

1 AMENDMENT TO SENATE BILL 1949

2 AMENDMENT NO. _____. Amend Senate Bill 1949 by replacing
3 everything after the enacting clause with the following:

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

6 (755 ILCS 5/13-5) (from Ch. 110 1/2, par. 13-5)
7 Sec. 13-5. Powers and duties of public guardian.) The
8 court may appoint the public guardian as the guardian of any
9 disabled adult who is in need of a public guardian and whose
10 estate exceeds \$25,000. When a disabled adult who has a
11 smaller estate is in need of guardianship services, the court
12 shall appoint the State guardian pursuant to Section 30 of
13 the Guardianship and Advocacy Act. If the public guardian is
14 appointed guardian of a disabled adult and the estate of the
15 disabled adult is thereafter reduced to less than \$25,000,
16 the court may, upon the petition of the public guardian and
17 the approval by the court of a final accounting of the
18 disabled adult's estate, discharge the public guardian and
19 transfer the guardianship to the State guardian. The public
20 guardian shall serve not less than 14 days' notice to the
21 State guardian of the hearing date regarding the transfer.
22 When appointed by the court, the public guardian has the same

1 powers and duties as other guardians appointed under this
2 Act, with the following additions and modifications:

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

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

12 (c) The public guardian shall prepare an inventory of
13 the ward's belongings and assets and shall maintain insurance
14 on all of the ward's real and personal property. No personal
15 property shall be removed from the ward's possession except
16 for storage pending final placement or for liquidation in
17 accordance with this Act.

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

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

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

33 (g) The public guardian shall, at such intervals as the
34 court may direct, submit to the court an affidavit setting

1 forth in detail the services he has provided for the benefit
2 of the ward. The court shall set reasonable and appropriate
3 fees for such services. The public guardian may petition the
4 court for the payment of reasonable and appropriate fees on
5 not less than a quarterly basis, or sooner as approved by the
6 court.

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

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

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

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

1 (k) No later than January 31 of each year, the public
2 guardian shall file an annual report with the clerk of the
3 Circuit Court, indicating, with respect to the period covered
4 by the report, the number of cases which he has handled, the
5 date on which each case was assigned, the date of termination
6 of each case which has been closed during the period, the
7 disposition of each terminated case, and the total amount of
8 fees collected during the period from each ward.

9 (l) When the public guardian is appointed temporary
10 guardian of a disabled adult pursuant to an emergency
11 petition under circumstances where the court finds that the
12 immediate establishment of a temporary guardianship is
13 necessary to protect the disabled adult's health, welfare, or
14 estate, the public guardian shall be entitled to reasonable
15 and appropriate fees, as determined by the court, for the
16 period of the temporary guardianship, including fees directly
17 associated with establishing the temporary guardianship.

18 (Source: P.A. 87-287.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law."