

By: Naishtat

H.B. No. 3137

A BILL TO BE ENTITLED

AN ACT

relating to the use of unsworn declarations for filing certain annual reports by guardians of the person.

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

SECTION 1. Section 1163.101(c), Estates Code, is amended to read as follows:

(c) The guardian of the person shall file a sworn affidavit that contains:

(1) the guardian's current name, address, and telephone number;

(2) the ward's date of birth and current name, address, telephone number, and age;

(3) a description of the type of home in which the ward resides, which shall be described as:

(A) the ward's own home;

(B) a nursing home;

(C) a guardian's home;

(D) a foster home;

(E) a boarding home;

(F) a relative's home, in which case the description must specify the relative's relationship to the ward;

(G) a hospital or medical facility; or

(H) another type of residence;

(4) statements indicating:

(A) the length of time the ward has resided in the present home;

(B) the reason for a change in the ward's residence, if a change in the ward's residence has occurred in the past year;

(C) the date the guardian most recently saw the ward;

(D) how frequently the guardian has seen the ward in the past year;

(E) whether the guardian has possession or control of the ward's estate;

(F) whether the ward's mental health has improved, deteriorated, or remained unchanged during the past year, including a description of the change if a change has occurred;

(G) whether the ward's physical health has improved, deteriorated, or remained unchanged during the past year, including a description of the change if a change has occurred;

(H) whether the ward has regular medical care; and

(I) the ward's treatment or evaluation by any of the following persons during the past year, including the person's name and a description of the treatment:

(i) a physician;

(ii) a psychiatrist, psychologist, or other mental health care provider;

(iii) a dentist;

(iv) a social or other caseworker; or

(v) any other individual who provided treatment;

(5) a description of the ward's activities during the past year, including recreational, educational, social, and occupational activities, or a statement that no activities were available or that the ward was unable or refused to participate in activities;

(6) the guardian's evaluation of:

(A) the ward's living arrangements as excellent, average, or below average, including an explanation if the conditions are below average;

(B) whether the ward is content or unhappy with the ward's living arrangements; and

(C) unmet needs of the ward;

(7) a statement indicating whether the guardian's power should be increased, decreased, or unaltered, including an explanation if a change is recommended;

(8) a statement indicating that the guardian has paid the bond premium for the next reporting period;

(9) if the guardian is a private professional guardian, a guardianship program, or the Department of Aging and Disability Services, whether the guardian or an individual certified under Subchapter C, Chapter 155 [~~111~~], Government Code, who is providing guardianship services to the ward and who is filing [~~swearing to~~] the affidavit on the guardian's behalf, is or has been the subject of an investigation conducted by the Guardianship Certification Board during the preceding year; and

1           (10) any additional information the guardian desires  
2 to share with the court regarding the ward, including:

3           (A) whether the guardian has filed for emergency  
4 detention of the ward under Subchapter A, Chapter 573, Health and  
5 Safety Code; and

6           (B) if applicable, the number of times the  
7 guardian has filed for emergency detention and the dates of the  
8 applications for emergency detention.

9       SECTION 2. The heading to Section 1163.1011, Estates Code,  
10 is amended to read as follows:

11       Sec. 1163.1011. USE OF UNSWORN DECLARATION IN LIEU OF SWORN  
12 DECLARATION OR AFFIDAVIT FOR [ELECTRONIC] FILING [OF] ANNUAL  
13 REPORT.

14       SECTION 3. Section 1163.1011(a), Estates Code, is amended  
15 to read as follows:

16       (a) A guardian of the person who is required to file an  
17 [files the] annual report under [required by] Section 1163.101  
18 [electronically] with the court, including a guardian filing the  
19 annual report electronically, may use an unsworn declaration made  
20 as provided by this section instead of the ~~[a written]~~ sworn  
21 declaration or affidavit required by Section 1163.101.

22       SECTION 4. The change in law made by this Act applies to a  
23 guardianship created before, on, or after the effective date of  
24 this Act.

25       SECTION 5. This Act takes effect immediately if it receives  
26 a vote of two-thirds of all the members elected to each house, as  
27 provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this  
2 Act takes effect September 1, 2015.