

By: Klick

H.B. No. 2600

A BILL TO BE ENTITLED

AN ACT

relating to the determination of probable cause for a court to ascertain whether a person is an incapacitated person for purposes of the appointment of a guardian ad litem or court investigator.

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

SECTION 1. Section 1102.002, Estate Code is amended to read as follows:

To establish probable cause under Section 1102.001, the court shall ~~may~~ require:

(1) an affidavit from an interested person that alleges facts demonstrating that an individual is an incapacitated person under Section 1002.017(2), Estate Code; and ~~an information letter about the person believed to be incapacitated that is submitted by an interested person and satisfies the requirements of Section 1102.003; or~~

(2) written letter or certificate from a physician who has examined the person believed to be incapacitated that satisfies the requirements of Section 1101.103, except that the letter must be ~~;~~ ; and

(A) dated not earlier than the 120th day before the date of the appointment of a guardian ad litem or court investigator under Section 1102.001; and

(B) based on an examination the physician performed not earlier than the 120th day before that date.

1       (3) a hearing, consistent with standards of due process,  
2 that is held subsequent to the date of the physician's letter  
3 referenced in subdivision (2), but not later than thirty (30) days  
4 prior to the date of the appointment of a guardian ad litem, and  
5 during which any interested person may submit oral or written  
6 evidence regarding the condition of the person who is alleged to be  
7 incapacitated.

8       SECTION 2. Section 1102.003, Estate Code is repealed.

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