

SENATE AMENDMENTS

2nd Printing

By: Hartnett

H.B. No. 417

A BILL TO BE ENTITLED

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 683, Texas Probate Code, is amended to
9 read as follows:

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

11 (a) If a court has probable cause to believe that a person
12 domiciled or found in the county in which the court is located is an
13 incapacitated person, and the person does not have a guardian in
14 this state, the court shall appoint a guardian ad litem or court
15 investigator to investigate the person's conditions and
16 circumstances to determine whether the person is an incapacitated
17 person. If after the investigation the guardian ad litem or court
18 investigator believes that the person is an incapacitated person,
19 the guardian ad litem or court investigator shall [~~and~~] file an
20 application for the appointment of a guardian of the person or
21 estate, or both, for [~~of~~] the person [~~believed to be~~
22 ~~incapacitated~~].

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

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

1 (2) a written letter or certificate from a physician
2 who has examined the person believed to be incapacitated that
3 satisfies the requirements of Section 687(a) of this code, except
4 that the letter must be dated not earlier than the 120th day before
5 the date of the appointment of a guardian ad litem or court
6 investigator [~~filing of an application~~] under Subsection (a) of
7 this section and be based on an examination the physician performed
8 not earlier than the 120th day before that date.

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

19 SECTION 5. 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 of:

26 (1) a husband and wife;

27 (2) [~~two~~] joint managing conservators;

1 (3) [~~, or of~~] coguardians appointed under the laws of a
2 jurisdiction other than this state; or

3 (4) both parents of an adult who is incapacitated if
4 the incapacitated person:

5 (A) has not been the subject of a suit affecting
6 the parent-child relationship; or

7 (B) has been the subject of a suit affecting the
8 parent-child relationship and both of the incapacitated person's
9 parents were named as joint managing conservators in the suit but
10 are no longer serving in that capacity.

11 SECTION 6. Sections 693(a) and (b), Texas Probate Code, are
12 amended to read as follows:

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

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

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

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

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

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

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

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

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

20 (4) whether the person is incapacitated because of a
21 mental condition and, if so, whether the person retains the right to
22 vote.

23 SECTION 7. Section 694C, Texas Probate Code, is amended by
24 adding Subsection (c) to read as follows:

25 (c) An attorney ad litem appointed under this section is
26 entitled to reasonable compensation for services in the amount set
27 by the court to be taxed as costs in the proceeding, regardless of

1 whether the proceeding results in the restoration of the ward's
2 capacity or a modification of the ward's guardianship.

3 SECTION 8. Sections 694G and 694H, Texas Probate Code, are
4 amended to read as follows:

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

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

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

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

15 (3-a) if the ward's incapacity resulted from a mental
16 condition, that the ward's mental capacity is completely restored;

17 (4) that the guardian is required to:

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

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

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

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

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

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

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

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

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

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

13 SECTION 9. Subpart A, Part 3, Chapter XIII, Texas Probate
14 Code, is amended by adding Section 694L to read as follows:

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

23 SECTION 10. Section 695(a), Texas Probate Code, is amended
24 to read as follows:

25 (a) If a guardian dies, resigns, or is removed, the court
26 may, on application and on service of notice as directed by the
27 court, appoint a successor guardian. On a finding that a necessity

1 for the immediate appointment of a successor guardian exists, the
2 court may appoint a successor guardian without citation or notice.

3 SECTION 11. Sections 759(a) and (f), Texas Probate Code,
4 are amended to read as follows:

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

14 (f) Except when otherwise expressly provided in this
15 chapter, letters may not be revoked [~~and other letters granted~~]
16 except on application, and after personal service of citation on
17 the person[~~, if living,~~] whose letters are sought to be revoked,
18 that the person appear and show cause why the application should not
19 be granted.

20 SECTION 12. Section 760(b), Texas Probate Code, is amended
21 to read as follows:

22 (b) If the necessity exists, the court may immediately
23 accept a resignation and appoint a successor without citation or
24 notice but may not discharge the person resigning as guardian of the
25 estate or release the person or the sureties on the person's bond
26 until final order or judgment is rendered on the final account of
27 the guardian.

1 SECTION 13. Sections 761(c) and (f), Texas Probate Code,
2 are amended to read as follows:

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

7 (1) sufficient grounds appear to support belief that
8 the guardian has misapplied, embezzled, or removed from the state,
9 or that the guardian is about to misapply, embezzle, or remove from
10 the state, all or any part of the property committed to the care of
11 the guardian;

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

14 (3) the guardian fails to obey any proper order of the
15 court having jurisdiction with respect to the performance of the
16 guardian's duties;

17 (4) the guardian is proved to have been guilty of gross
18 misconduct or mismanagement in the performance of the duties of the
19 guardian;

20 (5) the guardian becomes incapacitated, or is
21 sentenced to the penitentiary, or from any other cause becomes
22 incapable of properly performing the duties of the guardian's
23 trust;

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

25 (6-a) the guardian neglects to educate or maintain the
26 ward as liberally as the means of the ward's estate and the ward's
27 ability or condition permit;

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

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

5 (9) the court determines that, because of the
6 dissolution of the joint guardians' marriage, the termination of
7 the guardians' joint appointment and the continuation of only one
8 of the joint guardians as the sole guardian is in the best interest
9 of the ward; or

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

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

17 SECTION 14. Section 823, Texas Probate Code, is amended to
18 read as follows:

19 Sec. 823. CITATION [~~AND RETURN~~] ON APPLICATION. On the
20 filing of an application for the sale of real estate under Section
21 820 of this code and exhibit, the clerk shall issue a citation to
22 all persons interested in the guardianship that describes the land
23 or interest or part of the land or interest sought to be sold and
24 that informs [~~requires~~] the persons of the right under Section 824
25 of this code to file an opposition to the sale during the period
26 prescribed by the court [~~to appear at the time set by the court~~] as
27 shown in the citation [~~and show cause why the sale should not be~~

1 ~~made~~], if they so elect. Service of citation shall be by posting.

2 SECTION 15. Section 824, Texas Probate Code, is amended to
3 read as follows:

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

11 SECTION 16. Subpart H, Part 4, Chapter XIII, Texas Probate
12 Code, is amended by adding Section 824A to read as follows:

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

20 (b) A hearing on an application for an order of sale is not
21 required under this section if no opposition to the application is
22 filed during the period provided in the citation. The court, in its
23 discretion, may determine that a hearing is necessary on the
24 application even if no opposition was filed during that period.

25 (c) If the court orders a hearing under Subsection (a) or
26 (b) of this section, the court shall designate in writing a date and
27 time for hearing the application and any opposition, together with

1 the evidence pertaining to the application and opposition. The
2 clerk shall issue a notice to the applicant and to each person who
3 files an opposition to the sale, if applicable, of the date and time
4 of the hearing.

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

8 SECTION 17. Section 825, Texas Probate Code, is amended to
9 read as follows:

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

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

20 (2) whether the property is to be sold at public
21 auction or at private sale, and, if at public auction, the time and
22 place of the sale;

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

25 (4) except in cases in which no general bond is
26 required, that, having examined the general bond of the
27 representative of the estate, the court finds it to be sufficient as

1 required by law, or finds the bond to be insufficient and specifies
2 the necessary or increased bond;

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

5 (6) the terms of the sale.

6 SECTION 18. Section 855B, Texas Probate Code, is amended by
7 amending Subsections (a) and (b) and adding Subsection (a-1) to
8 read as follows:

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

12 (1) have estate assets invested according to Section
13 855(b) of this code; or

14 (2) file a written application with the court for an
15 order:

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

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

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

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

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

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

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

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

13 (1) the nature of the investment, investment plan, or
14 other action requested in the application and authorized by the
15 court, including, if applicable, the authority to invest in and
16 sell securities in accordance with the objectives of the investment
17 plan;

18 (2) when an investment must be reviewed and
19 reconsidered by the guardian; and

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

22 SECTION 19. Chapter 1, Election Code, is amended by adding
23 Section 1.020 to read as follows:

24 Sec. 1.020. VOTING DISABILITY OR CANDIDACY
25 DISQUALIFICATION: DETERMINATION OF MENTAL INCAPACITY. (a) A
26 person determined to be totally mentally incapacitated by a court
27 exercising probate jurisdiction is not subject to a voting

1 disability or candidacy disqualification under this code if,
2 subsequent to that determination, the person's mental capacity has
3 been completely restored by a final judgment of a court exercising
4 probate jurisdiction.

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

13 SECTION 20. Section 11.002, Election Code, is amended to
14 read as follows:

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

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

21 (A) totally mentally incapacitated; or
22 (B) partially mentally incapacitated without the
23 right to vote;

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

26 (A) fully discharged the person's sentence,
27 including any term of incarceration, parole, or supervision, or

1 completed a period of probation ordered by any court; or

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

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

5 (6) is a registered voter.

6 SECTION 21. Section 13.001(a), Election Code, is amended to
7 read as follows:

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

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

11 (2) be a United States citizen;

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

14 (A) totally mentally incapacitated; or

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

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

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

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

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

26 SECTION 22. Section 13.002, Election Code, is amended by
27 amending Subsection (c) and adding Subsections (e) and (f) to read

1 as follows:

2 (c) A registration application must include:

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

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

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

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

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

13 (A) totally mentally incapacitated; or

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

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

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

23 (8) the following information:

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

1 identification card; or

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

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

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

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

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

24 SECTION 23. The heading to Section 16.002, Election Code,
25 is amended to read as follows:

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

27 SECTION 24. Section 16.002(a), Election Code, is amended to

1 read as follows:

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

6 (1) [~~7~~] adjudging a person 18 years of age or older who
7 is a resident of the state to be:

8 (A) totally mentally incapacitated; or

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

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

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

16 SECTION 25. Section 16.031(a), Election Code, is amended to
17 read as follows:

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

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

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

26 (3) an abstract of a final judgment of the voter's
27 total mental incapacity, partial mental incapacity without the

1 right to vote [~~incompetence~~], conviction of a felony, or
2 disqualification under Section 16.002, 16.003, or 16.004;

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

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

8 (6) notice from the secretary of state that the voter
9 has registered to vote in another county, as determined by the
10 voter's driver's license number or personal identification card
11 number issued by the Department of Public Safety or social security
12 number.

13 SECTION 26. Section 141.001(a), Election Code, is amended
14 to read as follows:

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

17 (1) be a United States citizen;

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

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

23 (A) totally mentally incapacitated; or

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

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

1 the resulting disabilities;

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

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

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

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

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

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

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

20 SECTION 27. Section 141.031, Election Code, is amended to
21 read as follows:

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

25 (1) be in writing;

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

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

2 and

3 (4) include:

4 (A) the candidate's name;

5 (B) the candidate's occupation;

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

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

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

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

17 (i) totally mentally incapacitated; or

18 (ii) partially mentally incapacitated
19 without the right to vote;

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

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

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

1 (J) the candidate's length of continuous
2 residence in the state and in the territory from which the office
3 sought is elected as of the date the candidate swears to the
4 application;

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

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

11 (b) Instead of the statement required by Subsection
12 (a)(4)(F), a candidate eligible for office because of Section
13 1.020(a) shall include in the application a statement that the
14 person's mental capacity has been completely restored by a final
15 judgment of a court.

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

22 SECTION 28. Section 143.005(b), Election Code, is amended
23 to read as follows:

24 (b) If a city charter prescribes the requirements that a
25 candidate's application must satisfy for the candidate's name to be
26 placed on the ballot, Section 141.031(a)(4)(L) [~~141.031(4)(L)~~]
27 also applies to the application. The other provisions of Section

1 141.031 do not apply.

2 SECTION 29. Section 144.003(b), Election Code, is amended
3 to read as follows:

4 (b) If a law outside this code purports to prescribe the
5 exclusive requirements that a candidate's application must satisfy
6 for the candidate's name to be placed on the ballot, Section
7 141.031(a)(4)(L) [~~141.031(4)(L)~~] also applies to the application.
8 The other provisions of Section 141.031 do not apply.

9 SECTION 30. Section 192.032(b), Election Code, is amended
10 to read as follows:

11 (b) An application must:

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

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

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

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

22 (3) be accompanied by:

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

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

1 SECTION 31. Section 822, Texas Probate Code, is repealed.

2 SECTION 32. (a) Sections 645(f) and 646(e), Texas Probate
3 Code, as added by this Act, apply only to a guardianship proceeding
4 for which a court has appointed a guardian ad litem or attorney ad
5 litem to represent the interests of a person on or after the
6 effective date of this Act.

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

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

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

15 (c) The changes in law made by this Act to Section 683, Texas
16 Probate Code, apply only to the appointment of a guardian ad litem
17 or court investigator made on or after the effective date of this
18 Act. The appointment of a guardian ad litem or court investigator
19 made before the effective date of this Act is governed by the law in
20 effect on the date of appointment, and the former law is continued
21 in effect for that purpose.

22 (d) The changes in law made by this Act to Sections 694C,
23 694G, and 694H, Texas Probate Code, and Section 694L, Texas Probate
24 Code, as added by this Act, apply only to an application for the
25 restoration of a ward's capacity or the modification of a ward's
26 guardianship that is filed on or after the effective date of this
27 Act. An application for the restoration of a ward's capacity or the

1 modification of a ward's guardianship that is filed before the
2 effective date of this Act is governed by the law in effect on the
3 date the application was filed, and the former law is continued in
4 effect for that purpose.

5 (e) The changes in law made by this Act to Sections 690, 693,
6 and 855B, Texas Probate Code, apply only to an application for the
7 appointment of a guardian filed on or after the effective date of
8 this Act. An application for the appointment of a guardian filed
9 before the effective date of this Act is governed by the law in
10 effect on the date the application was filed, and the former law is
11 continued in effect for that purpose.

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

19 (g) The changes in law made by this Act to Section 760, Texas
20 Probate Code, apply only to an application for resignation filed on
21 or after the effective date of this Act. An application for
22 resignation filed before the effective date of this Act is governed
23 by the law in effect on the date the application was filed, and the
24 former law is continued in effect for that purpose.

25 (h) The changes in law made by this Act to Section 761(f),
26 Texas Probate Code, apply only to a motion for the removal of a
27 guardian made or filed on or after the effective date of this Act. A

1 motion for the removal of a guardian made or filed before the
2 effective date of this Act is governed by the law in effect on the
3 date the motion was made or filed, and the former law is continued
4 in effect for that purpose.

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

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

19 SECTION 33. This Act takes effect September 1, 2007.

ADOPTED

MAY 15 2007

Leta Spaw
Secretary of the Senate

By: _____

H.B. No. 417

Substitute the following for H.B. No. 417:

By: *Wentworth*

C.S.H.B. No. 417

A BILL TO BE ENTITLED

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;

34

- 1 (2) [~~of~~] joint managing conservators;
2 (3) [~~or of~~] 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.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 7, 2007

TO: Honorable Jeff Wentworth, Chair, Senate Committee on Jurisprudence

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB417** by Hartnett (Relating to guardianship matters and proceedings.), **Committee Report**
2nd House, Substituted

No significant fiscal implication to the State is anticipated.

The bill would make numerous amendments to the Probate Code regarding guardianship appointments, compensation, eligibility, and proceedings. The bill would amend the Election Code regarding adjudging a person mentally incapacitated and the person's voting rights and eligibility to file as a candidate for public office and the Probate Code regarding the person's capacity to vote in a public election and to operate a motor vehicle. To the extent judicial proceedings regarding guardianship matters and voting registrar procedures regarding mentally incapacitated persons are modified, no significant fiscal implication to the State is anticipated. The bill would take effect September 1, 2007.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 530 Family and Protective Services, Department of, 538 Assistive and Rehabilitative Services, Department of

LBB Staff: JOB, MN, ZS, TB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 23, 2007

TO: Honorable Jeff Wentworth, Chair, Senate Committee on Jurisprudence

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB417** by Hartnett (Relating to guardianship matters and proceedings.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would make numerous amendments to the Probate Code regarding guardianship appointments, compensation, eligibility, and proceedings. The bill would amend the Election Code regarding adjudging a person mentally incapacitated and the person's voting rights and eligibility to file as a candidate for public office. To the extent judicial proceedings regarding guardianship matters and voting registrar procedures regarding mentally incapacitated persons are modified, no significant fiscal implication to the State is anticipated. The bill would take effect September 1, 2007.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 530 Family and Protective Services, Department of, 538 Assistive and Rehabilitative Services, Department of

LBB Staff: JOB, MN, ZS, TB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

February 22, 2007

TO: Honorable Will Hartnett, Chair, House Committee on Judiciary

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB417 by Hartnett (Relating to guardianship matters and proceedings.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would make numerous amendments to the Probate Code regarding guardianship appointments, compensation, eligibility, and proceedings. The bill would amend the Election Code regarding adjudging a person mentally incapacitated and the person's voting rights and eligibility to file as a candidate for public office. To the extent judicial proceedings regarding guardianship matters and voting registrar procedures regarding mentally incapacitated persons are modified, no significant fiscal implication to the State is anticipated. The bill would take effect September 1, 2007.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 530 Family and Protective Services, Department of, 538 Assistive and Rehabilitative Services, Department of

LBB Staff: JOB, MN, ZS, TB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

February 18, 2007

TO: Honorable Will Hartnett, Chair, House Committee on Judiciary

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB417 by Hartnett (Relating to guardianship matters and proceedings.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would make numerous amendments to the Probate Code regarding guardianship appointments, compensation, eligibility, and proceedings. The bill would amend the Election Code regarding adjudging a person mentally incapacitated. To the extent judicial proceedings regarding guardianship matters are modified, no significant fiscal implication to the State is anticipated. The bill would take effect September 1, 2007.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 530 Family and Protective Services, Department of, 538 Assistive and Rehabilitative Services, Department of

LBB Staff: JOB, MN, ZS, TB

