

By: Moody

H.B. No. 2665

A BILL TO BE ENTITLED

AN ACT

relating to access to and receipt of certain information regarding  
a ward by certain relatives of the ward.

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

SECTION 1. Subchapter B, Chapter 1151, Estates Code, is  
amended by adding Sections 1151.055 and 1151.056 to read as  
follows:

Sec. 1151.055. APPLICATION BY CHILDREN FOR ACCESS TO WARD;  
HEARING AND COURT ORDER. (a) A child of a ward may file an  
application with the court requesting access to the ward, including  
the opportunity to establish visitation or communication with the  
ward.

(b) Except as provided by Subsection (c), the court shall  
schedule a hearing on the application not later than the 60th day  
after the date an application is filed under Subsection (a). The  
court may grant a continuance of a hearing under this section for  
good cause.

(c) If an application under Subsection (a) states that the  
ward's health is in significant decline or that the ward's death may  
be imminent, the court shall conduct an emergency hearing as soon as  
practicable, but not later than the 10th day after the date the  
application is filed under Subsection (a).

(d) The guardian of a ward with respect to whom an  
application is filed under Subsection (a) shall be personally

1 served with a copy of the application and cited to appear at a  
2 hearing under:

3 (1) Subsection (b) at least 21 days before the date of  
4 the hearing; and

5 (2) Subsection (c) as soon as practicable.

6 (e) The court shall issue an order after notice and a  
7 hearing under this section. An order issued under this section may:

8 (1) prohibit the guardian of a ward from preventing  
9 the applicant access to the ward if the applicant shows by a  
10 preponderance of the evidence that:

11 (A) the guardian's past act or acts prevented  
12 access to the ward; and

13 (B) the ward desires contact with the applicant;  
14 and

15 (2) specify the frequency, time, place, location, and  
16 any other terms of access.

17 (f) In deciding whether to issue or modify an order issued  
18 under this section, the court:

19 (1) shall consider:

20 (A) whether any protective orders have been  
21 issued against the applicant to protect the ward;

22 (B) whether a court or other state agency has  
23 found that the applicant abused, neglected, or exploited the ward;  
24 and

25 (C) the best interest of the ward; and

26 (2) may consider whether:

27 (A) visitation by the applicant should be limited

1 to situations in which a third person, specified by the court, is  
2 present; or

3 (B) visitation should be suspended or denied.

4 (g) The court may, in its discretion, award the prevailing  
5 party in any action brought under this section court costs and  
6 attorney's fees, if any.

7 Sec. 1151.056. GUARDIAN'S DUTY TO INFORM CERTAIN RELATIVES  
8 ABOUT WARD'S HEALTH AND RESIDENCE. (a) This section applies with  
9 respect to relatives described under Sections  
10 1101.001(b)(13)(A)-(D).

11 (b) Except as provided by Subsection (e), the guardian of an  
12 adult ward shall as soon as practicable inform relatives if:

13 (1) the ward dies;

14 (2) the ward is admitted to a medical facility for  
15 acute care for a period of three days or more;

16 (3) the ward's residence has changed; or

17 (4) the ward is staying at a location other than the  
18 ward's residence for a period that exceeds one calendar week.

19 (c) In the case of the ward's death, the guardian shall  
20 inform relatives of any funeral arrangements and the location of  
21 the ward's final resting place.

22 (d) A relative entitled to notice about a ward under this  
23 section may elect to not receive the notice by providing a written  
24 request to that effect to the guardian. A guardian shall file any  
25 written request received by the guardian under this subsection with  
26 the court.

27 (e) On motion filed with the court showing good cause and

1 after a relative is provided an opportunity to present evidence to  
2 the court under Subsection (f), the court, subject to Subsection  
3 (g), may relieve the guardian of the duty to provide notice about a  
4 ward to a relative under this section.

5 (f) A copy of the motion required under Subsection (e) shall  
6 be provided to the relative specifically named in the motion unless  
7 the guardian was unable to locate the relative after making  
8 reasonable efforts to discover and locate the relative. The  
9 relative provided notice under this subsection may file evidence  
10 with the court in response to the motion, and the court shall  
11 consider that evidence before making a decision on the motion.

12 (g) In considering a motion under Subsection (e), the court  
13 shall relieve the guardian of the duty to provide notice about a  
14 ward to a relative under this section if the court finds that:

15 (1) the motion includes a written request from a  
16 relative electing to not receive the notice;

17 (2) the guardian was unable to locate the relative  
18 after making reasonable efforts to discover and locate the  
19 relative;

20 (3) the guardian was able to locate the relative, but  
21 was unable to establish communication with the relative after  
22 making reasonable efforts to establish communication;

23 (4) a protective order was issued against the relative  
24 to protect the ward;

25 (5) a court or other state agency has found that the  
26 relative abused, neglected, or exploited the ward; or

27 (6) notice is not in the best interest of the ward.

1           SECTION 2. The changes in law made by this Act apply to a  
2 guardianship created before, on, or after the effective date of  
3 this Act.

4           SECTION 3. This Act takes effect immediately if it receives  
5 a vote of two-thirds of all the members elected to each house, as  
6 provided by Section 39, Article III, Texas Constitution. If this  
7 Act does not receive the vote necessary for immediate effect, this  
8 Act takes effect September 1, 2015.