

1-1 By: Hartnett (Senate Sponsor - Harris) H.B. No. 230
1-2 (In the Senate - Received from the House March 29, 2005;
1-3 March 30, 2005, read first time and referred to Committee on
1-4 Jurisprudence; May 5, 2005, reported favorably by the following
1-5 vote: Yeas 7, Nays 0; May 5, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to grounds for removal of a guardian.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Sections 761(a) and (c), Texas Probate Code, are
1-11 amended to read as follows:

1-12 (a) The court, on its own motion or on motion of any
1-13 interested person, including the ward, and without notice, may
1-14 remove any guardian, appointed under this chapter, who:

1-15 (1) neglects to qualify in the manner and time
1-16 required by law;

1-17 (2) fails to return within 90 days after
1-18 qualification, unless the time is extended by order of the court, an
1-19 inventory of the property of the guardianship estate and list of
1-20 claims that have come to the guardian's knowledge;

1-21 (3) having been required to give a new bond, fails to
1-22 do so within the time prescribed;

1-23 (4) absents himself from the state for a period of
1-24 three months at one time without permission of the court, or removes
1-25 from the state;

1-26 (5) cannot be served with notices or other processes
1-27 because of the fact that:

1-28 (A) the guardian's whereabouts are unknown;

1-29 (B) the guardian is eluding service; or

1-30 (C) the guardian is a nonresident of this state
1-31 who does not have a resident agent to accept service of process in
1-32 any guardianship proceeding or other matter relating to the
1-33 guardianship;

1-34 (6) has misapplied, embezzled, or removed from the
1-35 state, or is about to misapply, embezzle, or remove from the state,
1-36 all or any part of the property committed to the guardian's care;
1-37 [~~or~~]

1-38 (7) has neglected or cruelly treated a ward; [~~7~~] or

1-39 (8) has neglected to educate or maintain the ward as
1-40 liberally as the means of the ward and the condition of the ward's
1-41 estate permit.

1-42 (c) The court may remove a guardian on its own motion, or on
1-43 the complaint of an interested person, after the guardian has been
1-44 cited by personal service to answer at a time and place set in the
1-45 notice, when:

1-46 (1) sufficient grounds appear to support belief that
1-47 the guardian has misapplied, embezzled, or removed from the state,
1-48 or that the guardian is about to misapply, embezzle, or remove from
1-49 the state, all or any part of the property committed to the care of
1-50 the guardian;

1-51 (2) the guardian fails to return any account or report
1-52 that is required by law to be made;

1-53 (3) the guardian fails to obey any proper order of the
1-54 court having jurisdiction with respect to the performance of the
1-55 guardian's duties;

1-56 (4) the guardian is proved to have been guilty of gross
1-57 misconduct or mismanagement in the performance of the duties of the
1-58 guardian;

1-59 (5) the guardian becomes incapacitated, or is
1-60 sentenced to the penitentiary, or from any other cause becomes
1-61 incapable of properly performing the duties of the guardian's
1-62 trust;

1-63 (6) [~~as guardian of the person,~~] the guardian neglects
1-64 or cruelly treats the ward;

