

(b) Upon the direction of the court which issued his letters, a guardian may perform the contracts of his ward which were legally subsisting at the time of the commencement of the ward's disability. The court may authorize the guardian to execute and deliver any bill of sale, deed or other instrument.

(c) The guardian of the estate of a ward shall appear for and represent the ward in all legal proceedings unless another person is appointed for that purpose as guardian or next friend. This does not impair the power of any court to appoint a guardian ad litem or next friend to defend the interests of the ward in that court, or to appoint or allow any person as the next friend of a ward to commence, prosecute or defend any proceeding in his behalf. Without impairing the power of the court in any respect, if the guardian of the estate of a ward and another person as next friend shall appear for and represent the ward in a legal proceeding in which the compensation of the attorney or attorneys representing the guardian and next friend is solely determined under a contingent fee arrangement, the guardian of the estate of the ward shall not participate in or have any duty to review the prosecution of the action, to participate in or review the appropriateness of any settlement of the action, or to participate in or review any determination of the appropriateness of any fees awarded to the attorney or attorneys employed in the prosecution of the action.

(d) Adjudication of disability shall not revoke or otherwise terminate a trust which is revocable by the ward. A guardian of the estate shall have no authority to revoke a trust that is revocable by the ward, except that the court may authorize a guardian to revoke a Totten trust or similar deposit or withdrawable capital account in trust to the extent necessary to provide funds for the purposes specified in paragraph (a) of this Section. If the trustee of any trust for the benefit of the ward has discretionary power to apply income or principal for the ward's benefit, the trustee shall not be required to distribute any of the income or principal to the guardian of the ward's estate, but the guardian may bring an action on behalf of the ward to compel the trustee to exercise the trustee's discretion or to seek relief from an abuse of discretion. This paragraph shall not limit the right of a guardian of the estate to receive accountings from the trustee on behalf of the ward.

(d-5) Upon a verified petition by the plenary or limited guardian of the estate or the request of the ward that is accompanied by a current physician's report that states the ward possesses testamentary capacity, the court may enter an order authorizing the ward to execute a will or codicil. In so ordering, the court shall authorize the guardian to retain independent counsel for the ward with whom the ward may execute or modify a will or codicil.

(e) Absent court order pursuant to the Illinois Power of Attorney Act directing a guardian to exercise powers of the principal under an agency that survives disability, the guardian will have no power, duty or liability with respect to any property subject to the agency. This subsection (e) applies to all agencies, whenever and wherever executed.

(f) Upon petition by any interested person (including the standby or short-term guardian), with such notice to interested persons as the court directs and a finding by the court that it is in the best interests of the person with a disability, the court may terminate or limit the authority of a standby or short-term guardian or may enter such other orders as the court deems necessary to provide for the best interests of the person

with a disability. The petition for termination or limitation of the authority of a standby or short-term guardian may, but need not, be combined with a petition to have another guardian appointed for the person with a disability.

(Source: P.A. 101-329, eff. 8-9-19; 102-72, eff. 1-1-22.)

(755 ILCS 5/11a-18.1) (from Ch. 110 1/2, par. 11a-18.1)

Sec. 11a-18.1. Conditional gifts.

(a) The court may authorize and direct the guardian of the estate to make conditional gifts from the estate of a person with a disability to any spouse, parent, brother or sister of the person with a disability who dedicates himself or herself to the care of the person with a disability by living with and personally caring for the person with a disability for at least 3 years. It shall be presumed that the person with a disability intends to make such conditional gifts.

(b) A conditional gift shall not be distributed to the donee until the death of the person with a disability. The court may impose such other conditions on the gift as the court deems just and reasonable. The court may provide for an alternate disposition of the gift should the donee die before the person with a disability; provided that if no such alternate disposition is made, the conditional gift shall lapse upon the death of the donee prior to the death of the person with a disability. A conditional gift may be modified or revoked by the court at any time.

(c) The guardian of the estate, the spouse, parent, brother or sister of a person with a disability, or any other interested person may petition the court to authorize and direct the guardian of the estate to make a conditional gift or to modify, revoke or distribute a conditional gift. All persons who would be heirs of the person with a disability if the person with a disability died on the date the petition is filed (or the heirs if the person with a disability is deceased) and all legatees under any known last will of the person with a disability shall be given reasonable notice of the hearing on the petition by certified U. S. mail, return receipt requested. If a trustee is a legatee, notice shall be given to the trustee and need not be given to the trust beneficiaries. Any person entitled to notice of the hearing may appear and object to the petition. The giving of the notice of the hearing to those persons entitled to notice shall cause the decision and order of the court to be binding upon all other persons who otherwise may be interested or may become interested in the estate of the person with a disability.

(d) The guardian of the estate shall set aside conditional gifts in a separate fund for each donee and shall hold and invest each fund as part of the estate of the person with a disability. Upon order of the court, any conditional gift may be revoked or modified in whole or part so that the assets may be used for the care and comfort of the person with a disability should funds otherwise available for such purposes be inadequate.

(e) Upon the death of the person with a disability, the guardian of the estate shall hold each special fund as trustee and shall petition the court for authorization to distribute the special fund and for any other appropriate relief. The court shall order distribution upon such terms and conditions as the court deems just and reasonable.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-18.2)

Sec. 11a-18.2. Duties of standby guardian of a person with a disability.

(a) Before a standby guardian of a person with a disability

may act, the standby guardian must be appointed by the court of the proper county and, in the case of a standby guardian of the estate of the person with a disability, the standby guardian must give the bond prescribed in subsection (c) of Section 11a-3.1 and Section 12-2.

(b) The standby guardian shall not have any duties or authority to act until the standby guardian receives knowledge of the death or consent of the guardian of the person with a disability, or the inability of the guardian of the person with a disability to make and carry out day-to-day care decisions concerning the person with a disability for whom the standby guardian has been appointed. This inability of the guardian of the person with a disability to make and carry out day-to-day care decisions may be communicated either by the guardian's own admission or by the written certification of the guardian's attending physician. Immediately upon receipt of that knowledge, the standby guardian shall assume all duties as guardian of the person with a disability as previously determined by the order appointing the standby guardian, and as set forth in Sections 11a-17 and 11a-18, and the standby guardian of the person shall have the authority to act as guardian of the person without direction of court for a period of up to 60 days, provided that the authority of the standby guardian may be limited or terminated by a court of competent jurisdiction.

(c) Within 60 days of the standby guardian's receipt of knowledge of the death or consent of the guardian of the person with a disability, or the inability of the guardian of the person with a disability to make and carry out day-to-day care decisions concerning the person with a disability, the standby guardian shall file or cause to be filed a petition for the appointment of a guardian of the person or estate, or both, of the person with a disability under Section 11a-3.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-18.3)

Sec. 11a-18.3. Duties of short-term guardian of a person with a disability.

(a) Immediately upon the effective date of the appointment of a short-term guardian, the short-term guardian shall assume all duties as short-term guardian of the person with a disability as provided in this Section. The short-term guardian of the person shall have authority to act as short-term guardian, without direction of the court, for the duration of the appointment, which in no case shall exceed a cumulative total of 60 days in any 12-month period for all short-term guardians appointed by the guardian. The authority of the short-term guardian may be limited or terminated by a court of competent jurisdiction.

(b) Unless further specifically limited by the instrument appointing the short-term guardian, a short-term guardian shall have the authority to act as a guardian of the person of a person with a disability as prescribed in Section 11a-17, but shall not have any authority to act as guardian of the estate of a person with a disability, except that a short-term guardian shall have the authority to apply for and receive on behalf of the person with a disability benefits to which the person with a disability may be entitled from or under federal, State, or local organizations or programs.

(Source: P.A. 102-72, eff. 1-1-22.)

(755 ILCS 5/11a-19) (from Ch. 110 1/2, par. 11a-19)

Sec. 11a-19. Notice of right to seek modification. At the time of the appointment of a guardian the court shall inform the ward of his right under Section 11a-20 to petition for

termination of adjudication of disability, revocation of the letters of guardianship of the estate or person, or both, or modification of the duties of the guardian and shall give the ward a written statement explaining this right and the procedures for petitioning the court. The notice shall be in large type and shall be in a format substantially similar to the following:

IN THE CIRCUIT COURT OF THE ... JUDICIAL CIRCUIT OF ILLINOIS
... COUNTY
IN RE THE ESTATE OF)
)
.....,) CASE NO.
a Person with a Disability,)

NOTICE TO WARD OF RIGHT TO SEEK MODIFICATION

[Insert name] was appointed your Guardian of the Person on [insert date].

[Insert name] was appointed your Guardian of the Estate on [insert date].

You have the right to ask the court to dismiss this guardianship, to revoke the power of this guardian to act for you, or to modify the duties of any such guardian.

You, or someone on your behalf, can make this request, even by an informal letter, a telephone call, or a visit to the court. You should send your letter to the court at the following address; [insert name of judge and mailing address of courthouse].

The court may appoint a Guardian ad Litem to investigate and report to the court. You have the right to have a lawyer appointed for you, to have a hearing before the court, to have a jury of six persons decide the facts, to present evidence and tell your story, and to ask witnesses any questions in cross-examination.

Entered this.....day of....., 20....

.....

JUDGE

[...] At the time of the appointment of the Guardian in this cause, the court informed the ward of his or her rights under Section 11a-20 of the Illinois Probate Act and gave the ward, in open court, the above-written notice explaining these rights and procedures.

or

[...] The Clerk of the Circuit Court shall mail a copy of the above-written notice to the above-named person with a disability at the residence address set forth in the petition filed herein.

Copy Mailed:.....

.....

Clerk of the Circuit Court

[END OF FORM]

(Source: P.A. 102-72, eff. 1-1-22.)

(755 ILCS 5/11a-20) (from Ch. 110 1/2, par. 11a-20)

Sec. 11a-20. Termination of adjudication of disability - Revocation of letters - modification.

(a) Except as provided in subsection (b-5), upon the filing

of a petition by or on behalf of a person with a disability or on its own motion, the court may terminate the adjudication of disability of the ward, revoke the letters of guardianship of the estate or person, or both, or modify the duties of the guardian if the ward's capacity to perform the tasks necessary for the care of his person or the management of his estate has been demonstrated by clear and convincing evidence. A report or testimony by a licensed physician is not a prerequisite for termination, revocation or modification of a guardianship order under this subsection (a).

(b) Except as provided in subsection (b-5), a request by the ward or any other person on the ward's behalf, under this Section may be communicated to the court or judge by any means, including but not limited to informal letter, telephone call or visit. Upon receipt of a request from the ward or another person, the court may appoint a guardian ad litem to investigate and report to the court concerning the allegations made in conjunction with said request, and if the ward wishes to terminate, revoke, or modify the guardianship order, to prepare the ward's petition and to render such other services as the court directs.

(b-5) Upon the filing of a verified petition by the guardian of the person with a disability or the person with a disability, the court may terminate the adjudication of disability of the ward, revoke the letters of guardianship of the estate or person, or both, or modify the duties of the guardian if: (i) a report completed in accordance with subsection (a) of Section 11a-9 states that the person with a disability is no longer in need of guardianship or that the type and scope of guardianship should be modified; (ii) the person with a disability no longer wishes to be under guardianship or desires that the type and scope of guardianship be modified; and (iii) the guardian of the person with a disability states that it is in the best interests of the person with a disability to terminate the adjudication of disability of the ward, revoke the letters of guardianship of the estate or person, or both, or modify the duties of the guardian, and provides the basis thereof. In a proceeding brought pursuant to this subsection (b-5), the court may terminate the adjudication of disability of the ward, revoke the letters of guardianship of the estate or person, or both, or modify the duties of the guardian, unless it has been demonstrated by clear and convincing evidence that the ward is incapable of performing the tasks necessary for the care of his or her person or the management of his or her estate.

(c) Notice of the hearing on a petition under this Section, together with a copy of the petition, shall be given to the ward, unless he is the petitioner, and to each and every guardian to whom letters of guardianship have been issued and not revoked, not less than 14 days before the hearing.
(Source: P.A. 102-72, eff. 1-1-22.)

(755 ILCS 5/11a-21) (from Ch. 110 1/2, par. 11a-21)
Sec. 11a-21. Hearing.

(a) The court shall conduct a hearing on a petition filed under Section 11a-20. The ward is entitled to be represented by counsel, to demand a jury of 6 persons, to present evidence and to confront and cross-examine all witnesses. The court (1) may appoint counsel for the ward, if the court finds that the interests of the ward will be best served by the appointment and (2) shall appoint counsel upon the ward's request or if the respondent takes a position adverse to that of the guardian ad litem. The court may allow the guardian ad litem and counsel for the ward reasonable compensation.

(b) If the ward is unable to pay the fee of the guardian ad

litem or appointed counsel, or both, the court shall enter an order upon the State to pay, from funds appropriated by the General Assembly for that purpose, all such fees or such amounts as the ward is unable to pay.

(c) Upon conclusion of the hearing, the court shall enter an order setting forth the factual basis for its findings and may: (1) dismiss the petition; (2) terminate the adjudication of disability; (3) revoke the letters of guardianship of the estate or person, or both; (4) modify the duties of the guardian; (5) require the guardian to complete a training program as provided in subsection (e) of Section 11a-12 of this Act; and (6) make any other order which the court deems appropriate and in the interests of the ward.

(Source: P.A. 100-483, eff. 9-8-18.)

(755 ILCS 5/11a-22) (from Ch. 110 1/2, par. 11a-22)

Sec. 11a-22. Trade and contracts with a person with a disability.

(a) Anyone who by trading with, bartering, gaming or any other device, wrongfully possesses himself of any property of a person known to be a person with a disability commits a Class A misdemeanor.

(b) Every note, bill, bond or other contract by any person for whom a plenary guardian has been appointed or who is adjudged to be unable to so contract is void as against that person and his estate, but a person making a contract with the person so adjudged is bound thereby.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-23)

Sec. 11a-23. Reliance on authority of guardian, standby guardian, short-term guardian.

(a) For the purpose of this Section, "guardian", "standby guardian", and "short-term guardian" includes temporary, plenary, or limited guardians of all wards.

(b) Every health care provider and other person (reliant) has the right to rely on any decision or direction made by the guardian, standby guardian, or short-term guardian that is not clearly contrary to the law, to the same extent and with the same effect as though the decision or direction had been made or given by the ward. Any person dealing with the guardian, standby guardian, or short-term guardian may presume in the absence of actual knowledge to the contrary that the acts of the guardian, standby guardian, or short-term guardian conform to the provisions of the law. A reliant shall not be protected if the reliant has actual knowledge that the guardian, standby guardian, or short-term guardian is not entitled to act or that any particular action or inaction is contrary to the provisions of the law.

(c) A health care provider (provider) who relies on and carries out a guardian's, standby guardian's, or short-term guardian's directions and who acts with due care and in accordance with the law shall not be subject to any claim based on lack of consent, or to criminal prosecution, or to discipline for unprofessional conduct. Nothing in this Section shall be deemed to protect a provider from liability for the provider's own negligence in the performance of the provider's duties or in carrying out any instructions of the guardian, standby guardian, or short-term guardian, and nothing in this Section shall be deemed to alter the law of negligence as it applies to the acts of any guardian or provider.

(d) A guardian, standby guardian, or short-term guardian, who acts or refrains from acting is not subject to criminal prosecution or any claim based upon lack of his or her authority

or failure to act, if the act or failure to act was with due care and in accordance with law. The guardian, standby guardian, or short-term guardian, shall not be liable merely because he or she may benefit from the act, has individual or conflicting interests in relation to the care and affairs of the ward, or acts in a different manner with respect to the guardian's, standby guardian's, or short-term guardian's own care or interests.

(Source: P.A. 98-756, eff. 7-16-14.)

(755 ILCS 5/11a-24)

Sec. 11a-24. Notification; Illinois State Police. When a court adjudges a respondent to be a person with a disability under this Article, the court shall direct the circuit court clerk to notify the Illinois State Police, Firearm Owner's Identification (FOID) Office, in a form and manner prescribed by the Illinois State Police, and shall forward a copy of the court order to the Department no later than 7 days after the entry of the order. Upon receipt of the order, the Illinois State Police shall provide notification to the National Instant Criminal Background Check System.

(Source: P.A. 102-538, eff. 8-20-21.)

NOTICE OF RIGHTS OF RESPONDENT

You have been named as a respondent in a guardianship petition asking that you be declared a person with a disability. If the court grants the petition, a guardian will be appointed for you. A copy of the guardianship petition is attached for your convenience.

The date and time of the hearing are:

The place where the hearing will occur is:

The Judge's name and phone number is:

If a guardian is appointed for you, the guardian may be given the right to make all important personal decisions for you, such as where you may live, what medical treatment you may receive, what places you may visit, and who may visit you. A guardian may also be given the right to control and manage your money and other property, including your home, if you own one. You may lose the right to make these decisions for yourself.

You have the following legal rights:

(1) You have the right to be present at the court hearing.

(2) You have the right to be represented by a lawyer, either one that you retain, or one appointed by the Judge.

(3) You have the right to ask for a jury of six persons to hear your case.

(4) You have the right to present evidence to the court and to confront and cross-examine witnesses.

(5) You have the right to ask the Judge to appoint an independent expert to examine you and give an opinion about your need for a guardian.

(6) You have the right to ask that the court hearing be closed to the public.

(7) You have the right to tell the court whom you prefer to have for your guardian.

(8) You have the right to ask a judge to find that although you lack some capacity to make your own decisions, you can make other decisions, and therefore it is best for the court to appoint only a limited guardian for you.

You do not have to attend the court hearing if you do not want to be there. If you do not attend, the Judge may appoint a guardian if the Judge finds that a guardian would be of benefit to you. The hearing will not be postponed or canceled if you do not attend. If you are unable to attend the hearing in person or you will suffer harm if you attend, the Judge can decide to hold the hearing at a place that is convenient. The Judge can also follow the rule of the Supreme Court of this State, or its local equivalent, and decide if a video conference is appropriate.

IT IS VERY IMPORTANT THAT YOU ATTEND THE HEARING IF YOU DO NOT WANT A GUARDIAN OR IF YOU WANT SOMEONE OTHER THAN THE PERSON NAMED IN THE GUARDIANSHIP PETITION TO BE YOUR GUARDIAN. IF YOU DO NOT WANT A GUARDIAN OR IF YOU HAVE ANY OTHER PROBLEMS, YOU SHOULD CONTACT AN ATTORNEY OR COME TO COURT AND TELL THE JUDGE.

Service of summons and the petition may be made by a private person 18 years of age or over who is not a party to the action.

IN THE CIRCUIT COURT OF THE ... JUDICIAL CIRCUIT OF ILLINOIS
... COUNTY
IN RE THE ESTATE OF)
)
.....,) CASE NO.
a Person with a Disability,)

NOTICE TO WARD OF RIGHT TO SEEK MODIFICATION

[Insert name] was appointed your Guardian of the Person on [insert date].
[Insert name] was appointed your Guardian of the Estate on [insert date].
You have the right to ask the court to dismiss this guardianship, to
revoke the power of this guardian to act for you, or to modify the duties of
any such guardian.

You, or someone on your behalf, can make this request, even by an
informal letter, a telephone call, or a visit to the court. You should send
your letter to the court at the following address; [insert name of judge and
mailing address of courthouse].

The court may appoint a Guardian ad Litem to investigate and report to
the court. You have the right to have a lawyer appointed for you, to have a
hearing before the court, to have a jury of six persons decide the facts, to
present evidence and tell your story, and to ask witnesses any questions in
cross-examination.

Entered this.....day of....., 20....

.....

JUDGE

[..] At the time of the appointment of the Guardian in this cause, the
court informed the ward of his or her rights under Section 11a-20 of the
Illinois Probate Act and gave the ward, in open court, the above-written
notice explaining these rights and procedures.

or

[..] The Clerk of the Circuit Court shall mail a copy of the above-written
notice to the above-named person with a disability at the residence address
set forth in the petition filed herein.

Copy Mailed:.....

.....

Clerk of the Circuit Court

AN ACT concerning civil law.

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

Section 1. Short title. This Act may be cited as the Supported Decision-Making Agreement Act.

Section 5. Purpose; interpretation. The purpose of this Act is to recognize a less-restrictive alternative to guardianship for adults with intellectual and developmental disabilities who need assistance with decisions regarding daily living.

This Act shall be administered and interpreted in accordance with the following principles:

(1) All adults should be able to live in the manner they choose and to accept or refuse support, assistance, or protection as long as they do not harm others and are capable of making decisions about those matters.

(2) All adults should be able to be informed about and, to the best of their ability, participate in decisions regarding daily living.

(3) All adults should receive the most effective yet least restrictive and intrusive forms of support, assistance, and protection when they are unable to care for themselves or manage their affairs alone.

(4) The values, beliefs, wishes, cultural norms, and traditions that the principal holds should be respected.

Section 10. Definitions. As used in this Act:

"Adult" means a person who is at least 18 years of age.

"Everyday life decisions" means decisions that support one's existence, including, but not limited to, decisions regarding medical care and treatment, one's residence, work, finances, and social life.

"Principal" means an adult with intellectual or developmental disabilities who seeks to enter, or has entered, into a supported decision-making agreement with a supporter under this Act.

"Supported decision-making agreement" means an agreement between a principal and a supporter under this Act.

"Supporter" means an adult who has entered into a supported decision-making agreement with a principal under this Act.

Section 15. Presumption of capability.

(a) All adults are presumed to be capable of making decisions regarding daily living and to have capacity unless otherwise determined by a court. A diagnosis of mental illness, intellectual disability, or developmental disability, of itself, does not void the presumption of capacity.

(b) The manner in which an adult communicates with others is not grounds for deciding that the adult is incapable of managing the affairs of the adult.

(c) The execution of a supported decision-making agreement may not be used as evidence of capacity or incapacity in any

civil or criminal proceeding and does not preclude the ability of the adult who has entered into a supported decision-making agreement to act independently of the agreement.

Section 20. Supporter disqualifications. The following persons are disqualified from acting as a supporter:

- (1) a person who is an employer or employee of the principal, unless the person is an immediate family member of the principal;
- (2) a person directly providing paid support services to the principal, unless the person is an immediate family member of the principal;
- (3) a person who works for an agency that is financially responsible for the care of the principal;
- (4) a person who is listed on the Health Care Worker Registry maintained by the Illinois Department of Public Health as ineligible to work;
- (5) an individual who is the subject of a civil or criminal order prohibiting contact with the principal; and
- (6) a person who has been convicted of:
 - (i) a sex offense;
 - (ii) aggravated assault;
 - (iii) fraud;
 - (iv) theft;
 - (v) forgery; or
 - (vi) extortion.

Section 25. Authority of the supporter. A supporter may exercise the authority granted to the supporter in the supported decision-making agreement.

Section 30. Supporter duties.

(a) Except as otherwise provided by a supported decision-making agreement, a supporter may:

- (1) Assist the principal in understanding information, options, responsibilities, and consequences of the life decisions of the principal, including those decisions related to the affairs or support services of the principal.
- (2) Help the principal access, obtain, and understand any information that is relevant to any given life decision, including a medical, psychological, financial, or educational decision, or any treatment records or records necessary to manage the affairs or support services of the principal.
- (3) Assist the principal in finding, obtaining, making appointments for, and implementing the support services or plans for support services of the principal.
- (4) Help the principal monitor information about the affairs or support services of the principal, including keeping track of future necessary or recommended services.
- (5) Ascertain the wishes and decisions of the principal in order to advocate that the wishes and decisions of an individual with disabilities are implemented.

(b) A supporter shall act with the care, competence, and diligence ordinarily exercised by an individual in a similar circumstance, with due regard to the possession of, or lack of, special skills or expertise.

(c) A supporter shall seek training and education regarding the responsibilities and limitations of the supporter role. The Guardianship and Advocacy Commission shall provide public information about this Act and the supporter

role, responsibilities, and limitations.

The Guardianship and Advocacy Commission shall develop training and education materials for both principals and supporters, including, but not limited to, sample agreements that will be posted on the website of the Commission along with public awareness materials.

Section 35. Supporter prohibitions. A supporter is prohibited from:

(1) Exerting undue influence upon, or making decisions on behalf of, the principal.

(2) Obtaining, without the consent of the principal, information that is not reasonably related to matters with which the supporter is authorized to assist under the supported decision-making agreement.

(3) Using, without the consent of the principal, information acquired for a purpose other than assisting the principal to make a decision under the supported decision-making agreement.

(4) Receiving compensation for acting as a supporter, except as otherwise provided by this Act.

Section 40. Access to personal information.

(a) A supporter is only authorized to assist the principal in accessing, collecting, or obtaining information that is relevant to a decision authorized under the supported decision-making agreement.

(b) If a supporter assists a principal in accessing, collecting, or obtaining personal information, including protected health information under the Health Insurance Portability and Accountability Act of 1996 or educational records under the Family Educational Rights and Privacy Act of 1974, the supporter shall ensure that the information is kept privileged and confidential, as applicable, and is not subject to unauthorized access, use, or disclosure.

(c) The existence of a supported decision-making agreement does not preclude a principal from seeking personal information without the assistance of the supporter.

Section 45. Authorization and witnesses. A principal and his or her supporter entering into a supported decision-making agreement shall sign and date the agreement in the presence of 2 or more subscribing witnesses who are at least 18 years of age. The principal's supporter shall not serve as a witness to the support decision-making agreement.

Section 50. Agreement instrument. A supported decision-making agreement is valid if it substantially follows the following form:

"SUPPORTED DECISION-MAKING AGREEMENT

Important Information for the Supporter: Duties

If you agree to provide support to the principal, you have a duty to:

- (1) act in good faith;
- (2) act within the authority granted in this agreement;
- (3) act loyally and without self-interest; and
- (4) avoid conflicts of interest.

Appointment of Supporter

I, (insert principal's name), make this agreement of my own free will.

I agree and designate that the following individual is my supporter:

Name:
Address:
Phone Number:
Email Address:

My supporter is to help me make decisions for myself and may help me with making everyday life decisions relating to the following:

- (Yes/No) obtaining food, clothing, and shelter.
- (Yes/No) taking care of my physical and emotional health.
- (Yes/No) managing my financial affairs.
- (Yes/No) applying for public benefits.
- (Yes/No) helping me find work.
- (Yes/No) assisting with residential services.
- (Yes/No) helping me with school.
- (Yes/No) helping me advocate for myself.

My supporter is not allowed to make decisions for me. To help me with my decisions, my supporter may:

- (1) help me access, collect, or obtain information that is relevant to a decision, including medical, psychological, financial, educational, housing, and treatment records;
- (2) help me understand my options so that I can make an informed decision; and
- (3) help me communicate my decision to appropriate persons.

I want my supporter to have:

(Yes/No) A release allowing my supporter to see protected health information under the Health Insurance Portability and Accountability Act of 1996 is attached.

(Yes/No) A release allowing my supporter to see confidential information under the Mental Health and Developmental Disabilities Confidentiality Act is attached.

(Yes/No) A release allowing my supporter to see educational records under the Family Educational Rights and Privacy Act of 1974 and the Illinois School Records Act is attached.

(Yes/No) A release allowing my supporter to see substance abuse records under Confidentiality of Alcohol and Drug Abuse Patient Records regulations is attached.

This supported decision-making agreement is effective immediately and will continue until (insert date) or until the agreement is terminated by my supporter or me or by operation of law.

Signed this day of, 20....

(Signature of Principal) (Printed name of principal)

Consent of Supporter

I, (name of supporter), consent to act as a supporter under this agreement.

(Signature of supporter)	(Printed name of supporter)
(Witness 1 signature)	(Printed name of witness 1)
(Witness 2 signature)	(Printed name of witness 2)

WARNING: PROTECTION FOR THE ADULT WITH A DISABILITY

IF A PERSON WHO RECEIVES A COPY OF THIS AGREEMENT OR IS AWARE OF THE EXISTENCE OF THIS AGREEMENT HAS CAUSE TO BELIEVE THAT THE ADULT WITH A DISABILITY IS BEING ABUSED, NEGLECTED, OR EXPLOITED BY THE SUPPORTER, THE PERSON SHALL REPORT THE ALLEGED ABUSE, NEGLECT, OR EXPLOITATION TO THE ADULT PROTECTIVE SERVICES HOTLINE: 1-866-800-1409, 1-888-206-1327 (TTY)."

This form is not intended to exclude other forms or agreements that identify the principal, supporter, and types of supports.

Section 55. Reliance on agreement; limitation of liability.

(a) A person who receives the original or a copy of a supported decision-making agreement shall rely on the agreement.

(b) A person is not subject to criminal or civil liability and has not engaged in professional misconduct for an act or omission if the act or omission is done in good faith and in reliance on a supported decision-making agreement.

Section 60. Recognition of supporters. A decision or request made or communicated with the assistance of a supporter in conformity with this Act shall be recognized for the purposes of any provision of law as the decision or request of the principal and may be enforced by the principal or supporter in law or equity on the same basis as a decision or request of the principal.

Section 65. Reporting of suspected abuse, neglect, or exploitation. If a person who receives a copy of a supported decision-making agreement or is aware of the existence of a supported decision-making agreement and has cause to believe that the adult with a disability is being abused, neglected, or exploited by the supporter, the person shall report the alleged abuse, neglect, or exploitation to the Adult Protective Services Hotline: 1-866-800-1409, 1-888-206-1327 (TTY).

Section 70. Term of agreement; revocation.

(a) A supported decision-making agreement extends until terminated by either party or by the terms of the agreement.

(b) A supported decision-making agreement is terminated if:

(1) the Office of Inspector General or Adult Protective Services substantiated an allegation of abuse or neglect by the supporter; or

(2) there is a restraining order against the supporter by the principal.

(c) A principal may revoke his or her supported decision-making agreement and invalidate the supported decision-making agreement at any time by:

(1) canceling or destroying the supported

decision-making agreement or directing another in the presence of the principal to destroy the decision-making agreement;

(2) executing a statement, in writing, that is signed and dated by the principal, expressing his or her intent to revoke the supported decision-making agreement; or

(3) verbally expressing the intent of the principal to revoke the supported decision-making agreement in the presence of 2 witnesses.

(d) Unless the supported decision-making agreement provides a different method for the resignation of the support, a supporter may resign by giving notice to the principal.

(e) The last signed agreement holds.

Section 99. Effective date. This Act takes effect 6 months after becoming law.

Effective Date: 2/27/2022

STATE OF ILLINOIS
SUPREME COURT

At a Term of the Supreme Court, begun and held in Springfield, on Monday, the 14th day of March, 2022.

Present: Anne M. Burke, Chief Justice
Justice Rita B. Garman Justice Mary Jane Theis
Justice P. Scott Neville, Jr. Justice Michael J. Burke
Justice David K. Overstreet Justice Robert L. Carter

M.R. 031246

In re: Supreme Court Commission on Elder Law

Order

Effective April 12, 2022, the Supreme Court Commission on Elder Law is created. Its charge is to: (1) collect experiential information regarding attempts to defraud seniors in Illinois, and make recommendations for Judicial Branch policies, procedures, and Supreme Court rules to aid in reducing such attempts and mitigating their effects; (2) discuss and propose adding new rules to the Illinois Rules of Professional Conduct in addition to the existing Rule 1.14 to give Illinois attorneys guidance when representing cognitively impaired clients; (3) examine adult guardianship proceedings in the state and make recommendations for the revision of policies, procedures and Supreme Court rules to ensure due process, accurate and timely reporting (including financial reporting), and the improvement of outcomes for wards; (4) analyze and make recommendations for the standardization of Guardian *ad litem* qualifications for the appointment of those individuals who represent adult disabled persons; (5) study the programs of other states in their respective Judicial Branch approach to tackling Elder Law issues; and (6) work in conjunction with the Illinois Mental Health Task Force to develop recommendations related to senior attorneys, including those related to continuing education and fitness to practice.

Effective immediately, the following individual shall serve as a member and Chair of the Supreme Court Commission on Elder Law, for a term expiring December 31, 2025:

Kerry R. Peck
Attorney at Law
321 S. Plymouth Ct., 6th Floor
Chicago, IL 60604

Effective immediately, the following individuals are appointed members of the Supreme Court Commission on Elder Law, for terms expiring December 31, 2023:

Hon. E. Kenneth Wright Jr.
Circuit Judge
Circuit Court of Cook County
50 W. Washington St., Rm. 1303
Chicago, IL 60602

Sharon Rudy
Public Guardian & Administrator
Boone and Winnebago Counties
405 West State Street
Rockford, IL 61101

Paula A Basta
Director
Illinois Department on Aging
555 W. Monroe St., Suite 1500-S
Chicago, IL 60661-3714

James Grogan
Former Deputy Administrator & Chief
Counsel
Attorney Registration and Disciplinary
Commission of the Supreme Court of
Illinois
25 E. Pearson St.
Chicago, IL 60611

Howard Berk
Executive Director
Illinois Disability Pooled Trust
120 La Salle St., 7th Floor
Chicago, IL 60603

Marla Fronczak
Chief Executive Officer
AgeGuide Northeastern (DuPage,
Grundy, Kane, Kankakee, Kendall,
Lake, McHenry and Will)
1910 S. Highland Ave, Ste. 100
Lombard, IL 60148

Hon. Aicha MacCarthy
Circuit Judge
Circuit Court of Cook County
50 W. Washington, Rm. 1810
Chicago, IL 60602

Effective immediately, the following individuals are appointed members of the Supreme Court Commission on Elder Law, for terms expiring December 31, 2024:

John Brown
Public Guardian
Champaign County
2125 South 1st St.
Champaign, IL 61820

Hon. Eric Dirnbeck
Circuit Judge
2nd Judicial Circuit
901 Public Square
Benton, IL 62812

Kathy Eddy
President
Illinois Guardianship Association
P.O. Box 5183
Morton, IL 61550

Dr. Victoria L. Braund, MD FACP CMD
Director of Geriatric Medicine
NorthShore University Health System
2050 Pfingsten Rd., Suite 200
Glenview, IL 60026

Jamie L. Mosser
State's Attorney Kane County
37W777 Route 38 Suite 300
St. Charles, IL 60175-7535

Charles Golbert
Cook County Public Guardian
69 W. Washington St., 7th Floor
Chicago, IL 60602

Hon. Carl A. Walker
Appellate Court Justice
First District Appellate Court
160 N. LaSalle St., S1910
Chicago, IL 60601

Leynee Cruz Flores
Attorney at Law
Golan Christie Taglia, LLP
70 W. Madison St.
Chicago, IL 60602

Effective immediately, the following individuals are appointed members of the Supreme Court Commission on Elder Law, for terms expiring December 31, 2025:

Darby Morhardt, PhD, LCSW
Research Professor
Mesulam Center of Cognitive
Neurology and Alzheimer's Disease
Department of Preventative Medicine
Northwestern University Feinberg
School of Medicine
Tarry Building 8th Floor 719
300 E Superior
Chicago, IL 60611

Hon. Michael Chmiel
22nd Judicial Circuit, McHenry County
2200 North Seminary Ave.
Woodstock, IL 60098

Hon. Daniel Malone
Circuit Judge
Circuit Court of Cook County
50 W. Washington St., Rm. 1803
Chicago, IL 60602

Diana Law
Public Guardian and Public
Administrator
Kane County
2275 Church Rd.
Aurora, IL 60502

Order entered by the Court.



IN WITNESS WHEREOF, I have hereunto
subscribed my name and affixed the seal
of said Court, this 12th day of April, 2022.

Cynthia A. Grant

Clerk,
Supreme Court of the State of Illinois

FILED
April 12, 2022
SUPREME COURT
CLERK

STATE OF ILLINOIS
SUPREME COURT

At a Term of the Supreme Court, begun and held in Springfield, on Monday, the 14th day of March, 2022.

Present: Anne M. Burke, Chief Justice
Justice Rita B. Garman Justice Mary Jane Theis
Justice P. Scott Neville, Jr. Justice Michael J. Burke
Justice David K. Overstreet Justice Robert L. Carter

M.R.031246

In re: Supreme Court Commission on Elder Law

Corrected
Order

Due to clerical error, the order of April 12, 2022, incorrectly identified the title and address of Sharon Rudy. The order of April 12, 2022, stands corrected in this respect as follows:

Sharon Rudy
Public Guardian & Administrator
Stephenson, Ogle and JoDaviess Counties
124 N. Water Street, #305
Rockford, IL 61107

In all other respects, the order of April 12, 2022, stands in full force and effect.

Order entered by the Court.



IN WITNESS WHEREOF, I have hereunto
subscribed my name and affixed the seal
of said Court, this 13th day of April, 2022.

Cynthia A. Grant

Clerk,
Supreme Court of the State of Illinois

FILED
April 13, 2022
SUPREME COURT
CLERK

IN THE
SUPREME COURT OF ILLINOIS

In re: Time Standards for Case Closure	)	
in Illinois Trial Courts	)	M.R. 31228
	)	

ORDER

In October 2018, the Illinois Supreme Court amended Supreme Court Rule 41 to reconstitute the Illinois Judicial Conference. The amended rule provides that “[t]here shall be a Judicial Conference to consider the work of the courts and to suggest improvements in the administration of justice. The Judicial Conference shall be the body to strategically plan for the Illinois judicial branch.” The Conference subsequently created the Court Data & Performance Measures Task Force (“Task Force”) charged with “developing accurate and uniform data collection for every circuit and based on those data points, establishing time standards for all case types.”

The Task Force was divided into three subgroups - domestic relations & juvenile, criminal, and civil. Each subgroup considered information from the National Center for State Courts, American Bar Association Standards, Conference of State Court Administrators, Conference of Chief Justices, data from individual states, and the few existing time standards in Illinois circuits, all of which was reviewed by members with years of institutional knowledge and experience in Illinois courts.

The Task Force released its Report and Recommendations in October 2021. The Report and Recommendation were reviewed with the Justices of the Illinois Supreme Court in December 2021.

The developed time standards represent the time during which the court exercises control over and is accountable for the progress and timely closure of a case. A case is closed by entry of the final order as prescribed by the 2022 Manual on Recordkeeping (“MRK”). Time to case closure is the standard for efficient use of court time and resources, cost-effective litigation in both private and public sectors, and access to a full and fair hearing with procedural due process. Implementing time standards establishes a statewide expectation for judges, litigants, and attorneys. These time standards require each court to evaluate its actual performance compared to a statewide expectation. They provide a management tool that allows the courts to regularly evaluate their operations and enhance their delivery of services.

The Task Force adopted interim benchmarks for time to case closure at 75%, 90%, and 98% of total cases. By including only 98% of cases rather than 100%, the Time Standards inherently acknowledge that there will always be outlier cases. Further, the 2022 MRK mandates new case types, imposes strict case status criteria for open, inactive, reinstated, and closed cases, and, most importantly, requires that all circuits henceforth uniformly collect and submit data in conformity with the 2022 MRK. Therefore, it was

proposed that Time Standards apply prospectively only on cases filed on or after January 1, 2022.

Additionally, the Task Force stressed that the purpose of the Time Standards is to assist the courts in meeting their fundamental obligation to resolve disputes fully, fairly, and promptly, and are not to be used as the sole means for judicial discipline.

THEREFORE, IT IS ORDERED that:

Effective July 1, 2022, the *Time Standards for Case Closure in the Illinois Trial Courts* are hereby established for cases filed on or after January 1, 2022. The Administrative Director of the Illinois Courts has the authority to amend the *Standards* as is necessary and appropriate.

IT IS FURTHER ORDERED that the Circuit Clerks shall provide the statistical reporting required pursuant the 2022 MRK; and

IT IS FURTHER ORDERED that training for judges and justice system stakeholders shall be overseen by the Administrative Office of the Illinois Courts; and

IT IS FURTHER ORDERED that the *Time Standards for Case Closure in the Illinois Trial Courts* shall not be used as the sole means for judicial discipline.

Order entered by the Court.

FILED
March 25, 2022
SUPREME COURT
CLERK

Time Standards for Case Closure in the Illinois Trial Courts

Effective July 1, 2022

Family/Juvenile Categories

<u>Case Type/Category</u>	<u>% Complete</u>	<u>Time in Months to Completion</u>	<u>Time in Days to Completion</u>	<u>Notes</u>
DC	75%	9 Months	274 Days	Date of Filing to Final Order/Judgment (Case Closed per 1/1/22 RKM)
	90%	15 Months	457 Days	
	98%	18 Months	548 Days	
DN	75%	9 Months	274 Days	Date of Filing to Final Order/Judgment (Case Closed per 1/1/22 RKM)
	90%	12 Months	365 Days	
	98%	15 Months	457 Days	
JD	90%	3 Months	91 Days	Date of Filing to Disposition (Case Closed per 1/1/22 RKM)
	98%	6 Months	183 Days	
JA	75%	6 Months	183 Days	Date of Filing of the TPR or Final Order/Judgment (Case Closed per 1/1/22 RKM)
	90%	15 Months	457 Days	
	98%	24 Months	731 Days	
FA	75%	9 Months	274 Days	Custody & Paternity; Date of Filing to Final Order/Judgment (Case Closed per 1/1/22 RKM)
	90%	15 Months	457 Days	
	98%	18 Months	548 Days	
JV	75%	9 Months	274 Days	Date of Filing to Final Order/Judgment (Case Closed per 1/1/22 RKM)
	90%	15 Months	457 Days	
	98%	18 Months	548 Days	
AD	75%	9 Months	274 Days	Date of Filing to Final Order/Judgment (Case Closed per 1/1/22 RKM)
	90%	15 Months	457 Days	
	98%	18 Months	548 Days	

Criminal/Quasi Criminal Categories

<u>Case Type/Category</u>	<u>% Complete</u>	<u>Time in Months to Completion</u>	<u>Time in Days to Completion</u>	<u>Notes</u>
CF	75%	18 Months	548 Days	Date of Filing to Sentencing/Dismissal (Case Closed per 1/1/22 RKM)
	90%	24 Months	731 Days	
	98%	30 Months	913 Days	
CM DV	75%	6 Months	183 Days	Date of Filing to Sentencing/Dismissal (Case Closed per 1/1/22 RKM)
	90%	9 Months	274 Days	
	98%	12 Months	365 Days	
DT MT	75%	9 Months	274 Days	Date of Filing to Sentencing/Dismissal (Case Closed per 1/1/22 RKM)
	90%	12 Months	365 Days	
	98%	15 Months	457 Days	
TR OV QC CV	75%	3 Months	91 Days	Date of Filing to Sentencing/Dismissal (Case Closed per 1/1/22 RKM)
	98%	6 Months	183 Days	

Time Standards for Case Closure in the Illinois Trial Courts

Effective July 1, 2022

Civil Case Categories

<u>Case Type/Category</u>	<u>% Complete</u>	<u>Time in Months to Completion</u>	<u>Time in Days to Completion</u>	<u>Notes</u>
Complex: ED FC LA CH PR	75%	18 Months	548 Days	Date of Filing to Final Order/Judgment (Case Closed per 1/1/22 RKM)
	90%	24 Months	731 Days	
	98%	36 Months	1096 Days	
General: AR GC LM MR	75%	12 Months	365 Days	Date of Filing to Final Order/Judgment (Case Closed per 1/1/22 RKM)
	90%	18 Months	548 Days	
	98%	24 Months	731 Days	
Summary: EV MH SC TX	75%	6 Months	183 Days	Date of Filing to Final Order/Judgment (Case Closed per 1/1/22 RKM)
	98%	12 Months	365 Days	
GR	75%	6 Months	183 Days	Date of Filing to Appointment of Guardian (Case Closed per 1/1/22 RKM)
	98%	12 Months	365 Days	

Other Case Categories

<u>Case Type/Category</u>	<u>% Complete</u>	<u>Time in Months to Completion</u>	<u>Time in Days to Completion</u>	<u>Notes</u>
CC	75%	6 Months	183 Days	Date of Filing to Final Order/Judgment (Case Closed per 1/1/22 RKM)
	98%	12 Months	365 Days	
OP*	98%	3 Months	91 Days	Date of Filing to Order/Judgment (Case Closed per 1/1/22 RKM)
CL	75%	3 Months	91 Days	Date of Filing to Final Order/Judgment (Case Closed per 1/1/22 RKM)
	98%	6 Months	183 Days	
MX	75%	9 Months	274 Days	Date of Filing to Final Order/Judgment (Case Closed per 1/1/22 RKM)
	90%	12 Months	365 Days	
	98%	15 Months	457 Days	

*There is an assumption the majority of Order of Protection cases are initiated by a petition for an emergency order. The case is closed upon entry of the first order in the case. If the first order is for an emergency order of protection, any further interim or plenary proceedings are post-judgment.

Time Standards for Case Closure in the Illinois Trial Courts

Effective July 1, 2022

Case Category Descriptions

Family & Juvenile:

<u>Category Code</u>	<u>Category Title</u>	<u>Category Description</u>
DC	Dissolution with Children	Dissolution of marriage or civil union, declaration of invalidity (annulment), petitions for legal separation, or separate maintenance as defined in 750 ILCS 5/303 when at the time of filing there are minor children
DN	Dissolution without Children	Dissolution of marriage or civil union, declaration of invalidity (annulment), petition for legal separation, or separate maintenance as defined in 750 ILCS 5/303 when at the time of filing there are no minor children
JD	Juvenile Delinquent	Addicted minors as defined by the Substance Use Disorder Act (20 ILCS 301/1-1 et seq.) in the Juvenile Court Act of 1987 (705 ILCS 405/4-1 et seq.) or delinquent minors as defined by the Juvenile Court Act of 1987 (705 ILCS 405/5-101 et seq.)
JA	Juvenile Abuse & Neglect	Dependent, neglected or abused minor as defined by 705 ILCS 405/2-1, et seq. of the Juvenile Court Act of 1987
JV	Juvenile	Minors requiring authoritative intervention as defined by 705 ILCS 405/3-1 et seq. of the Juvenile Court Act of 1987 or to any other proceedings initiated under 705 ILCS 405/1-1 et seq. of the Juvenile Court Act of 1987
FA	Family	Proceedings to establish the parent-child relationship, notice to putative fathers, and certain actions relating to child support
AD	Adoption	Cases filed pursuant to 750 ILCS 50/0.01 et seq

Criminal & Quasi-Criminal:

<u>Category Code</u>	<u>Category Title</u>	<u>Category Description</u>
CF	Criminal Felony	Complaint, information or indictment is filed in which at least one count charges a felony as defined in the Unified Code of Corrections (730 ILCS 5/5-1 et seq.) (Class M, X, 1, 2, 3, or 4)
CM	Criminal Misdemeanor	most serious charge carries a penalty of less than one-year imprisonment, limited to Class A, B or C offenses as defined in the Unified Code of Corrections (730 ILCS 5/5-1 et seq.)
DV	Domestic Violence	Violation of domestic battery under Section 12-3.2 of the Criminal Code (720 ILCS 5/12-3.2).
DT	Driving Under the Influence (DUI)	charging a violation of a statute, ordinance, or regulation governing driving or operating under the influence of alcohol, other drug, or combination thereof under Section 11-501 of the Illinois Vehicle Code (625 ILCS 5/11-501), Section 5-7 of the Snowmobile Registration and Safety Act (625 ILCS 40/5-7), and Section 5-16 of the Boat Registration and Safety Act (625 ILCS 45/5-16) and not classified as a felony
MT	Major Traffic	Class A, B, or C as defined by Supreme Court Rule 501(f)(1)(i), except DUI cases.
TR	Minor Traffic	Class P or B as defined by Supreme Court Rule 501(f)(1)(ii)
OV	Ordinance Violation	violation of a local ordinance is charged, other than a traffic ordinance
QC	Quasi-Criminal	Any offense classified as Petty or Business as defined in the Unified Code of Corrections (730 ILCS 5/5-1 et seq.), which is not otherwise defined as a DT, MT, TR, or CV case
CV	Conservation	As defined by Supreme Court Rule 501(c)

Time Standards for Case Closure in the Illinois Trial Courts

Effective July 1, 2022

Civil:

<u>Category Code</u>	<u>Category Title</u>	<u>Category Description</u>
ED	Eminent Domain	Proceedings involving compensation to an owner for property taken for public use
FC	Foreclosure	Residential or commercial foreclosure proceedings
LA	Law	Tort, contract, and a variety of other actions in which the damages sought are greater than \$50,000
CH	Chancery	Complaints for equitable relief in matters such as contract actions, trusts, and title to real property
PR	Probate	Estates of decedents and missing persons
AR	Arbitration	Arbitration-eligible cases are defined by Supreme Court Rules 86 - 95
GC	Governmental Corporation	Petition seeking consideration by the court on new matters not included in the permanent case containing such matters as organization, appointment of officers, approval of bonds, and routine orders confirming annexation
LM	Law Magistrate	Tort, contract, and a variety of other actions in which the damages sought are \$50,000 or less
MR	Miscellaneous Remedy	Review of administrative decisions (other than of a tax commission) and a variety of other actions that include change of name, demolition, and corporation dissolution
EV	Eviction	Commercial or residential eviction proceedings and for any proceeding for ejectment
MH	Mental Health	Proceedings involving hospitalization, discharge, or restoration to legal status
SC	Small Claims	Tort or contract for money not in excess of \$10,000, exclusive of interest and costs (defined in Supreme Court Rule 281)
TX	Tax	Annual tax sale, petitions for tax deed, objections, and a variety of other actions relating to the collection of taxes
GR	Guardianship	Guardianship of a minor, person with a disability, or an estate of any person under the Probate Act of 1975, as amended

Other:

<u>Category Code</u>	<u>Category Title</u>	<u>Category Description</u>
CC	Contempt of Court	Direct or indirect contempt of court, for charges initiated against a person who is not a party to the action in which the contemptuous conduct allegedly occurred, including a juror who has been impaneled
OP	Order of Protection	Any petition for an order of protection, petition for stalking no contact order, firearms restraining order, or civil no contact order
CL	Civil Law	Civil law violations as defined in Supreme Court Rule 585
MX	Miscellaneous Criminal	Variety of actions for civil processes relating to criminal proceedings such as search warrants, grand jury proceedings, statutory summary suspensions (when no DT case exists), probationer transfers, eavesdropping, seized property, sealing and expungement petitions (when no criminal case exists), habeas corpus and administrative subpoenas

2022 IL 126956

**IN THE
SUPREME COURT
OF
THE STATE OF ILLINOIS**

(Docket No. 126956)

In re ESTATE OF JOHN W. McDONALD III, Deceased (Shawn McDonald,
Appellant v. Ellizzette McDonald, Appellee).

Opinion filed April 21, 2022.

CHIEF JUSTICE ANNE M. BURKE delivered the judgment of the court, with opinion.

Justices Garman, Neville, and Michael J. Burke concurred in the judgment and opinion.

Justice Theis concurred in part and dissented in part, with opinion, joined by Justices Overstreet and Carter.

OPINION

¶ 1 The issue in this appeal is whether Ellizzette McDonald, also known as Ellizzette Duvall Minnicelli (Ellizzette), sufficiently established that she is the

surviving spouse of John W. McDonald III (John) and, as such, the sole heir of his estate.

¶ 2 On November 18, 2019, trial was held in Kane County circuit court on Ellizzette's claim of heirship. Ellizzette, *pro se*, presented the testimony of three witnesses in an effort to establish that, on July 11, 2017, she entered into a legally valid marriage with John, who died intestate, on December 11, 2017. At the conclusion of Ellizzette's case, Shawn McDonald (Shawn), as the appointed administrator of John's estate, moved for a directed finding, which the circuit court granted. The court held that Ellizzette failed to present a *prima facie* case establishing the validity of her marriage to John.

¶ 3 Ellizzette appealed, and the Appellate Court, Second District, affirmed in part, reversed in part, and remanded for further proceedings. 2020 IL App (2d) 191113. The appellate court held that a new trial was necessary because the circuit court erred when it barred Ellizzette from testifying based on the Dead Man's Act. 735 ILCS 5/8-201 (West 2016).

¶ 4 Shawn filed a petition for leave to appeal in this court, which we granted. For the reasons that follow, we now reverse the appellate court judgment and affirm the circuit court's judgment.

¶ 5 BACKGROUND

¶ 6 On December 15, 2017, Shawn McDonald filed a petition in the circuit court of Kane County, seeking letters of administration for the estate of his deceased brother, John W. McDonald III, who died intestate on December 11, 2017, in Paris, Illinois. Attached to the petition was an affidavit of heirship, in which Shawn averred that John's estate consisted of approximately \$225,000 in personal property and that John's only heirs were his parents, John W. McDonald Jr. and Brenda K. McDonald, and his siblings, Heather Ladue (sister), Shawn McDonald (brother), and Brett McDonald (brother). Shawn further averred that on May 30, 2017, he had been appointed plenary guardian over John's person and estate by the circuit court of Kane County and that thereafter, on July 11, 2017, without the prior knowledge or consent of his guardian or the court, John participated in a purported wedding ceremony with a person who identified herself as Ellizzette Duvall Minnicelli.

Shawn alleged that this marriage was without legal effect and void *ab initio* because John, as a ward, lacked the legal capacity to consent to the marriage without a judicial finding that the marriage was in John's best interest. On December 19, 2017, the circuit court entered orders appointing Shawn administrator and declaring John's heirs to be John Jr., Brenda, Heather, Shawn, and Brett.

¶ 7 On December 22, 2017, Shawn filed a petition for declaration of invalidity of marriage pursuant to section 301(1) of the Illinois Marriage and Dissolution of Marriage Act (Marriage Act), which provides:

"The court shall enter its judgment declaring the invalidity of a marriage (formerly known as annulment) entered into under the following circumstances:

(1) a party lacked capacity to consent to the marriage at the time the marriage was solemnized, either because of mental incapacity or infirmity or because of the influence of alcohol, drugs or other incapacitating substances, or a party was induced to enter into a marriage by force or duress or by fraud involving the essentials of marriage[.]" 750 ILCS 5/301(1) (West 2016).

¶ 8 In support of his petition, Shawn attached an affidavit in which he averred that on May 30, 2017, he had been appointed by the circuit court of Kane County to serve as plenary guardian of John's person and estate. Shawn further averred that during a contested guardianship hearing on November 16, 2017, he learned for the first time that John had participated in a purported marriage ceremony on July 11, 2017, and that John entered into this marriage without the prior knowledge or consent of his guardian (Shawn) or the court.

¶ 9 Attached to Shawn's affidavit were various documents considered by the guardianship court, including a physician's report from Dr. Ramon A. Gonzales. Dr. Gonzales reported that John had been diagnosed with "bipolar disorder with manic and depressive episodes" and that John suffered from "alcohol use disorder (severe)." According to Dr. Gonzales, John's bipolar disorder, which "by its own nature impair[ed] his ability to make reasonable and safe decisions," coupled with John's refusal to comply with prescribed treatment, meant that John was "at a high risk of being hurt by others due to his behavior, or to hurt himself, besides not being able to manage his financial affairs at this time."

¶ 10 Shawn also provided a report from Fred J. Beer, who served as John's guardian *ad litem* (GAL) in the 2017 guardianship proceedings, which the guardianship court also considered. Beer reported that, based on his conversations with John and several members of John's family, John had been a neurologist but he had not practiced for the last four years. Beer also reported that John suffered from bipolar disorder, alcoholism, and drug addiction; that John had been in rehabilitation at least three times, each completed unsuccessfully; and that John had twice attempted suicide by taking pills and alcohol. Beer noted that John, when in a manic state, spent money recklessly and irrationally. For example, Beer reported that John had a habit of purchasing expensive jewelry and gifts only to give them away to total strangers. In the three years prior to the guardianship hearings, John had frivolously spent approximately \$600,000. John's family members described John as "out of control" and a "king manipulator." Based on his investigation, Beer advised the court that he concurred with the doctor's recommendation that guardianship was in John's best interest.

¶ 11 Based on the above information, the guardianship court found that John was a disabled person in need of guardianship, as defined in the Probate Act of 1975 (Probate Act) (755 ILCS 5/1-1 *et seq.* (West 2016)), and appointed Shawn as John's plenary guardian. The record indicates that, after Shawn's appointment, John filed a motion to vacate the guardianship order. Although the court denied John's motion at a hearing on July 6, 2017, the court appointed independent counsel for John, to assist him in seeking the termination of Shawn's guardianship. In addition, the court ordered John to appear at Alexian Brothers Hospital on Monday, July 10, 2017, for further evaluation. Subsequently, John, through his counsel, filed a petition to terminate Shawn's guardianship. Proceedings on this petition were ongoing until John's death on December 11, 2017.

¶ 12 In addition to the above documents and court orders, Shawn attached, to his petition to declare the marriage invalid, a photocopy of what purported to be a certified marriage certificate for John Wood McDonald III and Ellizzette Duvall Minnicelli, issued on July 17, 2017. It indicated that the marriage took place in Paris, Illinois, on July 11, 2017, with Raymond Carl Bement as the officiant. No witnesses were listed on the certificate.

¶ 13 On January 3, 2018, Shawn filed a petition to recover assets, seeking an order requiring Ellizzette to turn over to the estate John’s cremains,¹ as well as various personal items including John’s cell phone and laptop computer. It was alleged that, shortly after John’s death and without the knowledge of John’s family, Ellizzette took possession of John’s body and authorized its cremation “in order to prevent any further investigation into the cause of [John’s] death.”²

¶ 14 In response to Shawn’s petition, counsel entered an appearance on behalf of “Ellizzette McDonald” on January 4, 2018, and moved for a substitution of judge as a matter of right. That motion was granted, and on January 17, 2018, Ellizzette filed a motion to vacate the court’s orders appointing Shawn administrator of John’s estate and declaring heirship. Ellizzette asserted that she was John’s surviving spouse and, as such, his sole heir. Ellizzette further asserted that Shawn, having been aware that she was John’s surviving spouse, had obtained letters of administration under false pretenses. Ellizzette maintained that the orders granting Shawn letters of administration and declaring heirship were void for want of personal jurisdiction because Shawn failed to comply with the mandatory requirements of sections 9-4 and 9-5(a) of the Probate Act (*id.* §§ 9-4, 9-5(a)), failed to include a necessary party (her), and wrongfully excluded her as John’s heir. In the alternative, Ellizzette also filed a motion to reconsider and modify the orders.

¶ 15 On February 1, 2018, Ellizzette filed a response to Shawn’s petition for declaration of invalidity of marriage, denying that John lacked the capacity to marry. Ellizzette offered no evidence to support her claim that the marriage was legally valid. Rather, she asserted that Shawn had engaged in a “years-long extensive, improper and unjustified pattern and practice of attempting to wrongfully seize control of John’s assets and otherwise harass John and Ellizzette,” as evidenced by Shawn’s “unwarranted and unjustified procurement of guardianship over John.”

¹More than a year later, at a hearing on May 1, 2019, Ellizzette testified that she scattered John’s ashes in Lake Michigan and that no one accompanied her to witness this event.

²On January 31, Shawn also sought a court order to require MNS Labs to turn over to the estate a sample of John’s blood that was in its possession. According to the motion, the blood sample had been taken following John’s death and remained in storage at MNS Labs after testing. It was alleged that the sample would advance the estate’s investigation into John’s death, which Ellizzette had concealed from John’s family. That motion was later granted over Ellizzette’s objection.

¶ 16 On March 7, 2018, Shawn voluntarily withdrew his petition for declaration of invalidity of marriage. On the same day, Shawn filed his response to Ellizzette's motion to vacate his appointment as administrator, asserting that, although Ellizzette may have participated in a marriage ceremony with John, John lacked the capacity to enter into a legally valid marriage contract because he was a ward subject to plenary guardianship. In support of this position, Shawn cited sections 11a-17(a-10) and 11a-22(b) of the Probate Act (*id.* §§ 11-17(a-10), 11a-22(b)). Section 11a-22(b) provides that

“[e]very note, bill, bond or other contract by any person for whom a plenary guardian has been appointed or who is adjudged to be unable to so contract is void against that person and his estate, but a person making a contract with the person so adjudged is bound thereby.” *Id.* § 11a-22(b).

Shawn asserted that marriage is a contract and, pursuant to section 11a-22(b), the marriage contract entered into by John and Ellizzette on July 11, 2017, was void and the marriage invalid, affording Ellizzette no rights regarding the estate.

¶ 17 Ellizzette replied, asserting that section 11a-22(b) of the Probate Act was inapplicable to a marriage contract. She contended that the validity of a marriage is governed by section 301 of the Marriage Act (750 ILCS 5/301 (West 2016)). Further, she argued that a challenge could not be made to the validity of the marriage since John was deceased and section 302(b) of the Marriage Act provides: “In no event may a declaration of invalidity of marriage be sought after the death of either party to the marriage under subsections (1), (2) and (3) of Section 301.” *Id.* § 302(b).

¶ 18 On March 20, 2018, counsel for Shawn issued a “Notice of Deposition to Ellizzette McDonald (‘Ellizzette’)” and on April 19, 2018, Shawn filed a petition for a citation to discover and recover information and/or assets under section 16-1 of the Probate Act. 755 ILCS 5/16-1 (2016).

¶ 19 After a hearing on April 18, 2018, the court denied Ellizzette's motion to vacate the order appointing Shawn administrator but granted her leave to file a petition seeking letters of administration and an affidavit of heirship based on her assertion that she is John's surviving spouse and sole heir. Ellizzette filed that petition on May 1, 2018.

¶ 20 On May 17, 2018, Shawn filed a response to Ellizzette’s petition, along with a “Request to Admit Facts and Genuineness of Documents” in which Shawn sought documentation from Ellizzette regarding her identity, including birth records, marriage and divorce records, documentation of any official name changes, and an admission that a birth certificate for Lisa Anne Blaydes was, in fact, her birth certificate.

¶ 21 Ellizzette did not appear for a deposition, nor did she respond to any of the requests to admit facts and provide discovery. As a result, on June 5, 2018, Shawn filed a motion to compel discovery. Two days later, on June 7, 2018, Ellizzette filed a motion for judgment on the pleadings regarding her petition for letters of administration. In addition, Ellizzette sought a protective order to stay discovery pending the resolution of her motion for judgment on the pleadings. The motion to stay discovery was denied on June 13, 2018, and the court ordered Ellizzette’s counsel to respond to Shawn’s request to admit facts and to produce Ellizzette for deposition. Nevertheless, Ellizzette failed to appear for two scheduled depositions—on July 19 and 25, 2018. Under threat of sanctions, Ellizzette appeared for a deposition on August 22, 2018.

¶ 22 At the deposition, Ellizzette was shown copies of a marriage license application, marriage license, and marriage certificate, each listing Ellizzette Duvall Minnicelli as the bride. In addition, each of these documents indicated that Ellizzette Duvall Minnicelli was born in Lyon, France, on March 21, 1964, and that she was a “physician scientist.” Throughout discovery and at the deposition, Ellizzette failed to produce any documents to verify the information contained in these documents, nor did she establish her identity as Ellizzette Duvall Minnicelli. When Ellizzette was shown a birth certificate and other documents suggesting that Ellizzette was born Lisa Anne Blaydes on March 21, 1963 (one year earlier than stated in the marriage documents), in Maine Township, Cook County, Illinois, she refused to acknowledge that this was her birth certificate. She admitted that she had been known by other names and produced the following: an employment verification letter indicating that Lisa Blaydes-Zollner (SS# ***-**-1769) worked as a student employee at the University of Illinois at Chicago for various periods between 1985 and 1993; two United States passports, one issued November 23, 1999/expiring November 22, 2009, and a second one issued April 11, 2013/expiring July 10, 2013, as well as an undated Social Security card (***-**-1769), and an Australian

driver's license (expiration date June 25, 2012), all issued in the name Ellizzette Blaydes Duvall; a social security card (***-**-1769) issued August 2, 2010, in the name Ellizzette Anne Mareen Minnicelli; an "interim Medicare card" expiring July 24, 2013, issued in the name Ellizzette B. Minnicelli; a passport issued July 3, 2013/expiring July 2, 2023, in the name Ellizzette Duvall; an Illinois driver's license dated April 25, 2013/expiring March 21, 2018, issued in the name Ellizzette Duvall Minnicelli; an undated Social Security card (***-**-1769) issued to and signed by Ellizzette A.M. Duvall; an Illinois driver's license dated July 18, 2017/expiring March 21, 2018, issued in the name Ellizzette Duvall McDonald; and a Social Security card dated September 8, 2017, issued in the name Ellizzette Anne Mareen McDonald. No evidence of marriages, divorces, or applications for name changes were provided.

¶ 23 After depositing Ellizzette, Shawn filed a response to the motion for judgment on the pleadings on August 28, 2018. He argued that there were disputed issues of fact. In support, Shawn attached portions of the deposition transcripts of Anthony Scifo and Ellizzette. Scifo, who had been the attorney representing John in the contested guardianship proceedings, testified that he advised John that he could not marry because he had been declared a ward of the court. In addition, Scifo testified that he had discussed, with both John and Ellizzette, the probability that any marriage, if it took place, would be found invalid. Ellizzette confirmed in her deposition that Scifo had advised both her and John, prior to their wedding, that their marriage might not be valid.

¶ 24 On September 6, 2018, Shawn petitioned the court for an order requiring Ellizzette to submit to fingerprinting so her identity could be established. In support, Shawn alleged that, at her deposition, Ellizzette admitted she had used many names yet provided no explanation for the various name changes. In addition, when shown a copy of the birth certificate for Lisa Ann Blaydes, who was born in Illinois and not Lyon, France, Ellizzette claimed she "didn't know" if it was her birth certificate but produced no birth certificate for "Ellizzette Duvall Minnicelli."

¶ 25 After a hearing on September 10, 2018, the court denied Ellizzette's motion for judgment on the pleadings. Also, following a hearing on September 18, 2018, the court ruled that Ellizzette would be required to submit to fingerprinting if she continued to pursue her petition to be named administrator of the estate. The court

held that, if Ellizzette amended her petition to seek the appointment of someone other than herself as administrator, she need not submit to fingerprinting.

¶ 26 On October 2, 2018, Shawn filed a motion asking the court to take judicial notice of John and Ellizzette's certificate of marriage, marriage license, and application for marriage license. In these documents, Ellizzette attested that her name was Ellizzette Duvall Minnicelli, that her last name on her birth certificate was "Duvall," that she was born in Lyon, France, that she had one prior marriage, and that her occupation was "physician scientist." On November 6, 2018, Ellizzette objected to Shawn's motion, stating that the documents contained "assertions of purported fact which may be subject to reasonable dispute at trial."

¶ 27 Prior to a ruling on that motion, on October 22, 2018, Ellizzette moved the court to enter "a Rule 218 Scheduling Order to set deadlines for discovery and dispositive motion deadlines, as well as a trial date on [her] Petition for Letters, to bring the central controversy in this matter to a final adjudication." Shawn responded on October 24, stating, "by Ellizzette filing her Motion for Supreme Court Rule 218 Scheduling Order, she has made clear that she wishes to pursue her petition to have herself appointed as administrator pursuant to the Probate Act of 1975. 755 ILCS 5/28-1, *et seq.*" As a result, Shawn moved the court to require Ellizzette to submit to fingerprinting.

¶ 28 On November 30, 2018, the court, *inter alia*, granted Shawn's motion to take judicial notice of the marriage documents over Ellizzette's objection and set a case management schedule, requiring that all discovery be completed by September 30, 2019. The court also ordered Ellizzette to present herself at the Kane County Sheriff's Office within 60 days for fingerprinting. The record shows that, after three attempts to obtain Ellizzette's fingerprints, no usable prints were ever acquired.

¶ 29 Subsequently, on January 29, 2019, the court ruled that certain answers by Ellizzette to Shawn's request to admit facts would be deemed admitted without qualification and ordered Ellizzette to amend other answers found to be nonresponsive. The court also ordered Ellizzette to turn over John's iPhone and laptop to the estate within 14 days and issued a protective order to preserve the electronically stored information (ESI) on these devices. The court granted Ellizzette's combined motion for subpoenas to obtain John's medical records and a qualified order pursuant to the Health Insurance Portability and Accountability Act

of 1996 (Pub. L. No. 104-191, 110 Stat. 1936 (1996) (codified as amended in scattered sections of Titles 18, 26, 29, and 42 of the United States Code)), subject to *in camera* review by the court.

¶ 30 On February 11, 2019, Ellizzette’s counsel moved for leave to withdraw as Ellizzette’s counsel, which the court granted on February 15, 2019. Ellizzette was allowed 21 days to find a new attorney and substitute appearance.

¶ 31 In the interim, on February 13, 2019, Shawn filed a request that the court take judicial notice of a Doximity³ file on an account for Ellizzette Duvall, who represented herself as an academic neurosurgeon affiliated with New York-Presbyterian Hospital’s department of neurosurgery. The file contained information regarding an investigation Doximity conducted into Ellizzette’s account. According to Doximity’s findings, Ellizzette’s professional profile could not be substantiated and, therefore, her account was deemed a fake. Notably, in response to a request from Doximity for verification of her credentials, Ellizzette provided a picture identification card for “Ellizzette Duvall” from two medical institutions in New York. Ellizzette’s only other response was an assertion that Shawn had instigated the inquiry into her professional credentials and that she had sought an order of protection from Shawn on November 17, 2017, in Edgar County, Illinois. Ellizzette attached an unsigned copy of an emergency order of protection against Shawn on behalf of Ellizzette and John. In the petition for an order of protection, Ellizzette alleged that Shawn took marital property from certain storage units and sold it; harassed her and John by contacting businesses, hospitals, and their colleagues; and “assumed John’s identity” to change passwords, redirect John’s mail, and stop bank cards. Ellizzette also contended that Shawn physically abused and stalked her and John and that Shawn made repeated calls to the police for “health checks” on John, alleging that John was an alcoholic and dangerous. It appears from the record that on March 19, 2019, the court deferred ruling on this motion to take judicial notice. However, there is no further discussion or ruling on the motion found in the record.

¶ 32 On March 18, 2019, Ellizzette filed her appearance *pro se*, along with a motion to extend time for filing responses, which the court granted. Then, on April 10,

³Doximity is an online networking service for medical professionals.

2019, Ellizzette's previous counsel filed a new appearance on her behalf, only to file another motion to withdraw five months later, on September 12, 2019. The court granted the second motion to withdraw on September 18, 2019.

¶ 33 In August 2019, Shawn moved the court to take judicial notice of court records indicating that, on November 26, 2001, felony charges were brought against Ellizzette Duvall, also known as Lisa Blaydes, in New York state for falsifying business records, unauthorized use of professional title, and forgery, based on Ellizzette misrepresenting herself as a doctor between September 12 and September 15, 2001, in the New York State Army National Guard Volunteer Registration Log. Ellizzette pled guilty to misdemeanor forgery and was sentenced to three years' probation. At a hearing on October 23, 2019, the court granted the motion, taking judicial notice of the New York state court documents, subject to their relevance at trial.

¶ 34 On October 16, 2019, Shawn filed a motion *in limine* to bar Ellizzette from testifying regarding the existence of a marital relationship, alleging that such testimony was barred by the Dead Man's Act (735 1LCS 5/8-201 (West 2016)). On October 23, 2019, Ellizzette filed an appearance on her own behalf, and a week later, on October 30, 2019, Ellizzette filed a response to Shawn's motion *in limine*, arguing that the plain text of section 8-201(d) of the Dead Man's Act provides that "[n]o person shall be barred from testifying as to any fact relating to the heirship of a decedent." *Id.* § 8-201(d). Ellizzette also attached an affidavit by Raymond Bement, who was named on the marriage certificate as the officiant. On November 4, 2019, Shawn filed a reply to Ellizzette's response along with a motion to strike Bement's affidavit, contending that the affidavit was in direct conflict with testimony Bement gave at his deposition. On November 13, 2019, the trial court entered an order granting Shawn's motion *in limine* and barring Ellizzette from testifying at trial.

¶ 35 On the day of trial, Monday, November 18, 2019, Ellizzette appeared in court and requested a continuance. She sought to postpone the trial to "December 3, 2019, or later," explaining that on the previous Friday she had unsuccessfully attempted to contact the judge's chambers. She stated that she spoke with someone from the clerk's office who advised her that she would have to come to court to request a

continuance. Accordingly, Ellizzette submitted her motion for a continuance in court.

¶ 36 In the motion, Ellizzette alleged that she had good cause for requesting an extension, because (1) her father had been hospitalized in Arizona and declared “end of life,” (2) her mother, whom she categorized as a “key witness,” would be unable to attend the trial due to the status of Ellizzette’s father, (3) Ellizzette’s attorneys withdrew from the case due to the “high outstanding balance” of attorney fees that Ellizzette was unable to pay because she was involved in an automobile accident that resulted in significant out-of-pocket medical expenses but that she now had resolved, hoping they would be allowed to reenter the case, and (4) she was unable to subpoena two “key witnesses.” Shawn objected to the motion, arguing that it had been a year since the matter was first set for trial.

¶ 37 In response to questioning by the court, Ellizzette explained that the two “key witnesses” were both paraplegics who lived in Colorado and, due to their disability, could not be required to travel to Illinois to testify. Ellizzette did not make an offer of proof as to what their testimony would be but admitted that they were not witnesses to the marriage ceremony.

¶ 38 The court denied Ellizzette’s motion for a continuance, finding *inter alia* that Ellizzette failed to show that the unavailable witnesses’ testimony would be material to the issues in the case. The bench trial commenced with Ellizzette proceeding *pro se*. Prior to hearing evidence, the court asked for clarification on what issues were currently before it. Shawn’s attorney responded that Ellizzette had abandoned her petition for letters of administration and the only matter before the court was Ellizzette’s claim that she was John’s surviving spouse and sole heir. Ellizzette made no assertions to the contrary, and the trial then proceeded on the matter of heirship.

¶ 39 Ellizzette called three witnesses. The first witness was Diane Boyer, who testified that she had known John and Ellizzette for about three years but that her main interaction with John occurred in November or December of 2017, when John lived with her for two weeks due to a protective order issued by the guardianship court that physically separated John and Ellizzette temporarily. Boyer testified that, on one occasion, she went to a court hearing in the contested guardianship case to verify that John and Ellizzette had recently married and, in her opinion, should not

be kept apart. However, Boyer also testified that she did not witness the marriage ceremony, though she was involved in preparations for the marriage and took John and Ellizzette out to a “wedding dinner” three or four days after the wedding to celebrate.

¶ 40 Ellizzette next called Dr. Visar Belegu, who testified that he was a scientist residing in Baltimore, Maryland. Belegu also testified that he first met Ellizzette in 2004, when he initially began working with John in St. Louis. It is unclear how long his initial affiliation with John lasted; however, Belegu testified that he phoned or texted John at least once each week in 2017 and that he traveled with John in the summer of 2017, because they were working on a project together. Belegu also testified that a research paper he and John had been working on “for quite a while” was submitted and accepted for publication in a major scientific journal sometime at the end of 2017 or early 2018, and it was Belegu’s understanding that John had accepted a position that was to begin in 2018, working “on an international level.”

¶ 41 Belegu testified that he did not attend John and Ellizzette’s wedding but knew they were engaged and learned, on September 11, 2017, that they married. In response to questions by Ellizzette, Belegu testified that he was aware that John had been involved in guardianship proceedings in July 2017. On cross-examination Belegu testified that he did not know the exact date that the guardianship order was entered but believed it was sometime in July 2017. Belegu also admitted that he never attended any of the guardianship proceedings and did not know the contents of any reports prepared by the examining physicians, though he knew that John was upset about what the doctors said about him.

¶ 42 Ellizzette’s final witness was Raymond C. Bement. On direct examination, Bement testified that he first met John and Ellizzette (whom he knew as Lisa) when they were all in college together in 1982 and was aware that she and John had a relationship in the mid-1980s. Bement further testified that he reconnected with Ellizzette in 2015, but he was not sure whether she was in a relationship with John at that time. In 2017, he learned that John and Ellizzette were engaged when John told him. He then helped them prepare for the marriage ceremony, which he officiated.

¶ 43 Bement further testified that there were actually two wedding ceremonies. He said he performed the “legal ceremony” on July 11, 2017, in John and Ellizzette’s

Paris, Illinois, home and then signed the marriage certificate at their kitchen table. After that ceremony, the three of them went to Allerton Park in Monticello (Piatt County) for the “secular” portion of the ceremony. It is unclear what Bement meant by “secular ceremony.” During Ellizzette’s questioning of Bement, she referred to the ceremony in Paris as the “interfaith” ceremony and the ceremony in Monticello as the “religious” ceremony. Neither of the ceremonies was described in detail, and there were no witnesses at either location.

¶ 44 On cross-examination, it was established that Bement was employed as a licensed clinical social worker and that he had very little contact with either John or Ellizzette from 2000 to 2016. There was some suggestion that Bement may have known John in his professional capacity while John was receiving mental health services, but that was not definitively established.

¶ 45 Bement was questioned extensively about the affidavit he provided to Ellizzette, which was notarized in New York. Initially, Bement refused to say why the affidavit was notarized in New York, but he later claimed he had traveled to New York on a “date” and took the affidavit with him. He did not explain how he found a notary in New York, nor could he explain why the notary’s certification was dated 2026.

¶ 46 Bement further testified on cross-examination that he offered to be the officiant for John and Ellizzette’s marriage when he learned, sometime in 2017, that John and Ellizzette were engaged. To that end, he obtained an online certification from Universal Life Church Ministry, a process that took him about 5 to 10 minutes. When asked about the marriage certificate he had signed, Bement admitted that he did not realize it listed Ellizzette’s name as Ellizzette Duval Minnicelli and admitted he never knew her by that name. When asked if he was aware that Ellizzette claimed to be born in Lyon, France, he responded, “That’s news to me.”

¶ 47 During redirect examination, Ellizzette attempted to clarify Bement’s testimony; however, nearly every question she asked was objected to on grounds of “leading,” “not relevant,” or “beyond the scope.” In fact, throughout the trial, Ellizzette, as a self-represented litigant, failed to frame her questions appropriately, opening her up to constant objections from opposing counsel. Though the court tried to assist her by explaining its rulings, answering her questions, and instructing

her to “rephrase,” Ellizzette would typically engage in a long explanation, telling the court what she was “trying to establish.”

¶ 48 When Ellizzette completed her questioning of Bement, she informed the court that she had no further witnesses. Shawn then moved for a directed finding, which the trial court granted. In so ruling, the court stated that the issue was the “validity of the marriage, the ceremony, the contract, and whether such a marriage—if it was conducted according to Illinois law or could have been conducted under the Probate Act when it happened—if it happened.” The court then stated that the minimum relevant evidence necessary to establish a *prima facie* case of a valid marriage was “a valid application for a marriage license, a ceremony performed in Edgar County and witnessed by two witnesses.” The court then concluded that, as a matter of law, Ellizzette did not present a *prima facie* case of a valid marriage. Specifically, the court held that the marriage was not properly witnessed nor licensed and that no best-interest determination was made by the probate court. The court entered an order granting a directed finding in Shawn’s favor and included Rule 304(a) language. See Ill. S. Ct. R. 304(a) (eff. Mar. 8, 2016). Ellizzette filed her notice of appeal on December 18, 2019.

¶ 49 On appeal, Ellizzette raised five issues. First, she argued that the trial court erred when it appointed Shawn as the administrator of decedent’s estate because she was not provided with statutorily required notice. Second, she maintained that the trial court erred in denying her motion for a continuance on the day of trial. Third, she argued that the trial court erred in denying her motion for judgment on the pleadings. Fourth, she claimed that the trial court committed reversible error in barring her from testifying regarding her marriage and heirship. Finally, she contended that the trial court erred in granting Shawn’s motion for a directed finding.

¶ 50 The appellate court affirmed in part, reversed in part, and remanded for further proceedings. 2020 IL App (2d) 191113. In sum, the appellate court affirmed the trial court’s denial of Ellizzette’s motion to vacate the order granting Shawn letters of administration, affirmed the denial of Ellizzette’s motion for continuance, and affirmed the denial of Ellizzette’s motion for judgment on the pleadings. However, the appellate court reversed the trial court’s ruling on Shawn’s motion *in limine* that

barred Ellizzette from testifying and reversed the grant of a directed finding in favor of Shawn. *Id.* ¶ 106.

¶ 51 The matter was remanded for further proceedings, and Shawn filed a petition for leave to appeal in this court, which we granted.

¶ 52 ANALYSIS

¶ 53 On appeal to this court, Shawn, in his capacity as administrator of John's estate, raises three issues. First, he contends that the appellate court erred when it reversed the circuit court's grant of a directed finding on the ground that a best interest determination was not required prior to John marrying Ellizzette. Second, Shawn argues that the appellate court erred when it reversed the circuit court's grant of a directed finding, because Ellizzette failed to establish her actual identity. And last, Shawn contends that the appellate court erred when it found that the Dead Man's Act did not bar Ellizzette from testifying and that she was substantially prejudiced by her inability to testify.

¶ 54 In her reply brief, Ellizzette seeks cross-relief, arguing that the trial court erred when it granted Shawn's petition for letters of administration and declaration of heirship and that the appellate court erred when it declined to review those orders.

¶ 55 STANDARD OF REVIEW

¶ 56 The parties agree that the trial court's grant of a directed finding, based on its determination that Ellizzette failed to present a *prima facie* case on the validity of the marriage, is a matter to be reviewed by this court *de novo*. See *People ex rel. Sherman v. Cryns*, 203 Ill. 2d 264, 275 (2003). As to the trial court's ruling on the motion *in limine* based on its finding that the Dead Man's Act barred Ellizzette from testifying, Shawn contends that our review is for an abuse of discretion (*People v. \$5,608 United States Currency*, 359 Ill. App. 3d 891 (2005)) and that the ruling should not be reversed unless the error was substantially prejudicial and affected the trial's outcome (*In re Estate of Goffinet*, 318 Ill. App. 3d 152, 156 (2001)).

¶ 57 While acknowledging that a ruling on a motion *in limine* is generally reviewed for an abuse of discretion, Ellizzette argues that the issue presented here concerns the trial court’s interpretation of the Dead Man’s Act, which is a question of law subject to *de novo* review.

¶ 58 Having considered the positions of both parties, we find that the applicable standard for our review of the matters presented in this appeal is *de novo*.

¶ 59 I. Legal Capacity to Marry—
Necessity of a Best Interest Hearing

¶ 60 In his first issue, Shawn argues that the appellate court erred when it rejected the trial court’s finding that, pursuant to section 11a-17(a-10) of the Probate Act (755 ILCS 5/11a-1(a-10) (West 2016)), John, as a ward subject to plenary guardianship, lacked the capacity to marry without first seeking a judicial finding that the marriage was in John’s best interest. In addressing this issue, we look first to the provisions of the Probate Act concerning wards who have been found to be disabled and in need of plenary guardianship.

¶ 61 Article XIa of the Probate Act (*id.* art. XIa) sets forth the rules and requirements governing the appointment of guardians for adults with disabilities, as well as the duties of the guardian so appointed. In section 11a-2, the Probate Act defines a “ [p]erson with a disability’ ” as follows:

“ ‘Person with a disability’ means a person 18 years or older who (a) because of mental deterioration or physical incapacity is not fully able to manage his person or estate, or (b) is a person with mental illness or a person with a developmental disability and who because of his mental illness or developmental disability is not fully able to manage his person or estate, or (c) because of gambling, idleness, debauchery or excessive use of intoxicants or drugs, so spends or wastes his estate as to expose himself or his family to want or suffering, or (d) is diagnosed with fetal alcohol syndrome or fetal alcohol effects.” *Id.* § 11a-2.

¶ 62 A guardian may be appointed for an adult with disabilities pursuant to section 11a-3 of the Probate Act, which at that time stated, in pertinent part:

“(a) Upon the filing of a petition by a reputable person ***, the court may adjudge a person to be a person with a disability, but only if it has been demonstrated by clear and convincing evidence that the person is a person with a disability as defined in Section 11a-2. If the court adjudges a person to be a person with a disability, the court may appoint (1) a guardian of his person, if it has been demonstrated by clear and convincing evidence that because of his disability he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning the care of his person, or (2) a guardian of his estate, if it has been demonstrated by clear and convincing evidence that because of his disability he is unable to manage his estate or financial affairs, or (3) a guardian of his person and of his estate.

(b) Guardianship shall be utilized only as is necessary to promote the well-being of the person with a disability, to protect him from neglect, exploitation, or abuse, and to encourage development of his maximum self-reliance and independence. Guardianship shall be ordered only to the extent necessitated by the individual’s actual mental, physical, and adaptive limitations.” *Id.* § 11a-3.

¶ 63

In the version of section 11a-17 in effect at the time, the Probate Act described the duties of a guardian, stating in pertinent part:

“(a) To the extent ordered by the court and under the direction of the court, the guardian of the person shall have custody of the ward ***, ***

(a-5) If the ward filed a petition for dissolution of marriage under the Illinois Marriage and Dissolution of Marriage Act before the ward was adjudicated a person with a disability under this Article, the guardian of the ward’s person and estate may maintain that action for dissolution of marriage on behalf of the ward. Upon petition by the guardian of the ward’s person or estate, *the court may authorize and direct a guardian of the ward’s person or estate* to file a petition for dissolution of marriage or to file a petition for legal separation or declaration of invalidity of marriage under the Illinois Marriage and Dissolution of Marriage Act on behalf of the ward if the court finds by clear and convincing evidence that the relief sought is in the ward’s best interests. In making its determination, the court shall consider the standards set forth in subsection (e) of this Section.

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

* * *

(e) Decisions made by a guardian on behalf of a ward shall be made in accordance with the following standards for decision making. Decisions made by a guardian on behalf of a ward may be made by conforming as closely as possible to what the ward, if competent, would have done or intended under the circumstances, taking into account evidence that includes, but is not limited to, the ward's personal, philosophical, religious and moral beliefs, and ethical values relative to the decision to be made by the guardian. Where possible, the guardian shall determine how the ward would have made a decision based on the ward's previously expressed preferences, and make decisions in accordance with preferences of the ward. If the ward's wishes are unknown and remain unknown after reasonable efforts to discern them, *the decision shall be made on the basis of the ward's best interests as determined by the guardian.*" (Emphases added.) *Id.* § 11a-17(a), (a-5), (a-10), (e).

¶ 64 Reading these provisions as a whole and giving them consistent, harmonious, and sensible effect, we conclude that, under the Probate Act, a ward who wishes to enter into a marriage may do so only with the consent of his guardian. Pursuant to section 11a-17(a-10) (*id.* § 11a-17(a-10)), for a guardian to obtain the ability to consent, he must file a petition with the court. If the court finds by clear and convincing evidence that the marriage is in the ward's best interest, the court may then authorize and direct the guardian to consent to the ward's marriage. When making its best interest determination, the court must follow the standards set forth

in subsection (e), which means that the court must rule in conformity with the ward's preferences unless the court believes that the marriage would result in substantial harm to the ward's welfare or personal or financial interests.

¶ 65 We believe this interpretation of the above-cited provisions of the Probate Act is in keeping with our decision in *Karbin v. Karbin*, 2012 IL 112815, ¶ 45, wherein we held that it is the policy of this state that, once a person is found to be “disabled” under our Probate Act, he or she is viewed as “ ‘ “a favored person in the eyes of the law” and is entitled to vigilant protection’ ” (quoting *In re Mark W.*, 228 Ill. 2d 365, 374-75 (2008), quoting *In re Estate of Wellman*, 174 Ill. 2d 335, 348 (1996)). This policy is fulfilled through the creation of a guardianship, which will “promote the well-being of the person with a disability, [and] to protect him from neglect, exploitation, or abuse.” 755 ILCS 5/11a-3(b) (West 2016).

¶ 66 Ellizzette argues, and the appellate court held, that the plain language of the Probate Act does not require a best interest hearing before a ward may marry. Moreover, Ellizzette contends that the validity of a marriage is governed by section 301 of the Marriage Act, which provides:

“The court shall enter its judgment declaring the invalidity of a marriage (formerly known as annulment) entered into under the following circumstances:

(1) a party lacked capacity to consent to the marriage at the time the marriage was solemnized, either because of mental incapacity or infirmity or because of the influence of alcohol, drugs or other incapacitating substances, or a party was induced to enter into a marriage by force or duress or by fraud involving the essentials of marriage[.]” 750 ILCS 5/301(1) (West 2016).

¶ 67 Further, Ellizzette contends that this court has consistently held that “the appointment of a guardian of a person is not sufficient, in and of itself, to show that the person was incompetent to have consented to marriage,” citing *Pape v. Byrd*, 145 Ill. 2d 13 (1991). We reject Ellizzette's arguments and find her reliance on *Pape* to be misplaced.

¶ 68 In *Pape*, we held:

“We agree *** that the appointment of a guardian of a person is not sufficient, in and of itself, to show that the person was incompetent to have consented to a marriage. In this regard, we note that section 11a-3 of the Probate Act of 1975 provides, *inter alia*, that a court may adjudge a person disabled and may appoint a guardian of his person if, because of his disability, he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning the care of his person. In contrast, section 301 of the Marriage Act provides that a declaration of invalidity of a marriage may be obtained where a party, *inter alia*, lacked the capacity to consent to the marriage because of, *inter alia*, mental incapacity or infirmity. (Ill. Rev. Stat. 1989, ch. 40, par. 301.) Moreover, a person lacks capacity to consent to a marriage where he is unable to understand the nature, effect, duties and obligations of marriage. (*Larson v. Larson* (1963), 42 Ill. App. 2d 467, 473.) It is thus clear that the test of incapacity in each of the foregoing provisions is limited and does not speak to the incapacity required for purposes of the other provision. Moreover, Illinois case law recognizes the difference between the types of incapacity involved in each provision.” *Id.* at 21-22.

¶ 69 As recognized in *Pape*, the Probate Act identifies various types of disabilities that could give rise to the need for the appointment of a guardian, who has control over the disabled adult’s person and estate. Accordingly, if a person is adjudged a disabled person in need of a guardian under the Probate Act, that person is limited in his ability to enter into a marriage, *i.e.*, such person must obtain the guardian’s consent, which is given upon the court’s authorization and direction after a determination that the marriage is in the ward’s best interest. Under the Probate Act, the lack of capacity to enter into a marriage is based on the ward’s failure to comply with the provisions for obtaining consent, not because the ward lacked the mental competence to understand the nature, effect, duties, and obligations of marriage.

¶ 70 *Pape* is factually distinguishable from the case at bar. In *Pape*, Jean A. Pape, as plenary guardian of Simpson Driskell Jr., a disabled adult, filed a petition to declare invalid the purported marriage between Driskell and Wilma Louise Byrd. *Id.* at 15-16. Byrd then filed a petition in probate court to have Pape removed as Driskell’s guardian. *Id.* at 16. Pape’s petition to declare the marriage void was found to be untimely. *Id.* at 25. However, Pape was permitted to challenge the validity of the

marriage in response to Byrd's petition to remove Pape as guardian. *Id.* at 28-29. After hearing the evidence, the trial court held that the marriage was invalid because Driskell lacked the mental capacity to enter into the marriage and that decision was affirmed on appeal. *Id.* at 19.

¶ 71 The appellate court noted that medical evidence showed that Driskell was diagnosed with "organic brain syndrome," schizophrenia, and Alzheimer's disease. *In re Driskell*, 197 Ill. App. 3d 836, 845 (1990). In addition, Driskell, who had numerous physical impairments, was found to have an IQ of 38 and was described as being "unable to know what he was doing." *Id.* Several nurses who had attended Driskell at hospitals or nursing homes around the time of the marriage testified that Driskell was difficult to work with, unable to dress or clean himself, and often required restraint. *Id.* Under these circumstances, the court held that the applicable test to determine whether Driskell was competent to marry was whether he had the ability to understand the nature, effect, duties, and obligations of marriage. The court then found Driskell was not competent to enter into the marriage. *Id.* at 846. Significantly, Pape was appointed Driskell's guardian *after* the purported marriage ceremony took place. See *Pape*, 145 Ill. 2d at 17. Consequently, the question of whether consent of the guardian and a best interest hearing were required prior to the marriage was not at issue.

¶ 72 *Larson v. Larson*, 42 Ill. App. 2d 467 (1963), cited by *Pape* regarding the test for determining competency, is also factually distinguishable. In *Larson*, the husband, Sydney, filed a petition in 1956 to annul his marriage to Myrtle, which took place six years earlier in 1950. *Id.* at 468. Sydney contended that the marriage was invalid because Myrtle was insane at the time of the marriage and, therefore, incapable of contracting marriage pursuant to section 2 of the Marriage Act as it existed in the 1950s (Ill. Rev. Stat. 1953, ch. 89, ¶ 2).

¶ 73 The *Larson* court ruled that, while

"there is no clear dividing line between competency and incompetency, and each case must be judged by its own peculiar facts; the parties must have sufficient mental capacity to enter into the status, but proof of lack of mental capacity must be clear and definite; if the party possesses sufficient mental capacity to understand the nature, effect, duties, and obligations of the marriage contract into which he or she is entering, the marriage contract is binding, as

long as they are otherwise legally competent to enter into the relation.” *Larson*, 42 Ill. App. 2d at 473.

In *Larson*, no guardian was involved. Prior to the marriage, Myrtle was not determined to be a disabled adult under the Probate Act, and she was never appointed a plenary guardian to oversee her person or estate.

¶ 74 Based on the above, we reject Ellizzette’s argument that John’s competency to marry is governed by section 301 of the Marriage Act and that, to prove the validity of the marriage it was only necessary to show that John understood the nature, effect, duties, and obligations of the marriage contract into which he entered.

¶ 75 In the case at bar, Ellizzette brought suit, seeking to be named the sole heir of John’s estate as John’s surviving spouse. Therefore, it was Ellizzette’s burden to prove her status as heir by proving that she and John entered into a valid marriage. The validity of the marriage was challenged by Shawn, as administrator of John’s estate, based on the contention that John was a ward under the plenary guardianship of Shawn and, as such, John lacked the capacity to enter into a valid marriage without the authorization and consent of his guardian granted by the court after a finding that the marriage was in John’s best interest. We agree.

¶ 76 Under the facts of this case, we find that John’s capacity to marry is governed by the Probate Act. Applying our interpretation of the provisions of the Probate Act, we further find that, for John to have the legal capacity to enter into a valid marriage, he had to obtain the consent of his guardian, Shawn, given upon the authorization and direction of the court after a best interest determination. Thus, for Ellizzette to meet her burden of proving a valid marriage to John, she would have to show that, prior to the marriage, the court authorized and directed Shawn to consent to the marriage upon a finding that the marriage was in John’s best interest.

¶ 77 Turning to the record, we must review the evidence Ellizzette presented at trial to determine whether she met her burden of proving that her marriage to John was valid. First, however, we must determine whether the trial court erred when it granted Shawn’s motion *in limine* and barred Ellizzette from testifying, and whether, as the appellate court held, the trial court’s ruling substantially prejudiced Ellizzette’s ability to present her case.

¶ 78

II. The Dead Man's Act

¶ 79

In this case, the trial court granted Shawn's motion *in limine* and barred Ellizzette from testifying at trial regarding her marriage and heirship, based on its finding that section 8-201 of the Code of Civil Procedure, commonly referred to as the Dead Man's Act (735 ILCS 5/8-201 (West 2016)), precluded such testimony. In so ruling, the trial court relied on our decision in *Laurence v. Laurence*, 164 Ill. 367 (1896). On appeal, the appellate court reversed the trial court's ruling, finding, *inter alia*, that *Laurence* is no longer good law. 2020 IL App (2d) 191113, ¶ 83.

¶ 80

Before this court, Shawn argues that the appellate court erred when it found that *Laurence* was no longer good law. Shawn directs our attention to Illinois Rule of Evidence 101 (eff. Jan. 6, 2015), which states: "A statutory rule of evidence is effective unless in conflict with a rule or a decision of the Illinois Supreme Court." Shawn then contends that, because the Dead Man's Act is a statutory rule of evidence that is "in conflict" with our decision in *Laurence*, *Laurence* still controls. We disagree.

¶ 81

When *Laurence* was decided, the Dead Man's Act provided:

"No party to any civil action, suit or proceeding, or person directly interested in the event thereof, shall be allowed to testify therein of his own motion or in his own behalf, by virtue of the foregoing section, when any adverse party sues or defends as the *** heir *** of any deceased person, *** unless when called as a witness by such adverse party so suing or defending ***." Ill. Rev. Stat. 1895, ch. 51, ¶ 2.

¶ 82

Our decision in *Laurence* was based on our interpretation and application of the Dead Man's Act as it then existed. Subsequently, however, in 1973, the Dead Man's Act was repealed and replaced. The successor act now reads, in pertinent part:

"In the trial of any action in which any party sues or defends as the representative of a deceased person or person under a legal disability, no adverse party or person directly interested in the action shall be allowed to testify on his or her own behalf to any conversation with the deceased or person

under legal disability or to any event which took place in the presence of the deceased or person under legal disability, except in the following instances:

* * *

(d) No person shall be barred from testifying as to any fact relating to the heirship of a decedent.” 735 ILCS 5/8-201(d) (West 2016).

¶ 83 No conflict exists between this statutory rule of evidence and our decision in *Laurence* because we were not interpreting this new language of the Dead Man’s Act when we decided *Laurence*. In *In re Estate of Babcock*, 105 Ill. 2d 267, 272-73 (1985), we applied the successor act and observed that the legislature had made it “less restrictive” by adding language that “no longer bar[red] all testimony by interested persons.” See also *In re Estate of Bailey*, 97 Ill. App. 3d 781, 784 (1981) (section 2(4) of the Dead Man’s Act (Ill. Rev. Stat. 1979, ch. 51, ¶ 2(4)) was “intended to change the rule of *Laurence*”); *In re Estate of Hutchins*, 120 Ill. App. 3d 1084 (1984). Based on the above, we are compelled to agree with the appellate court below that the trial court erred when it granted Shawn’s motion *in limine* and barred Ellizzette from testifying.

¶ 84 Although we find that the trial court erred, our inquiry is not over. Shawn argues here, as he did in the appellate court, that even if it was error for the trial court to have barred Ellizzette from testifying, the error was not properly preserved for review. Shawn contends that an adequate offer of proof, which informs the trial court, opposing counsel, and the reviewing court of the exact nature and substance of the evidence sought to be introduced, is necessary to preserve a trial court’s alleged error in excluding evidence. *Colella v. JMS Trucking Co. of Illinois*, 403 Ill. App. 3d 82, 93 (2010); see also *Snelson v. Kamm*, 204 Ill. 2d 1, 23 (2003). Because Ellizzette failed to make any offer of proof, Shawn maintains that she failed to preserve for review the trial court’s error in granting the motion *in limine* that barred her from testifying.

¶ 85 The appellate court, while acknowledging that no offer of proof was made by Ellizzette, held that an offer of proof is not required where it was apparent that the trial court clearly understood the nature and character of the evidence sought to be introduced. See *Dillon v. Evanston Hospital*, 199 Ill. 2d 483, 495 (2002). The court then rejected Shawn’s claim that the trial court’s error was not preserved for review,

stating, “[g]iven this record, *** the trial court understood that Ellizzette would testify as to her purported marriage to decedent.” 2020 IL App (2d) 191113, ¶ 85. The court then went on to conclude that Ellizzette was substantially prejudiced by her inability to testify and, therefore, remand for a new trial was required. *Id.* ¶ 86. We disagree.

¶ 86 It is certainly true that an offer of proof need not be made if it is clear that the trial court understood the nature and character of the evidence that would have been offered had Ellizzette been allowed to testify. However, we do not find it clear from the record in this case what Ellizzette’s exact testimony “as to her purported marriage to decedent” would be. Moreover, the issue in this case was not simply whether a marriage ceremony took place but whether the marriage was legally valid. Shawn alleged, and we have now determined, that the validity of the marriage and John’s capacity to enter into the marriage are dependent upon proof that a court determined, based on clear and convincing evidence, that the marriage was in John’s best interest. We find nothing to indicate that Ellizzette intended to present testimony to dispute Shawn’s allegations, nor does it appear that Ellizzette could have presented testimony that would have established the validity of the marriage. Thus, we find that, not only did Ellizzette fail to preserve the error by failing to make an offer of proof, but any testimony that Ellizzette might have offered could not have established John’s capacity to enter into a valid marriage.

¶ 87 Ellizzette was aware at the time the marriage took place that, as a result of guardianship proceedings, John was under the plenary guardianship of Shawn and, for that reason, the marriage might not be valid. It is also clear from the record that no best interest finding was ever sought or made. In light of our holding in this opinion that a disabled person lacks the capacity to marry unless a court authorizes and directs that person’s guardian to consent to the marriage after a best interest finding, Ellizzette could not have provided any testimony that would have been sufficient to prove the validity of the marriage. Consequently, Ellizzette could not have been prejudiced by her inability to testify regarding the marriage.

¶ 88 Thus, we reverse the appellate court’s finding that Ellizzette was substantially prejudiced by her inability to testify. The error occasioned by the trial court’s ruling that barred Ellizzette from testifying was harmless. Accordingly, remand for a new trial is not necessary.

¶ 89

III. Directed Finding

¶ 90

As noted above, the trial court granted Shawn's motion for a directed finding after ruling that Ellizzette failed to present a *prima facie* case regarding the validity of her marriage to John. The trial court so ruled based, in part, on the ground that, pursuant to the Probate Act, a best interest hearing was required before John could marry.

¶ 91

The appellate court reversed the directed finding in Shawn's favor, finding *inter alia* that a *prima facie* case had been presented. The appellate court concluded that the trial court erred in granting a directed verdict in favor of Shawn on the grounds it set forth. *Id.* ¶ 90. The appellate court found that Ellizzette had presented some evidence that a ceremony was performed in Edgar County through Bement's testimony and that the trial court erred when it held that section 11a-17(a-10) of the Probate Act required a prior best interest hearing or the court's consent before John could validly marry. *Id.* ¶ 102.

¶ 92

Because we have found that a best interest hearing was required before John could validly marry, we reverse the appellate court's holding and affirm the trial court's grant of a directed verdict in favor of Shawn.

¶ 93

CONCLUSION

¶ 94

Based on our findings above, we reverse the appellate court judgment and affirm the circuit court's grant of a directed finding in favor of Shawn McDonald, as representative of the estate of John W. McDonald III.

¶ 95

Appellate court judgment reversed.

¶ 96

Circuit court judgment affirmed.

¶ 97

JUSTICE THEIS, concurring in part and dissenting in part:

¶ 98 In this heirship proceeding, we are tasked with reviewing the circuit court's order granting Shawn McDonald's motion for a directed finding because Ellizzette McDonald failed to present a *prima facie* case that her marriage to John McDonald was valid. The majority holds that she failed to do so because the lack of a judicial determination that the marriage was in John's best interest rendered the marriage void under section 11a-17(a-10) of the Probate Act of 1975 (Probate Act) (755 ILCS 5/11a-17(a-10) (West 2016)). I disagree with that holding because it conflicts with the plain language of section 11a-17(a-10) and is in contravention of the Illinois Marriage and Dissolution of Marriage Act (Marriage Act) (750 ILCS 5/101 *et seq.* (West 2016)). Additionally, while I agree with the majority's holding that the circuit court erred in denying Ellizzette the right to testify regarding the existence of her marital relationship under section 8-201 of the Code of Civil Procedure (735 ILCS 5/8-201 (West 2016)), I disagree with their conclusion that she failed to preserve the error because she did not make an offer of proof. No offer of proof was necessary because it was clear that she would be testifying regarding the circumstances surrounding her purported marriage. For these reasons, I concur in part and dissent in part.

¶ 99 Before addressing the merits of this case, I note that much of the majority's extensive background discussion concerns matters that were neither presented at trial nor formed a basis for the circuit court's order under review. See *supra* ¶¶ 6-51. In the process, the majority has highlighted certain allegations against Ellizzette. To the extent that these claims were even relevant to the issue at trial, she did not testify or present evidence regarding them. Although Shawn argues before this court that the circuit court's grant of a directed finding was proper because Ellizzette failed to establish her actual identity, the circuit court did not make that factual determination, and it was not a basis for its ruling.

¶ 100 Rather, the facts necessary to resolve this appeal are limited. On May 30, 2017, Shawn was appointed John's plenary guardian. On December 11, 2017, John died intestate. Ellizzette subsequently filed a petition for letters of administration, an affidavit of heirship, and a motion for judgment on the pleadings. She asserted that, as John's surviving spouse, she was his sole heir because he had no children. Prior to trial, the court granted Shawn's request to take judicial notice of three certified documents: John and Ellizzette's application for a marriage license in Edgar County, the marriage license, and a certificate of marriage.

- ¶ 101 In November 2019, the matter proceeded to a bench trial on Ellizzette’s petition. The evidence centered on the validity of her purported marriage to John on July 11, 2017. Pursuant to the circuit court’s pretrial order, Ellizzette was barred from testifying regarding the circumstances of her relationship with John and the existence of any marital relationship between them.
- ¶ 102 Ellizzette, proceeding *pro se*, called three witnesses. Diane Boyer testified regarding her involvement in the preparations for the wedding. Dr. Visar Belegu, one of John’s colleagues, testified that he had frequent weekly contact with John in 2017 and thought that John and Ellizzette were happily married. Raymond Bement, a licensed clinical social worker, testified that he participated in preparations for and performed a marriage ceremony between Ellizzette and John in their home in Edgar County on July 11, 2017. Later that day, the three of them went to a park in Monticello, Illinois, for a second ceremony.
- ¶ 103 At the close of Ellizzette’s case-in-chief, the circuit court granted Shawn’s motion for a directed finding on the validity of the marriage. The circuit court found that Ellizzette had not made a *prima facie* case of a valid marriage because (1) she presented no evidence that the purported marriage was properly licensed, (2) there was no evidence of two witnesses to the marriage, and (3) there was no best-interest hearing to determine John’s competency to marry.
- ¶ 104 The appellate court methodically rejected each of these findings; it remanded for further proceedings because genuine issues of fact existed as to whether Ellizzette was decedent’s surviving spouse and sole heir. 2020 IL App (2d) 191113.
- ¶ 105 As a threshold matter, although Shawn was appointed John’s plenary guardian in May 2017, this case does not concern John’s protection under the guardianship. The Probate Act directs that a guardianship “shall be utilized only as is necessary to promote the well-being of the person with a disability, to protect him from neglect, exploitation, or abuse, and to encourage development of his maximum self-reliance and independence.” 755 ILCS 5/11a-3(b) (West 2016). It is well settled that in all instances, the guardian is to act in the ward’s “best interests.” *Id.* § 11a-17(e); see also *Karbin v. Karbin*, 2012 IL 112815, ¶ 21. Under the Probate Act, however, the guardianship ended upon John’s death. See 755 ILCS 5/24-12 (West 2016). Thus, rather than relating to John’s protections under the guardianship, this case concerns the proper distribution of John’s assets because he died intestate.

Additionally, Shawn is a party in this case not as John's guardian but, rather, as a potential heir along with his parents and siblings.

¶ 106 The central issue in this appeal is whether the circuit court erred in holding that Ellizzette had failed to make a *prima facie* case of a valid marriage because, under section 11a-17(a-10) of the Probate Act, a best-interest determination is required before an individual subject to a plenary guardianship is permitted to marry.

¶ 107 Our framework is a familiar one. The fundamental rule of statutory interpretation is to ascertain and give effect to the intent of the legislature. *Nowak v. City of Country Club Hills*, 2011 IL 111838, ¶ 11. The most reliable indicator of that intent is the language of the statute itself. *Id.* If the statutory language is clear and unambiguous, it must be applied as written, without resorting to further aids of statutory interpretation. *Id.* A court may not depart from the plain language of the statute and read into it exceptions, limitations, or conditions that are not consistent with the express legislative intent. *Acme Markets, Inc. v. Callanan*, 236 Ill. 2d 29, 37-38 (2009).

¶ 108 Section 11a-17(a-10) of the Probate Act provides:

“Upon petition by the guardian of the ward’s person or estate, the court may authorize and direct a guardian of the ward’s person or estate to consent, on behalf of the ward, to the ward’s marriage pursuant to Part II of the Illinois Marriage and Dissolution of Marriage Act if the court finds by clear and convincing evidence that the marriage is in the ward’s best interests. In making its determination, the court shall consider the standards set forth in subsection (e) of this Section. Upon presentation of a court order authorizing and directing a guardian of the ward’s person and estate to consent to the ward’s marriage, the county clerk shall accept the guardian’s application, appearance, and signature on behalf of the ward for purposes of issuing a license to marry under Section 203 of the Illinois Marriage and Dissolution of Marriage Act.” 755 ILCS 5/11a-17(a-10) (West 2016).

¶ 109 The majority acknowledges this statutory provision but chooses to dodge the language itself. Instead, after quoting section 11a-17 in its entirety, the majority simply concludes that, “under the Probate Act, a ward who wishes to enter into a marriage may do so only with the consent of his guardian” and “[p]ursuant to

section 11a-17(a-10) [(755 ILCS 5/11a-17(a-10) West 2016))], for a guardian to obtain the ability to consent, he must file a petition with the court.” *Supra* ¶ 64.

¶ 110 The plain language of section 11a-17(a-10), however, does not mandate prior approval by the court before a ward can marry of his or her own accord. The provision begins “[u]pon petition by the guardian” and then provides that “the court may authorize and direct a guardian *** to consent, on behalf of the ward, to the ward’s marriage *** if the court finds *** that the marriage is in the ward’s best interests.” 755 ILCS 5/11a-17(a-10) (West 2016). Thereafter, the section states that, “[u]pon presentation of a court order authorizing and directing a guardian of the ward’s person and estate to consent to the ward’s marriage, the county clerk shall accept the guardian’s application.” *Id.*

¶ 111 The plain language of section 11a-17(a-10), as the appellate court recognized, merely provides a procedure to allow a guardian to petition the court for authorization to consent, on behalf of a ward, to the ward’s marriage following a best-interest determination. Among other reasons, a guardian may seek such a court order for ease of meeting the requirements of the Marriage Act on behalf of his or her ward who is marrying or to prevent a subsequent challenge that his or her ward lacked, for purposes of the Marriage Act, the capacity to consent to the marriage. The fact that the provision permits a guardian to seek an order allowing consent from the court does not mean the legislature intended that a ward’s marriage would be invalid unless the guardian first obtained the court’s approval. The appellate court was correct that nothing in the plain language of section 11a-17(a-10) provides that a marriage entered into by a ward without his or her guardian’s consent, or following a judicial determination of best interest, is void.

¶ 112 The majority extraordinarily holds that the Marriage Act does not govern in a case centered on whether a couple was legally married in Illinois. See *supra* ¶ 76. The majority ignores the obvious; the Marriage Act specifically addresses the requirements and formalities that a couple must fulfill to be legally married in Illinois. See 750 ILCS 5/101 *et seq.* (West 2016). None of those requirements reference section 11a-17(a-10) of the Probate Act or suggest that a ward must have the consent of his or her guardian after a court hearing on best interest to enter into a valid marriage in Illinois.

¶ 113 The Marriage Act does, however, provide a clear process by which a court may declare a marriage invalid when it is shown, *prior to a ward’s death*, that he or she lacked the capacity to consent to the marriage because of mental incapacity or infirmity.

¶ 114 Section 301 of the Marriage Act provides, in pertinent part:

“Declaration of invalidity—Grounds. The court shall enter its judgment declaring the invalidity of a marriage (formerly known as annulment) entered into under the following circumstances:

(1) a party lacked capacity to consent to the marriage at the time the marriage was solemnized, either because of mental incapacity or infirmity or because of the influence of alcohol, drugs or other incapacitating substances, or a party was induced to enter into a marriage by force or duress or by fraud involving the essentials of marriage[.]” *Id.* § 301.

¶ 115 Section 302 of the Marriage Act then specifies, in pertinent part:

“Time of commencement. (a) A declaration of invalidity under paragraph[] (1) *** of Section 301 may be sought by any of the following persons and must be commenced within the times specified:

(1) for any of the reasons set forth in paragraph (1) of Section 301, by either party or by the legal representative of the party who lacked capacity to consent, no later than 90 days after the petitioner obtained knowledge of the described condition;

* * *

(b) *In no event* may a declaration of invalidity of marriage be sought *after the death of either party to the marriage* under subsection[] (1) *** of Section 301.” (Emphases added.) *Id.* § 302.

¶ 116 The Marriage Act unambiguously requires that any challenge by a guardian to his or her ward’s competency to consent to marriage because of mental incapacity or infirmity occur no later than 90 days after the guardian obtained knowledge and “in no event” after the ward’s death. By reading language into section 11a-17(a-10) of the Probate Act and in complete contravention of the Marriage Act, the majority

is allowing a marriage to be declared invalid after the death of a party to the marriage; the majority is doing indirectly what the Marriage Act clearly prohibits. See *Accettura v. Vacationland, Inc.*, 2019 IL 124285, ¶ 11 (a court may not alter the plain meaning of a statute’s language by reading into it exceptions, limitations, or conditions not expressed by the legislature). The majority’s erroneous ruling renders void any marriage in Illinois that has been entered into since August 26, 2014, by a ward with a plenary guardian who did not first receive a court order authorizing and directing the guardian to consent to the ward’s marriage. See Pub. Act 98-1107, § 5 (eff. Aug. 26, 2014) (adding 755 ILCS 5/11a-17(a-10)). The majority fails to acknowledge the very serious impact of this holding on such couples, including those who may have had a child following what they had every reason to believe was a valid marriage in Illinois.

¶ 117 While not addressed by the majority, the circuit court provided two additional reasons for granting Shawn’s motion for a directed verdict that were also erroneous. First, the court erroneously found there was no evidence that the purported marriage was properly licensed. Second, the court erroneously found that two witnesses to the marriage were required for it to be valid.

¶ 118 Section 2-1110 of the Code of Civil Procedure provides that, in all cases tried without a jury, a defendant may, at the close of the plaintiff’s case, move for a finding or judgment in his favor. 735 ILCS 5/2-1110 (West 2016). In ruling on such a motion for a directed verdict, the trial court must determine, as a matter of law, whether the plaintiff has presented a *prima facie* case. *Kokinis v. Kotrich*, 81 Ill. 2d 151, 154-55 (1980). A plaintiff establishes a *prima facie* case by proffering at least some evidence on every element essential to the underlying cause of action. *Id.* at 154.

¶ 119 As previously recognized, to legally marry in Illinois, a couple must fulfill the requirements and formalities set out in the Marriage Act. See 750 ILCS 5/101 *et seq.* (West 2016). Section 201 of the Marriage Act provides that “[a] marriage between 2 persons licensed, solemnized and registered as provided in this Act is valid in this State.” *Id.* § 201. The parties must apply for a marriage license from the county clerk’s office of the county in which they intend to marry. *Id.* §§ 203, 207. The parties must then appear before a duly authorized officiant and, after

consenting to marry, must file the marriage certificate with the county clerk's office within 10 days after the marriage is solemnized. *Id.* § 209.

¶ 120 The circuit court found that Ellizzette, a self-represented litigant, failed to present a *prima facie* case of a valid marriage, in part, because there was no evidence that her purported marriage was properly licensed. In doing so, the court stated,

“It would have been simple to present the evidence of a marriage license and certificate and application and have some witnesses testify about that, but that was not done.”

¶ 121 This finding overlooked the fact that the court already had evidence of a marriage application, license, and certificate because it had previously granted Shawn's motion to take judicial notice of these certified documents. Because the circuit court had taken judicial notice of these three documents for purposes of the trial, there was no need for Ellizzette to reintroduce them. Consequently, the circuit court erred in holding that there was no evidence that the purported marriage was properly licensed.

¶ 122 Similarly, the circuit court erred by holding that Ellizzette had not made a *prima facie* case based on a lack of evidence of two witnesses to the marriage ceremony of which Raymond Bement testified he officiated at the couple's home in Edgar County. Simply put, no provision in the Marriage Act requires the presence of two witnesses for a marriage to be valid in Illinois, so that rationale could not form a basis either for granting Shawn's motion for a directed finding.

¶ 123 Finally, I agree with the majority that the circuit court erred when it granted Shawn's motion *in limine*, barring Ellizzette from testifying regarding the marriage and heirship. The circuit court's erroneous ruling was based on its conclusion that section 8-201 of the Code of Civil Procedure (735 ILCS 5/8-201 (West 2016)), commonly referred to as the Dead Man's Act, precluded her testimony. As the majority finds, section 8-201(d) specifically provides that “[n]o person shall be barred from testifying as to any fact relating to the heirship of a decedent.” *Id.*

¶ 124 I disagree, however, with the majority's conclusion that Ellizzette failed to preserve the error by not making an offer of proof. “The purpose of an offer of

proof is to inform the trial court, opposing counsel, and a reviewing court of the nature and substance of the evidence sought to be introduced.” *Dillon v. Evanston Hospital*, 199 Ill. 2d 483, 495 (2002). This court has long held that “an offer of proof is not required where it is apparent that the trial court clearly understood the nature and character of the evidence sought to be introduced.” *Id.* (citing *People v. Peeples*, 155 Ill. 2d 422, 457-58 (1993), *In re A.M.*, 274 Ill. App. 3d 702, 709 (1995), and Michael H. Graham, Cleary and Graham’s Handbook of Illinois Evidence § 103.7, at 23-24 (7th ed. 1999)). Here, an offer of proof was not necessary because it was clear that Ellizzette would be testifying regarding the circumstances surrounding her purported marriage to John, which was the core issue at trial.

¶ 125 For the reasons stated, the circuit court erred in barring Ellizzette from testifying and in granting Shawn’s motion for a directed finding, and I would remand this matter to the circuit court for further proceedings. Accordingly, I respectfully concur in part and dissent in part.

¶ 126 JUSTICES OVERSTREET and CARTER join in this partial concurrence, partial dissent.