



**Volume II, Issue I
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**Guardian Bulletin
September 2021**

A WORD FROM OUR PRESIDENT:

The Illinois Guardianship Association is proud to reinstitute publication of the *Guardian Bulletin*.

The *Bulletin* has been a popular feature on the website and serves to further the Mission of the IGA by providing up-to-date information regarding topics related to the provision of quality guardianship services. The *Bulletin* is designed to encourage submission of information by all members through a concise format for ease of communication.

During these rapidly changing times, it is important to be informed of legislative updates; new methods of meeting the duties of the guardian; and extraordinary challenges to guardians and persons under guardianship, and ways to meet those challenges. To meet this goal, members are encouraged to submit articles for the *Bulletin* which will be published giving credit to the author(s) in all cases.

Our initial *Bulletin* in the re-launch, is a very thorough update on Revisions to Guardianship Legislation.

You are welcome to provide feedback at the end of the article.

Kathy Eddy, President
Illinois Guardianship Association

2021 New Laws
Summarized by:
Karen Alice Kloppe, Legal Assistance Developer
Illinois Department on Aging

Several new laws have been enacted that will be of interest to those serving in a guardianship role in Illinois:

Amendments to the Minors Article of the Probate Act of 1975 (755 ILCS 5)

- House Bill 369 Public Act 102-0259 (effective August 6, 2021)

Link: <https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0259>

Add provisions regarding appointment of a guardian for a minor who is 18 but not yet 21 years of age, the duties of the guardian, and referrals for additional services for any minor subject to parental abuse, abandonment, or neglect, and for protections against trafficking or domestic violence. Also makes other changes.

Senate Bill 2435 Public Act 102-0558 (effective August 20, 2021)

Link: <https://www.ilga.gov/legislation/publicacts/102/102-0558.htm>

Enacts the First 2021 General Revisory Act. Strikes redundant verb in definition for the term “minor”.

Amendments to the Adult Guardianship Article of the Probate Act of 1975 (755 ILCS 5)

- House Bill 55 Public Act 102-0109 (effective January 1, 2022)

Link: <https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0109>

Defines the following terms: “developmental disability”, “intellectual disability”, and “related condition”. Permits a petition for adjudication of disability and for appointment of a guardian in the case of an intellectual disability to include a psychological evaluation of the respondent by a licensed clinical psychologist that was performed within one year of the filing date.

- House Bill 263 Public Act 102-0120 (effective July 23, 2021)

Link: <https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0120>

Indicates that a petition for the appointment of a temporary guardian is to be filed at the same time or after to the filing of a petition for adjudication of disability and appointment of a guardian. Specifies information to be included in the petition for appointment of a temporary guardian.

States timing requirements for notice regarding a hearing on petition for the appointment of a temporary guardian and on a petition to revoke the appointment of a temporary guardian.

- House Bill 266 Public Act 102-0258 (effective August 6, 2021)

Link: <https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0258>

Changes decision-making standard for personal guardians. Directs a guardian to consider a ward's current preferences absent a risk of substantial harm and to give substantial weight to what a ward, if competent, would have done or intended under the circumstances. Directs a guardian to make decision based on a ward's best interests in the event the ward's wishes cannot be determined or there is risk of substantial harm to the ward's welfare or personal/financial interests.

- House Bill 842 Public Act 102-0191 (effective January 1, 2022)

Link: <https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0191>

Provides that allocation of guardian ad litem fees and costs is a matter of discretion. Indicates that no legal fees, appoint counsel fees, guardian ad litem fees, or costs may 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 state-designated protection and advocacy agency.

- Senate Bill 80 Public Act 102-0072 (effective January 1, 2022)

Link: <https://www.ilga.gov/legislation/publicacts/102/102-0072.htm>

Authorizes a court to appoint co-guardians but public guardian or the Office of the State Guardian must consent to such action. Requires a petitioner who seeks to (1) revoke or construe a power of attorney for the alleged person with a disability or (2) review an agent's conduct to comply with Section 11a-17(c)(duties of a personal guardian) and Section 11a-18(e)(duties of the estate guardian) of this Act and the Illinois Power of Attorney Act (755 ILCS 45). Clarifies that a ward retains the right to ask a judge to appoint only a limited guardian. Addresses fees of a guardian and a representative and makes the award of either a first-class claim for administrative expenses to be paid by the guardianship or decedent's probate estate. Adds a new template for the notice to ward of right to seek modification. Sets forth requirements relating to the transfer of guardianships when a new public guardian is appointed by the Governor. Also makes other changes.

Amends the Illinois Power of Attorney Act (755 ILCS 45). Requires a petition for guardianship by an agent to delineate the specific powers to be granted to the guardian that are not already included in the power of attorney. Specifies that a petition for temporary, limited, or plenary guardianship of the principal may include a prayer for relief to suspend or revoke a power of attorney in accordance with Section 2-10(b)(agency-court relationship) of this Act.

Amendments to the Accounting Article of the Probate Act of 1975 (755 ILCS 5)

- House Bill 814 Public Act 102-0189 (effective January 1, 2022)

Link: <https://www.ilga.gov/legislation/publicacts/102/102-0189.htm>

Authorizes a court to order that money be deposited in a qualified tuition program under Section 529 of the Internal Revenue Code (among other investment options) if the estate of a ward consists only of money.

Supported Decision-making

- House Bill 3849 Public Act 102-0614 (effective February 27, 2022)

Link: <https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0614&GA=102>

Creates the Supported Decision-Making Agreement Act which will enable a supporter to assist a principal with an intellectual or developmental disability in accordance with terms of a private agreement as a less restrictive alternative to guardianship. States purpose and interpretation for administering the Act. Provides definitions for the following terms: “adult”, “everyday life decisions”, “principal”, “supported decision-making agreement”, and “supporter”. Establishes a presumption of capability on the parts of adults regarding decisions about daily living. Lists disqualifying factors for supporters. Sets forth duties (other than as stated in a supported decision-making agreement) and prohibitions for supporters. Addresses access to personal information about the principal by a supporter. Provides template for a supported decision-making agreement, which must be signed in the presence of 2 or more subscribing witnesses. Limits liability for act or omission done in good faith and in reliance upon a supported decision-making agreement. Indicates actions taken with the assistance of a supporter must be afforded due recognition under the law. Requires individuals who have received a copy of a supported decision-making agreement, or are aware of its existence, to report alleged abuse to the Adult Protective Services Hotline. Describes methods for revoking a supported decision-making agreement.

Note: Space has been reserved for this new Act at 755 ILCS 9 in the ILCS database on the website of the Illinois General Assembly.

IGA Continuing Education Committee Report

By: Erin Nowlan Disability Rights Manager with the IGAC-Human Rights Authority, IGA Treasurer and Continuing Education Committee Co-Chair

The IGA Continuing Education Committee has continued to navigate COVID19 guidelines since the pandemic changed the way we “see” one another. The goal of the committee has been to ensure our members (and others) have had online access to continuing education credits to maintain their National Certified Guardian certification. The other goal was to stay in the know with relevant matters that impact guardianship decision-making standards of practice. Thus far in 2021, we have been able to provide online training events in March, April,

June, July and September! These training events would not be possible without our presenters who volunteer their time and valuable information to our association. The committee would like to recognize those 2021 presenters and thank them for the support to this year's IGA webinars: *Sharon Rudy attorney and IGA Past-President, Megan Forristall with the Social Security Administration, Jaime Rutledge with IDHFS Long Term Care Medicaid Policy Writer, Rosemary Laudani with the Illinois Treasurers Office, Nanette Wrobel RPh with Tarrytown Expocare Pharmacy, Len Meyer with Planned Parenthood, Stacy Berk with the Cook County Public Guardians Office, Rod Joos parent advocate and Peoria Human Rights Authority Board Member, Barry Lowy Office of State Guardian Director, Susan Creighton Office of State Guardian Manager, Gene Seaman and Jon Burnet Supervisors with the Human Rights Authority, Phoebe Maholovich with Central Illinois Friends, Laura Hart Human Rights Authority-Special Education Manager, Mary McLaughlin with Central Illinois Service Access, Julee Borland with Kaleidoscope, Meg Cooch Deputy Director of the Ligas Consent Decree, Tiffany Bailey Deputy Director State Operated Developmental Centers and Wanda Sumler Program Director of Community Service Options, Inc.*

The committee is hopeful to return to the in-person conference come May 11, 2022. This conference will take place in Springfield. Please keep an eye on your email for updates closer to the event.

The Illinois Guardianship Association is working towards providing this informational Guardian Bulletin to its membership on a regular basis. If you have suggestions for future topics of interest or would like to submit an article for publishing please send an email to: igainfo101@gmail.com



ILLINOIS GUARDIANSHIP ASSOCIATION
www.illinoisguardianship.org
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