

1 AN ACT concerning probate.

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

4 Section 5. The Probate Act of 1975 is amended by  
5 changing Section 11-13 as follows:

6 (755 ILCS 5/11-13) (from Ch. 110 1/2, par. 11-13)

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

16 (a) The guardian of the person shall have the custody,  
17 nurture and tuition and shall provide education of the ward  
18 and of the ward's his children, but the ward's spouse may not  
19 be deprived of the custody and education of the spouse's  
20 children, without consent of the spouse, unless the court  
21 finds that the spouse is not a fit and competent person to  
22 have such custody and education. If the ward's estate is  
23 insufficient to provide for the ward's education and the  
24 guardian of his person fails to provide education, the court  
25 may award the custody of the ward to some other person for  
26 the purpose of providing education. If a person makes a  
27 settlement upon or provision for the support or education of  
28 a ward and if either parent of the ward is dead, the court  
29 may make an such order for the visitation of the ward by the  
30 person making the settlement or provision that as the court  
31 deems proper.

1           (b) The guardian or other representative of the ward's  
2 estate shall have the care, management and investment of the  
3 estate, shall manage the estate frugally and shall apply the  
4 income and principal of the estate so far as necessary for  
5 the comfort and suitable support and education of the ward,  
6 his children, and persons related by blood or marriage who  
7 are dependent upon or entitled to support from him, or for  
8 any other purpose which the court deems to be for the best  
9 interests of the ward, and the court may approve the making  
10 on behalf of the ward of such agreements as the court  
11 determines to be for the ward's best interests. The  
12 representative may make disbursement of his ward's funds and  
13 estate directly to the ward or other distributee or in such  
14 other manner and in such amounts as the court directs. If  
15 the estate of a ward is derived in whole or in part from  
16 payments of compensation, adjusted compensation, pension,  
17 insurance or other similar benefits made directly to the  
18 estate by the Veterans Administration, notice of the  
19 application for leave to invest or expend the ward's funds or  
20 estate, together with a copy of the petition and proposed  
21 order, shall be given to the Veterans' Administration  
22 Regional Office in this State at least 7 days before the  
23 hearing on the application. The court, upon petition of a  
24 guardian of the estate of a minor, may permit the guardian to  
25 make a will or create a revocable or irrevocable trust for  
26 the minor that the court considers appropriate in light of  
27 changes in applicable tax laws that allow for minimization of  
28 State or federal income, estate, or inheritance taxes;  
29 however, the will or trust must make distributions only to  
30 the persons who would be entitled to distributions if the  
31 minor were to die intestate and the will or trust must make  
32 distributions to those persons in the same amounts to which  
33 they would be entitled if the minor were to die intestate.

34           (c) Upon the direction of the court which issued his

1 letters a representative may perform the contracts of his  
2 ward which were legally subsisting at the time of the  
3 commencement of the guardianship. The court may authorize  
4 the guardian to execute and deliver any bill of sale, deed or  
5 other instrument.

6 (d) The representative of the estate of a ward shall  
7 appear for and represent the ward in all legal proceedings  
8 unless another person is appointed for that purpose as  
9 representative or next friend. This does not impair the  
10 power of any court to appoint a representative or next friend  
11 to defend the interests of the ward in that court, or to  
12 appoint or allow any person as the next friend of a ward to  
13 commence, prosecute or defend any proceeding in his behalf.  
14 Any proceeding on behalf of a minor may be commenced and  
15 prosecuted by his next friend, without any previous authority  
16 or appointment by the court if the next friend enters bond  
17 for costs and files it in the court where the proceeding is  
18 pending. Without impairing the power of the court in any  
19 respect, if the representative of the estate of a minor and  
20 another person as next friend shall appear for and represent  
21 the minor in a legal proceeding in which the compensation of  
22 the attorney or attorneys representing the guardian and next  
23 friend is solely determined under a contingent fee  
24 arrangement, the guardian of the estate of the minor shall  
25 not participate in or have any duty to review the prosecution  
26 of the action, to participate in or review the  
27 appropriateness of any settlement of the action, or to  
28 participate in or review any determination of the  
29 appropriateness of any fees awarded to the attorney or  
30 attorneys employed in the prosecution of the action.

31 (e) Upon petition by any interested person (including  
32 the standby or short-term guardian), with such notice to  
33 interested persons as the court directs and a finding by the  
34 court that it is in the best interest of the minor, the court

1 may terminate or limit the authority of a standby or  
2 short-term guardian or may enter such other orders as the  
3 court deems necessary to provide for the best interest of the  
4 minor. The petition for termination or limitation of the  
5 authority of a standby or short-term guardian may, but need  
6 not, be combined with a petition to have a guardian appointed  
7 for the minor.

8 (Source: P.A. 90-345, eff. 8-8-97; 91-149, eff. 1-1-00.)