

1-1 By: Uresti S.B. No. 1053
1-2 (In the Senate - Filed February 20, 2009; March 13, 2009,
1-3 read first time and referred to Committee on Jurisprudence;
1-4 March 30, 2009, reported favorably by the following vote: Yeas 6,
1-5 Nays 0; March 30, 2009, sent to printer.)

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

1-8 relating to the appointment or removal of guardians of
1-9 incapacitated persons.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 681, Texas Probate Code, is amended to
1-12 read as follows:

1-13 Sec. 681. PERSONS DISQUALIFIED TO SERVE AS GUARDIANS. A
1-14 person may not be appointed guardian if the person is:

1-15 (1) a minor;

1-16 (2) a person whose conduct is notoriously bad;

1-17 (3) an incapacitated person;

1-18 (4) a person who is a party or whose parent is a party
1-19 to a lawsuit concerning or affecting the welfare of the proposed
1-20 ward, unless the court:

1-21 (A) determines that the lawsuit claim of the
1-22 person who has applied to be appointed guardian is not in conflict
1-23 with the lawsuit claim of the proposed ward; or

1-24 (B) appoints a guardian ad litem to represent the
1-25 interests of the proposed ward throughout the litigation of the
1-26 ward's lawsuit claim;

1-27 (5) a person indebted to the proposed ward unless the
1-28 person pays the debt before appointment;

1-29 (6) a person asserting a claim adverse to the proposed
1-30 ward or the proposed ward's property, real or personal;

1-31 (7) a person who, because of inexperience, lack of
1-32 education, or other good reason, is incapable of properly and
1-33 prudently managing and controlling the ward or the ward's estate;

1-34 (8) a person, institution, or corporation found
1-35 unsuitable by the court;

1-36 (9) a person disqualified in a declaration made under
1-37 Section 679 of this code; ~~or~~

1-38 (10) a nonresident person who has not filed with the
1-39 court the name of a resident agent to accept service of process in
1-40 all actions or proceedings relating to the guardianship; or

1-41 (11) a person who does not have the certification to
1-42 serve as guardian that is required by Section 697B of this code.

1-43 SECTION 2. Section 761, Texas Probate Code, is amended by
1-44 adding Subsection (c-1) to read as follows:

1-45 (c-1) In addition to the authority granted to the court
1-46 under Subsection (c) of this section, the court may, on the
1-47 complaint of the Guardianship Certification Board, remove a
1-48 guardian who would be ineligible for appointment under Section 681
1-49 of this code because of the guardian's failure to maintain the
1-50 certification required under Section 697B of this code. The
1-51 guardian shall be cited to appear and contest the request for
1-52 removal under this subsection in the manner provided by Subsection
1-53 (c) of this section.

1-54 SECTION 3. This Act takes effect September 1, 2009.

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