

1-1 By: Harris S.B. No. 481  
1-2 (In the Senate - Filed February 1, 2011; February 14, 2011,  
1-3 read first time and referred to Committee on Jurisprudence;  
1-4 March 14, 2011, reported favorably by the following vote: Yeas 5,  
1-5 Nays 0; March 14, 2011, sent to printer.)

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

1-8 relating to the removal of a guardian of an incapacitated person  
1-9 ordered by a court.

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

1-11 SECTION 1. Section 761, Texas Probate Code, is amended by  
1-12 adding Subsection (a-1) to read as follows:

1-13 (a-1) The court clerk shall issue notice of an order  
1-14 rendered by the court removing a guardian under Subsection (a)(1),  
1-15 (2), (3), (4), (6), (7), or (8) of this section. The notice must:

1-16 (1) state the names of the ward and the removed  
1-17 guardian;

1-18 (2) state the date the court signed the order of  
1-19 removal;

1-20 (3) contain the following statement printed in  
1-21 12-point bold font:

1-22 "If you have been removed from serving as guardian under  
1-23 Section 761(a)(6) or (7), Texas Probate Code, you have the right to  
1-24 contest the order of removal by filing an application with the court  
1-25 for a hearing under Section 762, Texas Probate Code, to determine  
1-26 whether you should be reinstated as guardian. The application must  
1-27 be filed not later than the 30th day after the date the court signed  
1-28 the order of removal.";

1-29 (4) contain as an attachment a copy of the order of  
1-30 removal; and

1-31 (5) be personally served on the removed guardian not  
1-32 later than the seventh day after the date the court signed the order  
1-33 of removal.

1-34 SECTION 2. Subsections (a), (c), and (d), Section 762,  
1-35 Texas Probate Code, are amended to read as follows:

1-36 (a) Not later than the 30th [~~10th~~] day after the date the  
1-37 court signs the order of removal, a guardian [~~personal~~  
1-38 ~~representative~~] who is removed under Section 761(a)(6) [~~Subsection~~  
1-39 ~~(a)(6)~~] or (7) [~~, Section 761,~~] of this code may file an application  
1-40 with the court for a hearing to determine whether the guardian  
1-41 [~~personal representative~~] should be reinstated.

1-42 (c) The court shall hold a hearing on an application for  
1-43 reinstatement under this section as soon as practicable after the  
1-44 application is filed, but not later than the 60th day after the date  
1-45 the court signed the order of removal. If, at the conclusion of the  
1-46 [a] hearing [under this section], the court is satisfied by a  
1-47 preponderance of the evidence that the applicant did not engage in  
1-48 the conduct that directly led to the applicant's removal, the court  
1-49 shall set aside an order appointing a successor guardian  
1-50 [~~representative~~], if any, and shall enter an order reinstating the  
1-51 applicant as guardian [~~personal representative~~] of the ward or  
1-52 estate.

1-53 (d) If the court sets aside the appointment of a successor  
1-54 guardian [~~representative~~] under this section, the court may require  
1-55 the successor guardian [~~representative~~] to prepare and file, under  
1-56 oath, an accounting of the estate and to detail the disposition the  
1-57 successor has made of the property of the estate.

1-58 SECTION 3. The changes in law made by this Act to Sections  
1-59 761 and 762, Texas Probate Code, apply only to a removal of a  
1-60 guardian ordered by a court on or after the effective date of this  
1-61 Act. A removal of a guardian ordered by a court before the  
1-62 effective date of this Act is governed by the law in effect on the  
1-63 date the order was rendered, and the former law is continued in  
1-64 effect for that purpose.

2-1 SECTION 4. This Act takes effect September 1, 2011.

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