

AN ACT

relating to guardianship matters and proceedings.

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

SECTION 1. Section 645, Texas Probate Code, is amended by adding Subsection (f) to read as follows:

(f) The term of appointment of a guardian ad litem made in a proceeding for the appointment of a guardian expires, without a court order, on the date the court either appoints a guardian or denies the application for appointment of a guardian, unless the court determines that the continued appointment of the guardian ad litem is in the ward's best interest.

SECTION 2. Section 646, Texas Probate Code, is amended by adding Subsection (e) to read as follows:

(e) The term of appointment of an attorney ad litem appointed under this section expires, without a court order, on the date the court either appoints a guardian or denies the application for appointment of a guardian, unless the court determines that the continued appointment of the attorney ad litem is in the ward's best interest.

SECTION 3. Section 665A, Texas Probate Code, is amended to read as follows:

Sec. 665A. PAYMENT FOR PROFESSIONAL SERVICES. The court shall order the payment of a fee set by the court as compensation to the attorneys, mental health professionals, and interpreters

1 appointed under [~~Section 646 or 687 of~~] this chapter [~~code~~], as  
2 applicable, to be taxed as costs in the case. If after examining  
3 the proposed ward's assets the court determines the proposed ward  
4 is unable to pay for services provided by an attorney, a mental  
5 health professional, or an interpreter appointed under [~~Section 646~~  
6 ~~or 687 of~~] this chapter [~~code~~], as applicable, the county is  
7 responsible for the cost of those services.

8 SECTION 4. Section 682, Texas Probate Code, is amended to  
9 read as follows:

10 Sec. 682. APPLICATION; CONTENTS. Any person may commence  
11 a proceeding for the appointment of a guardian by filing a written  
12 application in a court having jurisdiction and venue. The  
13 application must be sworn to by the applicant and state:

14 (1) the name, sex, date of birth, and address of the  
15 proposed ward;

16 (2) the name, relationship, and address of the person  
17 the applicant desires to have appointed as guardian;

18 (3) whether guardianship of the person or estate, or  
19 both, is sought;

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

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

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

1 Transportation Code;

2 (5) the facts requiring that a guardian be appointed  
3 and the interest of the applicant in the appointment;

4 (6) the nature and description of any guardianship of  
5 any kind existing for the proposed ward in any other state;

6 (7) the name and address of any person or institution  
7 having the care and custody of the proposed ward;

8 (8) the approximate value and description of the  
9 proposed ward's property, including any compensation, pension,  
10 insurance, or allowance to which the proposed ward may be entitled;

11 (9) the name and address of any person whom the  
12 applicant knows to hold a power of attorney signed by the proposed  
13 ward and a description of the type of power of attorney;

14 (10) if the proposed ward is a minor and if known by  
15 the applicant:

16 (A) the name of each parent of the proposed ward  
17 and state the parent's address or that the parent is deceased;

18 (B) the name and age of each sibling, if any, of  
19 the proposed ward and state the sibling's address or that the  
20 sibling is deceased; and

21 (C) if each of the proposed ward's parents and  
22 siblings are deceased, the names and addresses of the proposed  
23 ward's next of kin who are adults;

24 (11) if the proposed ward is a minor, whether the minor  
25 was the subject of a legal or conservatorship proceeding within the  
26 preceding two-year period and, if so, the court involved, the  
27 nature of the proceeding, and the final disposition, if any, of the

1 proceeding;

2 (12) if the proposed ward is an adult and if known by  
3 the applicant:

4 (A) the name of the proposed ward's spouse, if  
5 any, and state the spouse's address or that the spouse is deceased;

6 (B) the name of each of the proposed ward's  
7 parents and state the parent's address or that the parent is  
8 deceased;

9 (C) the name and age of each of the proposed  
10 ward's siblings, if any, and state the sibling's address or that the  
11 sibling is deceased;

12 (D) the name and age of each of the proposed  
13 ward's children, if any, and state the child's address or that the  
14 child is deceased; and

15 (E) if the proposed ward's spouse and each of the  
16 proposed ward's parents, siblings, and children are deceased, or,  
17 if there is no spouse, parent, adult sibling, or adult child, the  
18 names and addresses of the proposed ward's next of kin who are  
19 adults;

20 (13) facts showing that the court has venue over the  
21 proceeding; and

22 (14) if applicable, that the person whom the applicant  
23 desires to have appointed as a guardian is a private professional  
24 guardian who is certified under Subchapter C, Chapter 111,  
25 Government Code, and has complied with the requirements of Section  
26 697 of this code.

27 SECTION 5. Section 683, Texas Probate Code, is amended to

1 read as follows:

2 Sec. 683. COURT'S INITIATION OF GUARDIANSHIP PROCEEDINGS.

3 (a) If a court has probable cause to believe that a person  
4 domiciled or found in the county in which the court is located is an  
5 incapacitated person, and the person does not have a guardian in  
6 this state, the court shall appoint a guardian ad litem or court  
7 investigator to investigate the person's conditions and  
8 circumstances to determine whether the person is an incapacitated  
9 person and whether a guardianship is necessary. If after the  
10 investigation the guardian ad litem or court investigator believes  
11 that the person is an incapacitated person and that a guardianship  
12 is necessary, the guardian ad litem or court investigator shall  
13 ~~and~~ file an application for the appointment of a guardian of the  
14 person or estate, or both, for ~~of~~ the person ~~believed to be~~  
15 ~~incapacitated~~.

16 (b) To establish probable cause under this section, the  
17 court may require:

18 (1) an information letter about the person believed to  
19 be incapacitated that is submitted by an interested person and  
20 satisfies the requirements of Section 683A of this code; or

21 (2) a written letter or certificate from a physician  
22 who has examined the person believed to be incapacitated that  
23 satisfies the requirements of Section 687(a) of this code, except  
24 that the letter must be dated not earlier than the 120th day before  
25 the date of the appointment of a guardian ad litem or court  
26 investigator ~~[filing of an application]~~ under Subsection (a) of  
27 this section and be based on an examination the physician performed

1 not earlier than the 120th day before that date.

2 (c) A court that appoints a guardian ad litem under  
3 Subsection (a) of this section [~~creates a guardianship for a ward~~  
4 ~~under this chapter~~] may authorize compensation of the [a] guardian  
5 ad litem [~~who files an application under Subsection (a) of this~~  
6 ~~section~~] from available funds of the proposed ward's estate,  
7 regardless of whether a guardianship is created for the proposed  
8 ward. If after examining the ward's or proposed ward's assets the  
9 court determines the ward or proposed ward is unable to pay for  
10 services provided by the guardian ad litem, the court may authorize  
11 compensation from the county treasury.

12 SECTION 6. Section 687(a), Texas Probate Code, is amended  
13 to read as follows:

14 (a) The court may not grant an application to create a  
15 guardianship for an incapacitated person, other than a minor,  
16 person whose alleged incapacity is mental retardation, or person  
17 for whom it is necessary to have a guardian appointed only to  
18 receive funds from a governmental source, unless the applicant  
19 presents to the court a written letter or certificate from a  
20 physician licensed in this state that is dated not earlier than the  
21 120th day before the date of the filing of the application and based  
22 on an examination the physician performed not earlier than the  
23 120th day before the date of the filing of the application. The  
24 letter or certificate must:

25 (1) describe the nature and degree of incapacity,  
26 including the medical history if reasonably available;

27 (2) provide a medical prognosis specifying the

1 estimated severity of the incapacity;

2 (3) state how or in what manner the proposed ward's  
3 ability to make or communicate responsible decisions concerning  
4 himself or herself is affected by the person's physical or mental  
5 health;

6 (4) state whether any current medication affects the  
7 demeanor of the proposed ward or the proposed ward's ability to  
8 participate fully in a court proceeding;

9 (5) describe the precise physical and mental  
10 conditions underlying a diagnosis of senility, if applicable; ~~and~~

11 (6) state whether in the physician's opinion the  
12 proposed ward:

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

15 (B) has the ability to safely operate a motor  
16 vehicle; and

17 (7) include any other information required by the  
18 court.

19 SECTION 7. Section 690, Texas Probate Code, is amended to  
20 read as follows:

21 Sec. 690. PERSONS APPOINTED GUARDIAN. Only one person may  
22 be appointed as guardian of the person or estate, but one person may  
23 be appointed guardian of the person and another of the estate, if it  
24 is in the best interest of the ward. Nothing in this section  
25 prohibits the joint appointment, if the court finds it to be in the  
26 best interest of the ward, of:

27 (1) a husband and wife;

- 1           (2) [~~, or~~] joint managing conservators;
- 2           (3) [~~, or~~] coguardians appointed under the laws of a  
3 jurisdiction other than this state; or
- 4           (4) both parents of an adult who is incapacitated if  
5 the incapacitated person:
- 6                   (A) has not been the subject of a suit affecting  
7 the parent-child relationship; or
- 8                   (B) has been the subject of a suit affecting the  
9 parent-child relationship and both of the incapacitated person's  
10 parents were named as joint managing conservators in the suit but  
11 are no longer serving in that capacity.

12           SECTION 8. Sections 693(a) and (b), Texas Probate Code, are  
13 amended to read as follows:

14           (a) If it is found that the proposed ward is totally without  
15 capacity [~~as provided by this code~~] to care for himself or herself,  
16 [~~and~~] to manage the individual's property, to operate a motor  
17 vehicle, and to vote in a public election, the court may appoint a  
18 guardian of the individual's person or estate, or both, with full  
19 authority over the incapacitated person except as provided by law.  
20 An order appointing a guardian under this subsection must contain  
21 findings of fact and specify:

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

24                   (2) that the guardian has full authority over the  
25 incapacitated person; [~~and~~]

26                   (3) if necessary, the amount of funds from the corpus  
27 of the person's estate the court will allow the guardian to expend



1 for the education and maintenance of the person under Section 776 of  
2 this code;

3 (4) whether the person is totally incapacitated  
4 because of a mental condition; and

5 (5) that the person does not have the capacity to  
6 operate a motor vehicle and to vote in a public election.

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

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

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

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

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

1 Transportation Code.

2 SECTION 9. Section 694C, Texas Probate Code, is amended by  
3 adding Subsection (c) to read as follows:

4 (c) An attorney ad litem appointed under this section is  
5 entitled to reasonable compensation for services in the amount set  
6 by the court to be taxed as costs in the proceeding, regardless of  
7 whether the proceeding results in the restoration of the ward's  
8 capacity or a modification of the ward's guardianship.

9 SECTION 10. Sections 694G and 694H, Texas Probate Code, are  
10 amended to read as follows:

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

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

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

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

21 (3-a) if the ward's incapacity resulted from a mental  
22 condition, that the ward's mental capacity is completely restored;

23 (4) that the guardian is required to:

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

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

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

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

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

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

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

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

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

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

19           SECTION 11. Subpart A, Part 3, Chapter XIII, Texas Probate  
20 Code, is amended by adding Section 694L to read as follows:

21           Sec. 694L. PAYMENT FOR GUARDIANS AD LITEM. As provided by  
22 Section 645(b) of this code, a guardian ad litem appointed in a  
23 proceeding involving the complete restoration of a ward's capacity  
24 or modification of a ward's guardianship is entitled to reasonable  
25 compensation for services in the amount set by the court to be taxed  
26 as costs in the proceeding, regardless of whether the proceeding  
27 results in the restoration of the ward's capacity or modification

1 of the ward's guardianship.

2 SECTION 12. Section 695(a), Texas Probate Code, is amended  
3 to read as follows:

4 (a) If a guardian dies, resigns, or is removed, the court  
5 may, on application and on service of notice as directed by the  
6 court, appoint a successor guardian. On a finding that a necessity  
7 for the immediate appointment of a successor guardian exists, the  
8 court may appoint a successor guardian without citation or notice.

9 SECTION 13. Sections 759(a) and (f), Texas Probate Code,  
10 are amended to read as follows:

11 (a) In case of the death of the guardian of the person or of  
12 the estate of a ward, a personal representative of the deceased  
13 guardian shall account for, pay, and deliver to a person legally  
14 entitled to receive the property, all the property belonging to the  
15 guardianship that is entrusted to the care of the representative,  
16 at the time and in the manner as the court orders. [~~On a finding~~  
17 ~~that a necessity for the immediate appointment of a successor~~  
18 ~~guardian exists, the court may appoint a successor guardian without~~  
19 ~~citation or notice.~~]

20 (f) Except when otherwise expressly provided in this  
21 chapter, letters may not be revoked [~~and other letters granted~~]  
22 except on application, and after personal service of citation on  
23 the person[~~, if living,~~] whose letters are sought to be revoked,  
24 that the person appear and show cause why the application should not  
25 be granted.

26 SECTION 14. Section 760(b), Texas Probate Code, is amended  
27 to read as follows:

1 (b) If the necessity exists, the court may immediately  
2 accept a resignation and appoint a successor without citation or  
3 notice but may not discharge the person resigning as guardian of the  
4 estate or release the person or the sureties on the person's bond  
5 until final order or judgment is rendered on the final account of  
6 the guardian.

7 SECTION 15. Sections 761(c) and (f), Texas Probate Code,  
8 are amended to read as follows:

9 (c) The court may remove a guardian on its own motion, or on  
10 the complaint of an interested person, after the guardian has been  
11 cited by personal service to answer at a time and place set in the  
12 notice, when:

13 (1) sufficient grounds appear to support belief that  
14 the guardian has misapplied, embezzled, or removed from the state,  
15 or that the guardian is about to misapply, embezzle, or remove from  
16 the state, all or any part of the property committed to the care of  
17 the guardian;

18 (2) the guardian fails to return any account or report  
19 that is required by law to be made;

20 (3) the guardian fails to obey any proper order of the  
21 court having jurisdiction with respect to the performance of the  
22 guardian's duties;

23 (4) the guardian is proved to have been guilty of gross  
24 misconduct or mismanagement in the performance of the duties of the  
25 guardian;

26 (5) the guardian becomes incapacitated, or is  
27 sentenced to the penitentiary, or from any other cause becomes

1 incapable of properly performing the duties of the guardian's  
2 trust;

3 (6) the guardian neglects or cruelly treats the ward;

4 (6-a) the guardian neglects to educate or maintain the  
5 ward as liberally as the means of the ward's estate and the ward's  
6 ability or condition permit;

7 (7) the guardian interferes with the ward's progress  
8 or participation in programs in the community;

9 (8) the guardian fails to comply with the requirements  
10 of Section 697 of this code; ~~or~~

11 (9) the court determines that, because of the  
12 dissolution of the joint guardians' marriage, the termination of  
13 the guardians' joint appointment and the continuation of only one  
14 of the joint guardians as the sole guardian is in the best interest  
15 of the ward; or

16 (10) the guardian would be ineligible for appointment  
17 as a guardian under Section 681 of this code.

18 (f) If the necessity exists, the court may immediately  
19 appoint a successor without citation or notice but may not  
20 discharge the person removed as guardian of the estate or release  
21 the person or the sureties on the person's bond until final order or  
22 judgment is rendered on the final account of the guardian.

23 SECTION 16. Section 823, Texas Probate Code, is amended to  
24 read as follows:

25 Sec. 823. CITATION [~~AND RETURN~~] ON APPLICATION. On the  
26 filing of an application for the sale of real estate under Section  
27 820 of this code and exhibit, the clerk shall issue a citation to

1 all persons interested in the guardianship that describes the land  
2 or interest or part of the land or interest sought to be sold and  
3 that informs [~~requires~~] the persons of the right under Section 824  
4 of this code to file an opposition to the sale during the period  
5 prescribed by the court [~~to appear at the time set by the court~~] as  
6 shown in the citation [~~and show cause why the sale should not be~~  
7 ~~made~~], if they so elect. Service of citation shall be by posting.

8 SECTION 17. Section 824, Texas Probate Code, is amended to  
9 read as follows:

10 Sec. 824. OPPOSITION TO APPLICATION. When an application  
11 for an order of sale is made, a person interested in the  
12 guardianship[~~, before an order of sale is made by the court,~~] may,  
13 during the period provided in the citation issued under Section 823  
14 of this code, file the person's opposition to the sale, in writing,  
15 or may make application for the sale of other property of the  
16 estate.

17 SECTION 18. Subpart H, Part 4, Chapter XIII, Texas Probate  
18 Code, is amended by adding Section 824A to read as follows:

19 Sec. 824A. HEARING ON APPLICATION AND ANY OPPOSITION. (a)  
20 The clerk of a court in which an application for an order of sale is  
21 filed shall immediately call to the attention of the judge any  
22 opposition to the sale that is filed during the period provided in  
23 the citation issued under Section 823 of this code. The court shall  
24 hold a hearing on an application if an opposition to the sale is  
25 filed during the period provided in the citation.

26 (b) A hearing on an application for an order of sale is not  
27 required under this section if no opposition to the application is

1 filed during the period provided in the citation. The court, in its  
2 discretion, may determine that a hearing is necessary on the  
3 application even if no opposition was filed during that period.

4 (c) If the court orders a hearing under Subsection (a) or  
5 (b) of this section, the court shall designate in writing a date and  
6 time for hearing the application and any opposition, together with  
7 the evidence pertaining to the application and opposition. The  
8 clerk shall issue a notice to the applicant and to each person who  
9 files an opposition to the sale, if applicable, of the date and time  
10 of the hearing.

11 (d) The judge may, by entries on the docket, continue a  
12 hearing held under this section from time to time until the judge is  
13 satisfied concerning the application.

14 SECTION 19. Section 825, Texas Probate Code, is amended to  
15 read as follows:

16 Sec. 825. ORDER OF SALE. If satisfied [~~on hearing~~] that the  
17 sale of the property of the guardianship described in the  
18 application made under Section 820 of this code is necessary or  
19 advisable, the court shall order the sale to be made. Otherwise,  
20 the court may deny the application and, if the court deems best, may  
21 order the sale of other property the sale of which would be more  
22 advantageous to the estate. An order for the sale of real estate  
23 must specify:

24 (1) the property to be sold, giving a description that  
25 will identify the property;

26 (2) whether the property is to be sold at public  
27 auction or at private sale, and, if at public auction, the time and



1 place of the sale;

2 (3) the necessity or advisability of the sale and its  
3 purpose;

4 (4) except in cases in which no general bond is  
5 required, that, having examined the general bond of the  
6 representative of the estate, the court finds it to be sufficient as  
7 required by law, or finds the bond to be insufficient and specifies  
8 the necessary or increased bond;

9 (5) that the sale shall be made and the report returned  
10 in accordance with law; and

11 (6) the terms of the sale.

12 SECTION 20. Section 855B, Texas Probate Code, is amended by  
13 amending Subsections (a) and (b) and adding Subsection (a-1) to  
14 read as follows:

15 (a) Not later than the 180th day after the date on which the  
16 guardian of the estate qualified as guardian or another date  
17 specified by the court, the guardian shall:

18 (1) have estate assets invested according to Section  
19 855(b) of this code; or

20 (2) file a written application with the court for an  
21 order:

22 (A) [~~(1)~~] authorizing the guardian to:

23 (i) [~~(A)~~] develop and implement an  
24 investment plan for estate assets;

25 (ii) [~~(B)~~] invest in or sell securities under  
26 an investment plan developed under Subparagraph (i) [~~Paragraph (A)~~]  
27 of this paragraph [~~subdivision~~];

1                    (iii) [~~(C)~~] declare that one or more estate  
2 assets must be retained, despite being underproductive with respect  
3 to income or overall return; or

4                    (iv) [~~(D)~~] loan estate funds, invest in real  
5 estate or make other investments, or purchase a life, term, or  
6 endowment insurance policy or an annuity contract; or

7                    (B) [~~(2)~~] modifying or eliminating the guardian's  
8 duty to invest the estate.

9                    (a-1) The court may approve an investment plan under  
10 Subsection (a)(2) of this section without a hearing.

11                    (b) If the court determines [~~On hearing the application~~  
12 ~~under this section and on a finding by the preponderance of the~~  
13 ~~evidence~~] that the action requested in the application is in the  
14 best interests of the ward and the ward's estate, the court shall  
15 render an order granting the authority requested in the application  
16 or an order modifying or eliminating the guardian's duty to keep the  
17 estate invested. An [~~The~~] order under this subsection must state in  
18 reasonably specific terms:

19                    (1) the nature of the investment, investment plan, or  
20 other action requested in the application and authorized by the  
21 court, including, if applicable, the authority to invest in and  
22 sell securities in accordance with the objectives of the investment  
23 plan;

24                    (2) when an investment must be reviewed and  
25 reconsidered by the guardian; and

26                    (3) whether the guardian must report the guardian's  
27 review and recommendations to the court.

1 SECTION 21. Chapter 1, Election Code, is amended by adding  
2 Section 1.020 to read as follows:

3 Sec. 1.020. VOTING DISABILITY OR CANDIDACY  
4 DISQUALIFICATION: DETERMINATION OF MENTAL INCAPACITY. (a) A  
5 person determined to be totally mentally incapacitated by a court  
6 exercising probate jurisdiction is not subject to a voting  
7 disability or candidacy disqualification under this code if,  
8 subsequent to that determination, the person's mental capacity has  
9 been completely restored by a final judgment of a court exercising  
10 probate jurisdiction.

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

19 SECTION 22. Section 11.002, Election Code, is amended to  
20 read as follows:

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

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

27 (A) totally mentally incapacitated; or

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

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

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

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

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

11                    (6) is a registered voter.

12                    SECTION 23. Section 13.001(a), Election Code, is amended to  
13 read as follows:

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

16                    (1) be 18 years of age or older;

17                    (2) be a United States citizen;

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

20                    (A) totally mentally incapacitated; or

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

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

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

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

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

5 SECTION 24. Section 13.002, Election Code, is amended by  
6 amending Subsection (c) and adding Subsections (e) and (f) to read  
7 as follows:

8 (c) A registration application must include:

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

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

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

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

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

19 (A) totally mentally incapacitated; or

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

22 (6) a statement that the applicant has not been  
23 finally convicted of a felony or that the applicant is a felon  
24 eligible for registration under Section 13.001;

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

1 applicant's residence;

2 (8) the following information:

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

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

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

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

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

22 (f) Instead of the statement required by Subsection (c)(5),  
23 an applicant who has been determined to be partially mentally  
24 incapacitated without the right to vote by a court and who is  
25 eligible to register because of Section 1.020(b) shall include in  
26 the application a statement that the person's guardianship has been  
27 modified to include the right to vote or the person's mental

1 capacity has been completely restored, as applicable, by a final  
2 judgment of a court.

3 SECTION 25. The heading to Section 16.002, Election Code,  
4 is amended to read as follows:

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

6 SECTION 26. Section 16.002(a), Election Code, is amended to  
7 read as follows:

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

12 (1) [~~7~~] adjudging a person 18 years of age or older who  
13 is a resident of the state to be:

14 (A) totally mentally incapacitated; or

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

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

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

22 SECTION 27. Section 16.031(a), Election Code, is amended to  
23 read as follows:

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

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

1 the county;

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

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

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

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

14 (6) notice from the secretary of state that the voter  
15 has registered to vote in another county, as determined by the  
16 voter's driver's license number or personal identification card  
17 number issued by the Department of Public Safety or social security  
18 number.

19 SECTION 28. Section 141.001(a), Election Code, is amended  
20 to read as follows:

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

23 (1) be a United States citizen;

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

27 (3) have not been determined [~~mentally incompetent~~] by



1 a final judgment of a court exercising probate jurisdiction to be:

2 (A) totally mentally incapacitated; or

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

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

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

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

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

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

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

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

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

26 SECTION 29. Section 141.031, Election Code, is amended to  
27 read as follows:

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

4                   (1) be in writing;

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

7                   (3) be timely filed with the appropriate authority;

8 and

9                   (4) include:

10                           (A) the candidate's name;

11                           (B) the candidate's occupation;

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

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

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

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

23   (i) totally mentally incapacitated; or

24   (ii) partially mentally incapacitated  
25 without the right to vote;

26                           (G) a statement that the candidate has not been  
27 finally convicted of a felony from which the candidate has not been

1 pardoned or otherwise released from the resulting disabilities;

2 (H) the candidate's date of birth;

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

7 (J) the candidate's length of continuous  
8 residence in the state and in the territory from which the office  
9 sought is elected as of the date the candidate swears to the  
10 application;

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

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

17 (b) Instead of the statement required by Subsection  
18 (a)(4)(F), a candidate eligible for office because of Section  
19 1.020(a) shall include in the application a statement that the  
20 person's mental capacity has been completely restored by a final  
21 judgment of a court.

22 (c) Instead of the statement required by Subsection  
23 (a)(4)(F), a candidate eligible for office because of Section  
24 1.020(b) shall include in the application a statement that the  
25 person's guardianship has been modified to include the right to  
26 vote or the person's mental capacity has been completely restored,  
27 as applicable, by a final judgment of a court.

1 SECTION 30. Section 143.005(b), Election Code, is amended  
2 to read as follows:

3 (b) If a city charter prescribes the requirements that a  
4 candidate's application must satisfy for the candidate's name to be  
5 placed on the ballot, Section 141.031(a)(4)(L) [~~141.031(4)(L)~~]  
6 also applies to the application. The other provisions of Section  
7 141.031 do not apply.

8 SECTION 31. Section 144.003(b), Election Code, is amended  
9 to read as follows:

10 (b) If a law outside this code purports to prescribe the  
11 exclusive requirements that a candidate's application must satisfy  
12 for the candidate's name to be placed on the ballot, Section  
13 141.031(a)(4)(L) [~~141.031(4)(L)~~] also applies to the application.  
14 The other provisions of Section 141.031 do not apply.

15 SECTION 32. Section 192.032(b), Election Code, is amended  
16 to read as follows:

17 (b) An application must:

18 (1) comply with Section 141.031, except that:

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

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

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

1           (3) be accompanied by:

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

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

7           SECTION 33. Section 822, Texas Probate Code, is repealed.

8           SECTION 34. (a) Sections 645(f) and 646(e), Texas Probate  
9 Code, as added by this Act, apply only to a guardianship proceeding  
10 for which a court has appointed a guardian ad litem or attorney ad  
11 litem to represent the interests of a person on or after the  
12 effective date of this Act.

13           (b) The changes in law made by this Act to Section 665A,  
14 Texas Probate Code, apply only to a guardianship proceeding for  
15 which a court has appointed an attorney, mental health  
16 professional, or interpreter to represent the interests of a  
17 person:

18                   (1) on or after the effective date of this Act; or

19                   (2) before the effective date of this Act if the  
20 proceeding is pending on the effective date of this Act.

21           (c) The changes in law made by this Act to Section 683, Texas  
22 Probate Code, apply only to the appointment of a guardian ad litem  
23 or court investigator made on or after the effective date of this  
24 Act. The appointment of a guardian ad litem or court investigator  
25 made before the effective date of this Act is governed by the law in  
26 effect on the date of appointment, and the former law is continued  
27 in effect for that purpose.

1           (d) The changes in law made by this Act to Sections 694C,  
2 694G, and 694H, Texas Probate Code, and Section 694L, Texas Probate  
3 Code, as added by this Act, apply only to an application for the  
4 restoration of a ward's capacity or the modification of a ward's  
5 guardianship that is filed on or after the effective date of this  
6 Act. An application for the restoration of a ward's capacity or the  
7 modification of a ward's guardianship that is filed before the  
8 effective date of this Act is governed by the law in effect on the  
9 date the application was filed, and the former law is continued in  
10 effect for that purpose.

11           (e) The changes in law made by this Act to Sections 682,  
12 687(a), 690, 693, and 855B, Texas Probate Code, apply only to an  
13 application for the appointment of a guardian filed on or after the  
14 effective date of this Act. An application for the appointment of a  
15 guardian filed before the effective date of this Act is governed by  
16 the law in effect on the date the application was filed, and the  
17 former law is continued in effect for that purpose.

18           (f) The changes in law made by this Act to Sections 695(a)  
19 and 759(f), Texas Probate Code, apply only to an application for the  
20 appointment of a successor guardian filed on or after the effective  
21 date of this Act. An application for the appointment of a successor  
22 guardian filed before the effective date of this Act is governed by  
23 the law in effect on the date the application was filed, and the  
24 former law is continued in effect for that purpose.

25           (g) The changes in law made by this Act to Section 760, Texas  
26 Probate Code, apply only to an application for resignation filed on  
27 or after the effective date of this Act. An application for

1 resignation filed before the effective date of this Act is governed  
2 by the law in effect on the date the application was filed, and the  
3 former law is continued in effect for that purpose.

4 (h) The changes in law made by this Act to Section 761(f),  
5 Texas Probate Code, apply only to a motion for the removal of a  
6 guardian made or filed on or after the effective date of this Act. A  
7 motion for the removal of a guardian made or filed before the  
8 effective date of this Act is governed by the law in effect on the  
9 date the motion was made or filed, and the former law is continued  
10 in effect for that purpose.

11 (i) The changes in law made by this Act to Sections 823, 824,  
12 and 825, Texas Probate Code, apply only to an application for the  
13 sale of real property filed on or after the effective date of this  
14 Act. An application for the sale of real property filed before the  
15 effective date of this Act is governed by the law in effect on the  
16 date the application was filed, and the former law is continued in  
17 effect for that purpose.

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

25 SECTION 35. This Act takes effect September 1, 2007.

---

President of the Senate

---

Speaker of the House

I certify that H.B. No. 417 was passed by the House on March 15, 2007, by the following vote: Yeas 146, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 417 on May 17, 2007, by the following vote: Yeas 146, Nays 0, 1 present, not voting.

---

Chief Clerk of the House

I certify that H.B. No. 417 was passed by the Senate, with amendments, on May 15, 2007, by the following vote: Yeas 31, Nays 0.

---

Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

---

Governor