

1-1 By: Deuell S.B. No. 1410
1-2 (In the Senate - Filed March 13, 2003; March 20, 2003, read
1-3 first time and referred to Committee on Health and Human Services;
1-4 April 22, 2003, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; April 22, 2003,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1410 By: Deuell

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the appointment of the Department of Protective and
1-11 Regulatory Services to serve as a temporary or permanent guardian
1-12 for a ward.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Section 48.209, Human Resources Code, is amended
1-15 by amending Subsection (b) and adding Subsection (g) to read as
1-16 follows:

1-17 (b) As a last resort, the department may apply to be
1-18 appointed guardian of the person or estate of an elderly or disabled
1-19 person who is found by the department to be in a state of abuse,
1-20 neglect, or exploitation, and who, because of a physical or mental
1-21 condition, will be substantially unable to provide food, clothing,
1-22 or shelter for himself or herself, to care for the individual's own
1-23 physical health, or to manage the individual's own financial
1-24 affairs. A representative of the department shall take the oath
1-25 required by the Texas Probate Code on behalf of the department when
1-26 ~~[if]~~ the department begins to serve as [is appointed] guardian. If
1-27 the department knows that an individual is willing and able to serve
1-28 as the guardian, the department may inform the court of that
1-29 individual's willingness and ability.

1-30 (g) A court may not appoint the department as a guardian
1-31 under Section 682 or 875, Texas Probate Code, unless:

1-32 (1) the department files an application for
1-33 appointment under Section 682 or 875, Texas Probate Code, as
1-34 appropriate;

1-35 (2) the proposed ward is an individual described by
1-36 Subsection (a) or (b); and

1-37 (3) the proposed ward has sufficient resources for
1-38 appropriate care or is eligible for Medicaid or another form of
1-39 public assistance for that care.

1-40 SECTION 2. Section 701, Texas Probate Code, is amended to
1-41 read as follows:

1-42 Sec. 701. TIME FOR TAKING OATH AND GIVING BOND. Except as
1-43 provided by Section 48.209(b), Human Resources Code, or Section
1-44 682A(a) of this code, the oath of a guardian may be taken and
1-45 subscribed, or the bond of a guardian may be given and approved, at
1-46 any time before the expiration of the 20th day after the date of the
1-47 order granting letters of guardianship, or before the letters have
1-48 been revoked for a failure to qualify within the time allowed. An
1-49 oath may be taken before any person authorized to administer oaths
1-50 under the laws of this state.

1-51 SECTION 3. Subsection (j), Section 875, Texas Probate Code,
1-52 is amended to read as follows:

1-53 (j) The court may not ~~[customarily or ordinarily]~~ appoint
1-54 the Department of Protective and Regulatory Services as a temporary
1-55 guardian under this section unless:

1-56 (1) the department files an application for
1-57 appointment as guardian under this section;

1-58 (2) the proposed ward is an individual described by
1-59 Section 48.209(a) or (b), Human Resources Code; and

1-60 (3) the proposed ward has sufficient resources for
1-61 appropriate care or is eligible for Medicaid or another form of
1-62 public assistance for that care. ~~[The appointment of the~~
1-63 ~~department as a temporary guardian under this section should be~~

2-1 ~~made only as a last resort.]~~

2-2 SECTION 4. The changes in law made by this Act to Section
2-3 875, Texas Probate Code, and Section 48.209, Human Resources Code,
2-4 apply only to an application for the appointment of a guardian or
2-5 temporary guardian filed:

2-6 (1) on or after the effective date of this Act; or

2-7 (2) before the effective date of this Act if the
2-8 proceeding is pending on the effective date of this Act.

2-9 SECTION 5. This Act takes effect September 1, 2003.

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