

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 CERTAIN RELATIVES FOR ACCESS TO WARD; HEARING AND COURT ORDER. (a) This section applies to a relative described under Sections [1101.001\(b\)\(13\)\(A\)-\(D\)](#).

(b) A relative 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.

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

(d) If an application under Subsection (b) 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 (b).

(e) The guardian of a ward with respect to whom an

1 application is filed under Subsection (b) shall be personally
2 served with a copy of the application and cited to appear at a
3 hearing under:

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

6 (2) Subsection (d) as soon as practicable.

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

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

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

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

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

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

20 (1) shall consider:

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

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

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

27 (2) may consider whether:

1 (A) visitation by the applicant should be limited
2 to situations in which a third person, specified by the court, is
3 present; or

4 (B) visitation should be suspended or denied.

5 (h) The court may, in its discretion, award the prevailing
6 party in any action brought under this section court costs and
7 attorney's fees, if any. Court costs or attorney's fees awarded
8 under this subsection may not be paid from the ward's estate.

9 Sec. 1151.056. GUARDIAN'S DUTY TO INFORM CERTAIN RELATIVES
10 ABOUT WARD'S HEALTH AND RESIDENCE. (a) This section applies with
11 respect to relatives described under Sections
12 1101.001(b)(13)(A)-(D).

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

15 (1) the ward dies;

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

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

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

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

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

1 the court.

2 (e) On motion filed with the court showing good cause and
3 after a relative is provided an opportunity to present evidence to
4 the court under Subsection (f), the court, subject to Subsection
5 (g), may relieve the guardian of the duty to provide notice about a
6 ward to a relative under this section.

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

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

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

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

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

25 (4) a protective order was issued against the relative
26 to protect the ward;

27 (5) a court or other state agency has found that the

1 relative abused, neglected, or exploited the ward; or

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

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

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

President of the Senate

Speaker of the House

I certify that H.B. No. 2665 was passed by the House on May 8, 2015, by the following vote: Yeas 136, Nays 1, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2665 on May 27, 2015, by the following vote: Yeas 138, Nays 1, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2665 was passed by the Senate, with amendments, on May 25, 2015, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor