

By: Thompson of Harris

H.B. No. 2463

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the contents of a court order appointing a guardian of
3 the person of a ward.

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

5 SECTION 1. Section 1101.151, Estates Code, as effective
6 January 1, 2014, is amended by amending Subsection (b) and adding
7 Subsection (c) to read as follows:

8 (b) An order appointing a guardian under this section must
9 contain findings of fact and specify:

10 (1) the information required by Section 1101.153(a);

11 (2) that the guardian has full authority over the
12 incapacitated person;

13 (3) if necessary, the amount of funds from the corpus
14 of the person's estate the court will allow the guardian to spend
15 for the education and maintenance of the person under Subchapter A,
16 Chapter 1156;

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

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

21 (6) if it is a guardianship of the person of the ward
22 or of both the person and the estate of the ward, the rights of the
23 guardian with respect to the person as specified in Section
24 1151.051(c)(1).

1 (c) An order appointing a guardian under this section that
2 includes the rights of the guardian with respect to the person as
3 specified in Section 1151.051(c)(1) must also contain the following
4 prominently displayed statement in boldfaced type, in capital
5 letters, or underlined:

6 "NOTICE TO ANY PEACE OFFICER OF THE STATE OF TEXAS: YOU MAY
7 USE REASONABLE EFFORTS TO ENFORCE THE RIGHT OF A GUARDIAN OF THE
8 PERSON OF A WARD TO HAVE PHYSICAL POSSESSION OF THE WARD OR TO
9 ESTABLISH THE WARD'S LEGAL DOMICILE AS SPECIFIED IN THIS ORDER. A
10 PEACE OFFICER WHO RELIES ON THE TERMS OF A COURT ORDER AND THE
11 OFFICER'S AGENCY ARE ENTITLED TO THE APPLICABLE IMMUNITY AGAINST
12 ANY CIVIL OR OTHER CLAIM REGARDING THE OFFICER'S GOOD FAITH ACTS
13 PERFORMED IN THE SCOPE OF THE OFFICER'S DUTIES IN ENFORCING THE
14 TERMS OF THIS ORDER THAT RELATE TO THE ABOVE-MENTIONED RIGHTS OF THE
15 COURT-APPOINTED GUARDIAN OF THE PERSON OF THE WARD. ANY PERSON WHO
16 KNOWINGLY PRESENTS FOR ENFORCEMENT AN ORDER THAT IS INVALID OR NO
17 LONGER IN EFFECT COMMITS AN OFFENSE THAT MAY BE PUNISHABLE BY
18 CONFINEMENT IN JAIL FOR AS LONG AS TWO YEARS AND A FINE OF AS MUCH AS
19 \$10,000."

20 SECTION 2. Section 1101.152, Estates Code, as effective
21 January 1, 2014, is amended by adding Subsection (c) to read as
22 follows:

23 (c) An order appointing a guardian under this section that
24 includes the right of the guardian to have physical possession of
25 the ward or to establish the ward's legal domicile as specified in
26 Section 1151.051(c)(1) must also contain the following prominently
27 displayed statement in boldfaced type, in capital letters, or

1 underlined:

2 "NOTICE TO ANY PEACE OFFICER OF THE STATE OF TEXAS: YOU MAY
3 USE REASONABLE EFFORTS TO ENFORCE THE RIGHT OF A GUARDIAN OF THE
4 PERSON OF A WARD TO HAVE PHYSICAL POSSESSION OF THE WARD OR TO
5 ESTABLISH THE WARD'S LEGAL DOMICILE AS SPECIFIED IN THIS ORDER. A
6 PEACE OFFICER WHO RELIES ON THE TERMS OF A COURT ORDER AND THE
7 OFFICER'S AGENCY ARE ENTITLED TO THE APPLICABLE IMMUNITY AGAINST
8 ANY CIVIL OR OTHER CLAIM REGARDING THE OFFICER'S GOOD FAITH ACTS
9 PERFORMED IN THE SCOPE OF THE OFFICER'S DUTIES IN ENFORCING THE
10 TERMS OF THIS ORDER THAT RELATE TO THE ABOVE-MENTIONED RIGHTS OF THE
11 COURT-APPOINTED GUARDIAN OF THE PERSON OF THE WARD. ANY PERSON WHO
12 KNOWINGLY PRESENTS FOR ENFORCEMENT AN ORDER THAT IS INVALID OR NO
13 LONGER IN EFFECT COMMITS AN OFFENSE THAT MAY BE PUNISHABLE BY
14 CONFINEMENT IN JAIL FOR AS LONG AS TWO YEARS AND A FINE OF AS MUCH AS
15 \$10,000."

16 SECTION 3. This Act takes effect January 1, 2014.