

By: Zaffirini

S.B. No. 746

A BILL TO BE ENTITLED

AN ACT

relating to guardianship matters.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1002.013, Estates Code, is amended to read as follows:

Sec. 1002.013. GUARDIAN AD LITEM. "Guardian ad litem" means a person appointed by a court to represent the best interests of an incapacitated person or proposed ward in a guardianship proceeding.

SECTION 2. Section 1051.103, Estates Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) In addition to the method of service prescribed by Subsection (a), a private process server may personally serve citation to appear and answer an application for temporary guardianship on a proposed ward.

SECTION 3. Section 1054.051(a), Estates Code, is amended to read as follows:

(a) Subject to Subsection (b), the judge may appoint a guardian ad litem to represent the interests of an incapacitated person or proposed ward in a guardianship proceeding.

SECTION 4. Section 1054.054(b), Estates Code, is amended to read as follows:

(b) A guardian ad litem shall protect the incapacitated person or proposed ward whose interests the guardian has been

1 appointed to represent in a manner that will enable the court to
2 determine the action that will be in that person's best interests.

3 SECTION 5. Section 1054.056(a), Estates Code, is amended to
4 read as follows:

5 (a) Subject to Subsection (b), a guardian ad litem appointed
6 under this subchapter or Section 1102.001 or 1202.054 to represent
7 the interests of an incapacitated person or proposed ward in a
8 guardianship proceeding involving the creation, modification, or
9 termination of a guardianship is not liable for civil damages
10 arising from a recommendation made or an opinion given in the
11 capacity of guardian ad litem.

12 SECTION 6. Section 1055.001(b), Estates Code, is amended to
13 read as follows:

14 (b) A person who has an interest that is adverse to a
15 proposed ward or incapacitated person may not:

16 (1) file an application to create a guardianship or
17 for the appointment of a guardian for the proposed ward or
18 incapacitated person;

19 (2) contest the creation of a guardianship for the
20 proposed ward or incapacitated person;

21 (3) contest the appointment of a person as a guardian
22 of the proposed ward or incapacitated person; ~~or~~

23 (4) contest an application for complete restoration of
24 a ward's capacity or modification of a ward's guardianship; or

25 (5) file a motion or complaint to request the removal
26 of a guardian or contest the request for removal of a guardian.

27 SECTION 7. Subchapter D, Chapter 1151, Estates Code, is

amended by adding Section 1151.156 to read as follows:

Sec. 1151.156. DUTY TO PRESERVE WARD'S ESTATE PLAN. (a)

The guardian of the estate who on appointment has actual knowledge of the existence of the ward's estate plan shall preserve, to the extent reasonably possible, the plan, including probate and nonprobate planning, if preserving the plan is consistent with the ward's best interest based on all relevant factors, including:

(1) the value and nature of the ward's estate;

(2) the ward's foreseeable obligations and need for maintenance;

(3) minimization of income, estate, inheritance, or other taxes payable out of the ward's estate; and

(4) eligibility for resources reasonably available to the ward, including government benefits available under state or federal law.

(b) The guardian of the estate shall obtain court approval before:

(1) changing or canceling the ward's beneficiary designation under an account, contract, or another arrangement that authorizes designation of a beneficiary in existence when the guardian was appointed, including an insurance or annuity contract, a qualified or nonqualified retirement plan, and an employment agreement, such as a deferred compensation agreement;

(2) changing or canceling the designated payee under the ward's payable or transfer on death account in existence when the guardian was appointed; or

(3) closing an account described by Subdivision (1) or

1 (2).

2 (c) The guardian of the estate may request the court's
3 permission to restore the designated beneficiary described by
4 Subsection (b)(1) or designated payee described by Subsection
5 (b)(2) if the beneficiary or payee, as applicable, was canceled or
6 required to be canceled due to closure of the ward's account. On
7 receipt of the request, the court may grant the guardian's request
8 and grant the guardian authority to execute the beneficiary
9 designation form or payable or transfer on death form required by
10 the financial institution or other entity.

11 SECTION 8. Section [1163.051](#), Estates Code, is amended by
12 adding Subsections (d) and (e) to read as follows:

13 (d) If the court approves the annual account, the court
14 shall enter an order to that effect.

15 (e) If the court does not approve the annual account, the
16 court shall enter an order to that effect and require the guardian
17 of the estate to file another annual account within a period
18 prescribed by the order, which may not be later than the 20th day
19 after the date the order is entered.

20 SECTION 9. Section [1163.104](#), Estates Code, is amended by
21 amending Subsection (a) and adding Subsection (a-1) to read as
22 follows:

23 (a) If the judge is satisfied that the facts stated in the
24 report are true, the court shall approve the report and enter an
25 order to that effect.

26 (a-1) If the court does not approve the annual report, the
27 court shall enter an order to that effect and require the guardian

1 of the person to file another annual report within a period
2 prescribed by the order, which may not be later than the 20th day
3 after the date the order is entered.

4 SECTION 10. Sections 1051.103, 1054.051, 1054.054,
5 1054.056, 1055.001, 1163.051, and 1163.104, Estates Code, as
6 amended by this Act, apply to a guardianship proceeding that is
7 pending or commenced on or after the effective date of this Act.

8 SECTION 11. Section 1151.156, Estates Code, as added by
9 this Act, applies only to the appointment of a guardian made on or
10 after the effective date of this Act. An appointment made before
11 the effective date of this Act is governed by the law in effect
12 immediately before the effective date of this Act, and the former
13 law is continued in effect for that purpose.

14 SECTION 12. This Act takes effect September 1, 2025.