

Amend SB 1392 (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, strike amended Subdivision (4), Section 682, Texas Probate Code (page 1, lines 23 through 30), and substitute:

(4) the nature and degree of the alleged incapacity, the specific areas of protection and assistance requested, and the limitation or termination of rights requested to be included in the court's order of appointment, including a termination of:

(A) the right of a proposed ward who is 18 years of age or older to vote in a public election; and

(B) the proposed ward's eligibility to hold or obtain a license to operate a motor vehicle under Chapter 521, Transportation Code;

(2) In SECTION 2 of the bill, in Subdivision (6), Subsection (a), Section 687, Texas Probate Code (page 2, lines 47 and 48), strike proposed Paragraph (A) and substitute:

(A) has the mental capacity to vote in a public election; and

(3) Strike SECTION 3 of the bill (page 2, line 53, through page 3, line 27) and substitute the following:

SECTION 3. Section 693, Texas Probate Code, is amended by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(a) If it is found that the proposed ward is totally without capacity as provided by this code to care for himself or herself and to manage the individual's property, the court may appoint a guardian of the individual's person or estate, or both, with full authority over the incapacitated person except as provided by law. An order appointing a guardian under this subsection must contain findings of fact and specify:

(1) the information required by Subsection (c) of this section;

(2) that the guardian has full authority over the incapacitated person; ~~and~~

(3) if necessary, the amount of funds from the corpus of the person's estate the court will allow the guardian to expend for the education and maintenance of the person under Section 776 of

this code; and

(4) whether the person is totally incapacitated because of a mental condition.

(a-1) If the court finds that a person is totally incapacitated because of a mental condition, the order under Subsection (a) of this section must also state that, because of the person's total mental incapacity, the person is ineligible to:

(1) vote in a public election as provided by the Election Code; and

(2) hold or obtain a license to operate a motor vehicle under Chapter 521, Transportation Code.

(b) If it is found that the person lacks the capacity to do some, but not all, of the tasks necessary to care for himself or herself or to manage the individual's property, the court may appoint a guardian with limited powers and permit the individual to care for himself or herself or to manage the individual's property commensurate with the individual's ability. An order appointing a guardian under this subsection must contain findings of fact and specify:

(1) the information required by Subsection (c) of this section;

(2) the specific powers, limitations, or duties of the guardian with respect to the care of the person or the management of the person's property by the guardian; ~~and~~

(3) if necessary, the amount of funds from the corpus of the person's estate the court will allow the guardian to expend for the education and maintenance of the person under Section 776 of this code; and

(4) whether the person is incapacitated because of a mental condition and, if so, whether the person retains the right to vote in a public election or maintains eligibility to hold or obtain a license to operate a motor vehicle under Chapter 521, Transportation Code.

(4) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Sections 694G and 694H, Texas Probate Code, are amended to read as follows:

Sec. 694G. ORDER OF COMPLETE RESTORATION OF WARD'S CAPACITY. If the court finds that a ward is no longer an incapacitated person, the order completely restoring the ward's capacity must contain findings of fact and specify:

(1) the information required by Section 694J of this code;

(2) that the ward is no longer an incapacitated person;

(3) that there is no further need for a guardianship of the person or estate of the ward;

(3-a) if the ward's incapacity resulted from a mental condition, that the ward's mental capacity is completely restored;

(4) that the guardian is required to:

(A) immediately settle the guardianship in accordance with this chapter; and

(B) deliver all of the remaining guardianship estate to the ward; and

(5) that the clerk shall revoke letters of guardianship when the guardianship is finally settled and closed.

Sec. 694H. MODIFICATION OF GUARDIANSHIP. If the court finds that a guardian's powers or duties should be expanded or limited, the order modifying the guardianship must contain findings of fact and specify:

(1) the information required by Section 694J of this code;

(2) the specific powers, limitations, or duties of the guardian with respect to the care of the ward or the management of the property of the ward, as appropriate;

(3) the specific areas of protection and assistance to be provided to the ward;

(4) any limitation of the ward's rights; ~~and~~

(5) if the ward's incapacity resulted from a mental condition, whether the ward retains the right to vote; and

(6) that the clerk shall modify the letters of guardianship to the extent applicable to conform to the order.

SECTION \_\_\_\_\_. Chapter 1, Election Code, is amended by adding Section 1.020 to read as follows:

DISQUALIFICATION: DETERMINATION OF MENTAL INCAPACITY. (a) A person determined to be totally mentally incapacitated by a court exercising probate jurisdiction is not subject to a voting disability or candidacy disqualification under this code if, subsequent to that determination, the person's mental capacity has been completely restored by a final judgment of a court exercising probate jurisdiction.

(b) A person determined to be partially mentally incapacitated without the right to vote by a court exercising probate jurisdiction is not subject to a voting disability or candidacy disqualification under this code if, subsequent to that determination, the person's guardianship has been modified to include the right to vote or the person's mental capacity has been completely restored by a final judgment of a court exercising probate jurisdiction.

SECTION \_\_\_\_\_. Section 11.002, Election Code, is amended to read as follows:

Sec. 11.002. QUALIFIED VOTER. In this code, "qualified voter" means a person who:

- (1) is 18 years of age or older;
- (2) is a United States citizen;
- (3) has not been determined [~~mentally incompetent~~] by a final judgment of a court exercising probate jurisdiction to be:

- (A) totally mentally incapacitated; or
- (B) partially mentally incapacitated without the right to vote;

- (4) has not been finally convicted of a felony or, if so convicted, has:

- (A) fully discharged the person's sentence, including any term of incarceration, parole, or supervision, or completed a period of probation ordered by any court; or

- (B) been pardoned or otherwise released from the resulting disability to vote;

- (5) is a resident of this state; and

- (6) is a registered voter.

SECTION \_\_\_\_\_. Section 13.001(a), Election Code, is amended

to read as follows:

(a) To be eligible for registration as a voter in this state, a person must:

(1) be 18 years of age or older;

(2) be a United States citizen;

(3) not have been determined [~~mentally incompetent~~] by a final judgment of a court exercising probate jurisdiction to be:

(A) totally mentally incapacitated; or

(B) partially mentally incapacitated without the right to vote;

(4) not have been finally convicted of a felony or, if so convicted, must have:

(A) fully discharged the person's sentence, including any term of incarceration, parole, or supervision, or completed a period of probation ordered by any court; or

(B) been pardoned or otherwise released from the resulting disability to vote; and

(5) be a resident of the county in which application for registration is made.

SECTION \_\_\_\_\_. Section 13.002, Election Code, is amended by amending Subsection (c) and adding Subsections (e) and (f) to read as follows:

(c) A registration application must include:

(1) the applicant's first name, middle name, if any, last name, and former name, if any;

(2) the month, day, and year of the applicant's birth;

(3) a statement that the applicant is a United States citizen;

(4) a statement that the applicant is a resident of the county;

(5) a statement that the applicant has not been determined [~~mentally incompetent~~] by a final judgment of a court exercising probate jurisdiction to be:

(A) totally mentally incapacitated; or

(B) partially mentally incapacitated without the right to vote;

(6) a statement that the applicant has not been

finally convicted of a felony or that the applicant is a felon eligible for registration under Section 13.001;

(7) the applicant's residence address or, if the residence has no address, the address at which the applicant receives mail and a concise description of the location of the applicant's residence;

(8) the following information:

(A) the applicant's Texas driver's license number or the number of a personal identification card issued by the Department of Public Safety or a statement by the applicant that the applicant has not been issued a driver's license or personal identification card; or

(B) if the applicant has not been issued a number described by Paragraph (A), the last four digits of the applicant's social security number or a statement by the applicant that the applicant has not been issued a social security number;

(9) if the application is made by an agent, a statement of the agent's relationship to the applicant; and

(10) the city and county in which the applicant formerly resided.

(e) Instead of the statement required by Subsection (c)(5), an applicant who has been determined to be totally mentally incapacitated by a court and who is eligible to register because of Section 1.020(a) shall include in the application a statement that the person's mental capacity has been completely restored by a final judgment of a court.

(f) Instead of the statement required by Subsection (c)(5), an applicant who has been determined to be partially mentally incapacitated without the right to vote by a court and who is eligible to register because of Section 1.020(b) shall include in the application a statement that the person's guardianship has been modified to include the right to vote or the person's mental capacity has been completely restored, as applicable, by a final judgment of a court.

SECTION \_\_\_\_\_. The heading to Section 16.002, Election Code, is amended to read as follows:

Sec. 16.002. MENTAL INCAPACITY [~~INCOMPETENCE~~].

SECTION \_\_\_\_\_. Section 16.002(a), Election Code, is amended to read as follows:

(a) Each month the clerk of each court having proper jurisdiction to adjudge a person mentally incapacitated [~~incompetent~~] shall prepare an abstract of each final judgment of a court served by the clerk, occurring in the month:

(1) [7] adjudging a person 18 years of age or older who is a resident of the state to be:

(A) totally mentally incapacitated; or

(B) partially mentally incapacitated without the right to vote;

(2) adjudging the mental capacity of a person 18 years of age or older who is a resident of this state to be completely restored; or

(3) modifying the guardianship of a person 18 years of age or older to include the right to vote [~~incompetent~~].

SECTION \_\_\_\_\_. Section 16.031(a), Election Code, is amended to read as follows:

(a) The registrar shall cancel a voter's registration immediately on receipt of:

(1) notice under Section 13.072(b) or 15.021 or a response under Section 15.053 that the voter's residence is outside the county;

(2) an abstract of the voter's death certificate under Section 16.001(a) or an abstract of an application indicating that the voter is deceased under Section 16.001(b);

(3) an abstract of a final judgment of the voter's total mental incapacity, partial mental incapacity without the right to vote [~~incompetence~~], conviction of a felony, or disqualification under Section 16.002, 16.003, or 16.004;

(4) notice under Section 112.012 that the voter has applied for a limited ballot in another county;

(5) notice from a voter registration official in another state that the voter has registered to vote outside this state; or

(6) notice from the secretary of state that the voter has registered to vote in another county, as determined by the

voter's driver's license number or personal identification card number issued by the Department of Public Safety or social security number.

SECTION \_\_\_\_\_. Section 141.001(a), Election Code, is amended to read as follows:

(a) To be eligible to be a candidate for, or elected or appointed to, a public elective office in this state, a person must:

(1) be a United States citizen;

(2) be 18 years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable;

(3) have not been determined [~~mentally incompetent~~] by a final judgment of a court exercising probate jurisdiction to be:

(A) totally mentally incapacitated; or

(B) partially mentally incapacitated without the right to vote;

(4) have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities;

(5) have resided continuously in the state for 12 months and in the territory from which the office is elected for six months immediately preceding the following date:

(A) for a candidate whose name is to appear on a general primary election ballot, the date of the regular filing deadline for a candidate's application for a place on the ballot;

(B) for an independent candidate, the date of the regular filing deadline for a candidate's application for a place on the ballot;

(C) for a write-in candidate, the date of the election at which the candidate's name is written in;

(D) for a party nominee who is nominated by any method other than by primary election, the date the nomination is made; and

(E) for an appointee to an office, the date the appointment is made; and

(6) satisfy any other eligibility requirements prescribed by law for the office.



SECTION \_\_\_\_\_. Section 141.031, Election Code, is amended to read as follows:

Sec. 141.031. GENERAL REQUIREMENTS FOR APPLICATION. (a) A candidate's application for a place on the ballot that is required by this code must:

(1) be in writing;

(2) be signed and sworn to by the candidate and indicate the date that the candidate swears to the application;

(3) be timely filed with the appropriate authority;

and

(4) include:

(A) the candidate's name;

(B) the candidate's occupation;

(C) the office sought, including any place number or other distinguishing number;

(D) an indication of whether the office sought is to be filled for a full or unexpired term if the office sought and another office to be voted on have the same title but do not have place numbers or other distinguishing numbers;

(E) a statement that the candidate is a United States citizen;

(F) a statement that the candidate has not been determined [~~mentally incompetent~~] by a final judgment of a court exercising probate jurisdiction to be:

(i) totally mentally incapacitated; or  
(ii) partially mentally incapacitated  
without the right to vote;

(G) a statement that the candidate has not been finally convicted of a felony from which the candidate has not been pardoned or otherwise released from the resulting disabilities;

(H) the candidate's date of birth;

(I) the candidate's residence address or, if the residence has no address, the address at which the candidate receives mail and a concise description of the location of the candidate's residence;

(J) the candidate's length of continuous residence in the state and in the territory from which the office

sought is elected as of the date the candidate swears to the application;

(K) the statement: "I, \_\_\_\_\_, of \_\_\_\_\_ County, Texas, being a candidate for the office of \_\_\_\_\_, swear that I will support and defend the constitution and laws of the United States and of the State of Texas"; and

(L) a statement that the candidate is aware of the nepotism law, Chapter 573, Government Code.

(b) Instead of the statement required by Subsection (a)(4)(F), a candidate eligible for office because of Section 1.020(a) shall include in the application a statement that the person's mental capacity has been completely restored by a final judgment of a court.

(c) Instead of the statement required by Subsection (a)(4)(F), a candidate eligible for office because of Section 1.020(b) shall include in the application a statement that the person's guardianship has been modified to include the right to vote or the person's mental capacity has been completely restored, as applicable, by a final judgment of a court.

SECTION \_\_\_\_\_. Section 143.005(b), Election Code, is amended to read as follows:

(b) If a city charter prescribes the requirements that a candidate's application must satisfy for the candidate's name to be placed on the ballot, Section 141.031(a)(4)(L) [~~141.031(4)(L)~~] also applies to the application. The other provisions of Section 141.031 do not apply.

SECTION \_\_\_\_\_. Section 144.003(b), Election Code, is amended to read as follows:

(b) If a law outside this code purports to prescribe the exclusive requirements that a candidate's application must satisfy for the candidate's name to be placed on the ballot, Section 141.031(a)(4)(L) [~~141.031(4)(L)~~] also applies to the application. The other provisions of Section 141.031 do not apply.

SECTION \_\_\_\_\_. Section 192.032(b), Election Code, is amended to read as follows:

(b) An application must:

(1) comply with Section 141.031, except that:

(A) the application is not required to include a candidate's occupation, length of residence, or statement that the candidate is aware of the nepotism law; and

(B) the application must contain the applicable information required by Section 141.031(a)(4) [~~141.031(4)~~] with respect to both the presidential candidate and the running mate;

(2) state the names and residence addresses of presidential elector candidates in a number equal to the number of presidential electors that federal law allocates to the state; and

(3) be accompanied by:

(A) a petition that satisfies the requirements prescribed by Section 141.062; and

(B) written statements signed by the vice-presidential candidate and each of the presidential elector candidates indicating that each of them consents to be a candidate.

(5) In SECTION 4 of the bill (page 3, line 28), between the period and "The", insert "(a)".

(6) In SECTION 4 of the bill (page 3, line 28), between "Act" and "apply", insert "to Sections 682, 687, and 693, Texas Probate Code,".

(7) In SECTION 4 of the bill, between lines 34 and 35, insert the following:

(b) The changes in law made by this Act to Sections 694G and 694H, Texas Probate Code, apply only to an application for the restoration of a ward's capacity or the modification of a ward's guardianship that is filed on or after the effective date of this Act. An application for the restoration of a ward's capacity or the modification of a ward's guardianship that is filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(c) The changes in law made by this Act to the Election Code apply only to an order issued or judgment entered by a court on or after the effective date of this Act. An order issued or judgment entered by a court before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and the former law is continued in effect for that

purpose.