**Child Guardianship and the Opioid Epidemic**

When a child’s parent or legal guardian is addicted to a drug or has a debilitating substance abuse problem, how does Illinois law handle [guardianship](https://www.familylawadvocate.com/divorce/guardianships/) claims? And, more pressingly, is the nation’s opioid epidemic a reason to reconsider how guardianship laws concerning minor children currently operate?

**What is Guardianship Under Illinois Law?**

Guardianship provides a non-parent with legal custody of a person (typically a minor child) with the responsibilities associated with legal parenthood. In Illinois, the Probate Act of 1975 ([755 ILCS 5/](http://www.ilga.gov/legislation/ilcs/ilcs4.asp?DocName=075500050HArt.+XI&ActID=2104&ChapterID=60&SeqStart=12100000&SeqEnd=14300000)) governs the guardianship of minor children in the state. When the law was enacted more than four decades ago, there were fewer cases in which non-parent family members were seeking guardianship of minor children. However, in the last few decades, numerous socioeconomic issues have given rise to new guardianship cases, including matters of drug addiction and the opioid epidemic that is impacting children throughout the Chicago area and, indeed, across the country.

Given the need for clarification in the law, the Probate Act of 1975 was amended in 2011. Those amendments clarified when and how a person is permitted to seek guardianship for a child. The law says that a non-parent can seek guardianship of a child if at least one of the following is true about the child’s parents:

* Voluntarily gave up custody and will not or cannot carry out childcare duties and decisions;
* Did not appear for a hearing and will not or cannot carry out childcare duties and decisions; and/or
* Gave consent to the guardianship either in court or in other legally appropriate form.

**Guardianships and Children of the Opioid Epidemic in Illinois**

Should it be even easier for grandparents or other non-parents to seek guardianship of a child when the child’s parents are addicted to opioids and cannot provide proper care? According to a [recent article](https://chronicleofsocialchange.org/analysis/new-hampshire-bill-paves-way-grandfamilies-affected-opioid-crisis) in *The Chronicle of Social Change*, grandparents across the country are raising their grandchildren due to the disabling and debilitating effects of opioids. In response, the state of New Hampshire has made it easier for grandparents to seek and obtain legal guardianship of their grandchildren when those kids are negatively impacted by the opioid epidemic. Specifically, according to the article, that bill “gives legal preference to grandparents—over other family members or nonfamily members—in guardianship cases where substance abuse is involved.” Would a similar law be met with support in Illinois?

According to an [editorial](http://www.chicagotribune.com/news/opinion/editorials/ct-edit-opioids-rauner-illinois-overdose-0911-20170908-story.html) in the *Chicago Tribune*, although Illinois does not rank at the very top of the list for opioid deaths, nearly 2,000 people died last year in the state due to opioid overdoses. And as the article clarifies, despite substantial information about the opioid epidemic and its effects on children, Chicago area residents continue to use the drugs. Even if users with children do not suffer fatal accidental overdoses, many end up unable to care for their children due to physical health decline or imprisonment.

Given the rate of opioid overdoses in Illinois, it is important for Chicago area grandparents and other relatives to learn more about guardianship and the legal responsibilities of a guardian under state law.

**Seek Advice from a Chicago Guardianship Lawyer**

If you are a grandparent or other family member with concerns about guardianship of a minor, an experienced Chicago guardianship attorney can speak with you today about your situation. [Contact M. Scott Gordon & Associates](https://www.familylawadvocate.com/contact-us/) to learn more about how we serve families in the Chicago area.

