

755 ILCS 5/11-5.4

Statutes current through P.A. 99-935, except for portions of P.A. 99-912 and 99-933 of the 2016 Regular Legislative Session

Illinois Compiled Statutes Annotated > Chapter 755 ESTATES > Probate Act of 1975 > Article XI. Minors

755 ILCS 5/11-5.4 Short-term guardian

- (a) A parent, adoptive parent, or adjudicated parent whose parental rights have not been terminated, or the guardian of the person of a minor may appoint in writing, without court approval, a short-term guardian of an unmarried minor or a child likely to be born. The written instrument appointing a short-term guardian shall be dated and shall identify the appointing parent or guardian, the minor, and the person appointed to be the short-term guardian. The written instrument shall be signed by, or at the direction of, the appointing parent 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 parent.
- (b) A parent or guardian shall not appoint a short-term guardian of a minor if the minor has another living parent, adoptive parent or adjudicated parent, whose parental rights have not been terminated, whose whereabouts are known, and who is willing and able to make and carry out day-to-day child care decisions concerning the minor, unless the nonappointing parent consents to the appointment by signing the written instrument of appointment.
- (c) 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. Except as provided in subsection (e-5) or (e-10) of this Section, the short-term guardian shall have authority to act as guardian of the minor as provided in Section 11-13.2 [755 ILCS 5/11-13.2] for a period of 365 days from the date the appointment is effective, unless the written instrument provides for the appointment to terminate upon a different specified date or event as permitted by this Section. Only one written instrument appointing a short-term guardian may be in force at any given time.
- (d) Every appointment of a short-term guardian may be amended or revoked by the appointing parent or by the appointing guardian of the person of the minor 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.
- (e) The appointment of a short-term guardian or successor short-term guardian does not affect the rights of the other parent in the minor. The short-term guardian appointment does not constitute consent for court appointment of a guardian.
- (e-5)** Any time after the appointment of a temporary custodian under Section 2-10, 3-12, 4-9, 5-410, or 5-501 of the Juvenile Court Act of 1987 [705 ILCS 405/2-10, 705 ILCS 405/3-12, 705 ILCS 405/4-9, 705 ILCS 405/5-410, or 705 ILCS 405/5-501], and after notice to all parties, including the short-term guardian, as required by the Juvenile Court Act of 1987, a court may vacate any short-term guardianship for the minor appointed under this Section, provided the vacation is consistent with the minor's best interests as determined using the factors listed in paragraph (4.05) of Section 1-3 of the Juvenile Court Act of 1987 [705 ILCS 405/1-3].

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- (e-10)** A parent or guardian who is a member of the Armed Forces of the United States, including any reserve component thereof, or the commissioned corps of the National Oceanic and Atmospheric Administration or the Public Health Service of the United States Department of Health and Human Services detailed by proper authority for duty with the Armed Forces of the United States, or who is required to enter or serve in the active military service of the United States under a call or order of the President of the United States or to serve on State active duty, may appoint a short-term guardian for a period of longer than 365 days if on active duty service. The writing appointing the short-term guardian under this subsection shall include the dates of the parent's or guardian's active duty service, and the appointment may not exceed the term of active duty plus 30 days.
- (f)** 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 parent or the guardian of the person of the child is appointing a guardian of a child of the parent (or a minor ward of the guardian, as the case may be) for a period of up to 365 days. A separate form should be completed for each child. The person appointed as the guardian must sign the form, but need not do so at the same time as the parent or parents or guardian.

If you are a parent or guardian who is a member of the Armed Forces of the United States, including any reserve component thereof, or the commissioned corps of the National Oceanic and Atmospheric Administration or the Public Health Service of the United States Department of Health and Human Services detailed by proper authority for duty with the Armed Forces of the United States, or who is required to enter or serve in the active military service of the United States under a call or order of the President of the United States or to serve on State active duty, you may appoint a short-term guardian for your child for the period of your active duty service plus 30 days. When executing this form, include the date your active duty service is scheduled to begin in part 3 and the date your active duty service is scheduled to end in part 4.

This form may not be used to appoint a guardian if there is a guardian already appointed for the child, except that if a guardian of the person of the child has been appointed, that guardian may use this form to appoint a short-term guardian. Both living parents of a child may together appoint a guardian of the child, or the guardian of the person of the child may appoint a guardian of the child, for a period of up to 365 days through the use of this form. If the short-term guardian is appointed by both living parents of the child, the parents need not sign the form at the same time.]

1. Parent (or guardian) and Child. I, (insert name of appointing parent or guardian), currently residing at (insert address of appointing parent or guardian), am a parent (or the guardian of the person) of the following child (or of a child likely to be born): (insert name and date of birth of child, or insert the words "not yet born" to appoint a short-term guardian for a child likely to be born and the child's expected date of birth).

2. Guardian. I hereby appoint the following person as the short-term guardian for the child: (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 child care decisions concerning the child.

() 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 child care decisions concerning the child.

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

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

() On the date my active duty service begins: (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 365 days after the effective date, unless it terminates 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 child care decisions concerning the child, but not more than 365 days after the effective date.

() 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 child care decisions concerning the child, but not more than 365 days after the effective date.

() 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, but not more than 365 days after the effective date.

() On the date which is (state a number of days, but no more than 365 days) days after the effective date.

() On the date no more than 30 days after my active duty service is scheduled to end: (insert date active duty service is scheduled to end).

() Other: (insert other).

[NOTE: If this item is not completed, the appointment will be effective for a period of 365 days, beginning on the effective date.]

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

Signed: (appointing parent)

6.Witnesses. I saw the parent (or the guardian of the person of the child) sign this instrument or I saw the parent (or the guardian of the person of the child) direct someone to sign this instrument for the parent (or the guardian). Then I signed this instrument as a witness in the presence of the parent(or the guardian) . I am not appointed in this instrument to act as the short-term guardian for the child. (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)

8.Consent of child's other parent. I, (insert name of the child's other living parent), currently residing at (insert address of child's other living parent), hereby consent to this appointment on this (insert day) day of (insert month and year).

Signed: (consenting parent)

[NOTE: The signature of a consenting parent is not necessary if one of the following applies: (i) the child's other parent has died; or (ii) the whereabouts of the child's other parent are not known; or (iii) the child's other parent is not willing or able to make and carry out day-to-day child care decisions concerning the child; or (iv) the child's parents were never married and no court has issued an order establishing parentage.]

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P.A. 88-529, § 5; 88-670, § 3-90; 90-796, § 5; 95-568, § 10; 98-568, § 5; 98-1082, § 5; 99-599, § 5.

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