

By: Gattis

H.B. No. 3887

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the requirements relating to the appointment of a
3 guardian of the person or of the estate of certain incapacitated
4 persons.

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

6 SECTION 1. Section 646, Texas Probate Code, is amended by
7 amending Subsections (a) and (d) and adding Subsection (a-1) to
8 read as follows:

9 (a) Except as provided by Subsection (a-1) of this section,
10 in [~~In~~] a proceeding under this chapter for the appointment of a
11 guardian, the court shall appoint an attorney ad litem to represent
12 the interests of the proposed ward. The attorney shall be supplied
13 with copies of all of the current records in the case and may have
14 access to all of the proposed ward's relevant medical,
15 psychological, and intellectual testing records.

16 (a-1) The court is not required to appoint an attorney ad
17 litem to represent the interests of a proposed ward who is a minor
18 in a guardianship proceeding instituted under Section 682A of this
19 code by the proposed ward's natural guardian, as described by
20 Section 676 of this code.

21 (d) At the time of the appointment of the attorney ad litem,
22 if an attorney ad litem is appointed, the court shall also appoint a
23 language interpreter or a sign interpreter if necessary to ensure
24 effective communication between the proposed ward and the attorney.

1 SECTION 2. Section 682A(a), Texas Probate Code, is amended
2 to read as follows:

3 (a) If a minor is a person who, because of incapacity, will
4 require a guardianship after the ward is no longer a minor, a person
5 may file an application under Section 682 of this code for the
6 appointment of a guardian of the person or the estate, or both, of
7 the proposed ward not earlier than the 180th day before the proposed
8 ward's 18th birthday. A person, including a natural guardian of the
9 minor described by Section 676 of this code, who files the
10 application under this section is not required to be represented by
11 counsel in filing that application or in the guardianship
12 proceeding. If the application is heard before the proposed ward's
13 18th birthday, a guardianship created under this section may not
14 take effect and the person appointed guardian may not [~~give a bond~~
15 ~~or~~] take the oath as required under Section 700 of this code, or
16 give a bond as required under Section 702 of this code, if a bond is
17 required, until the proposed ward's 18th birthday.

18 SECTION 3. Section 702(b), Texas Probate Code, is amended
19 to read as follows:

20 (b) A bond is not required to be given by a guardian that is:
21 (1) a corporate fiduciary, as defined by Section 601
22 of this code; [~~or~~]
23 (2) a guardianship program operated by a county; or
24 (3) appointed in a guardianship proceeding instituted
25 under Section 682A of this code and who, before the ward's 18th
26 birthday, was the ward's natural guardian as described by Section
27 676 of this code.

1 SECTION 4. The changes in law made by this Act apply to a
2 guardianship proceeding that is pending or commenced on or after
3 the effective date of this Act.

4 SECTION 5. This Act takes effect immediately if it receives
5 a vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for immediate effect, this
8 Act takes effect September 1, 2007.