

1-1 By: Zaffirini S.B. No. 1882
 1-2 (In the Senate - Filed March 13, 2015; March 25, 2015, read
 1-3 first time and referred to Committee on Health and Human Services;
 1-4 May 5, 2015, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 9, Nays 0; May 5, 2015, sent
 1-6 to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1882 By: Zaffirini

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to a bill of rights for wards under guardianship.
 1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-23 SECTION 1. Chapter 1151, Estates Code, is amended by adding
 1-24 Subchapter H to read as follows:
 1-25 SUBCHAPTER H. RIGHTS OF WARDS
 1-26 Sec. 1151.351. BILL OF RIGHTS FOR WARDS. (a) A ward has
 1-27 all the rights, benefits, responsibilities, and privileges granted
 1-28 by the constitution and laws of this state and the United States,
 1-29 except where specifically limited by a court-ordered guardianship
 1-30 or where otherwise lawfully restricted.
 1-31 (b) Unless a right is limited by a court or otherwise
 1-32 restricted by law, a ward has the right:
 1-33 (1) to have a copy of the guardianship order and
 1-34 letters of guardianship and contact information for the probate
 1-35 court that issued the order and letters;
 1-36 (2) to have a guardianship that encourages the
 1-37 development or maintenance of maximum self-reliance and
 1-38 independence in the ward with the eventual goal, if possible, of
 1-39 self-sufficiency;
 1-40 (3) to be treated with respect, consideration, and
 1-41 recognition of the ward's dignity and individuality;
 1-42 (4) to reside and receive support services in the most
 1-43 integrated setting, including home-based or other community-based
 1-44 settings, as required by Title II of the Americans with
 1-45 Disabilities Act (42 U.S.C. Section 12131 et seq.);
 1-46 (5) to consideration of the ward's current and
 1-47 previously stated personal preferences, desires, medical and
 1-48 psychiatric treatment preferences, religious beliefs, living
 1-49 arrangements, and other preferences and opinions;
 1-50 (6) to financial self-determination for all public
 1-51 benefits after essential living expenses and health needs are met
 1-52 and to have access to a monthly personal allowance;
 1-53 (7) to receive timely and appropriate health care and
 1-54 medical treatment that does not violate the ward's rights granted
 1-55 by the constitution and laws of this state and the United States;
 1-56 (8) to exercise full control of all aspects of life not
 1-57 specifically granted by the court to the guardian;
 1-58 (9) to control the ward's personal environment based
 1-59 on the ward's preferences;
 1-60 (10) to complain or raise concerns regarding the

2-1 guardian or guardianship to the court, including living
 2-2 arrangements, retaliation by the guardian, conflicts of interest
 2-3 between the guardian and service providers, or a violation of any
 2-4 rights under this section;
 2-5 (11) to receive notice in the ward's native language,
 2-6 or preferred mode of communication, and in a manner accessible to
 2-7 the ward, of a court proceeding to continue, modify, or terminate
 2-8 the guardianship and the opportunity to appear before the court to
 2-9 express the ward's preferences and concerns regarding whether the
 2-10 guardianship should be continued, modified, or terminated;
 2-11 (12) to have a court investigator, guardian ad litem,
 2-12 or attorney ad litem appointed by the court to investigate a
 2-13 complaint received by the court from the ward or any person about
 2-14 the guardianship;
 2-15 (13) to participate in social, religious, and
 2-16 recreational activities, training, employment, education,
 2-17 habilitation, and rehabilitation of the ward's choice in the most
 2-18 integrated setting;
 2-19 (14) to self-determination in the substantial
 2-20 maintenance, disposition, and management of real and personal
 2-21 property after essential living expenses and health needs are met,
 2-22 including the right to receive notice and object about the
 2-23 substantial maintenance, disposition, or management of clothing,
 2-24 furniture, vehicles, and other personal effects;
 2-25 (15) to personal privacy and confidentiality in
 2-26 personal matters, subject to state and federal law;
 2-27 (16) to unimpeded, private, and uncensored
 2-28 communication and visitation with persons of the ward's choice,
 2-29 except that if the guardian determines that certain communication
 2-30 or visitation causes substantial harm to the ward:
 2-31 (A) the guardian may limit, supervise, or
 2-32 restrict communication or visitation, but only to the extent
 2-33 necessary to protect the ward from substantial harm; and
 2-34 (B) the ward may request a hearing to remove any
 2-35 restrictions on communication or visitation imposed by the guardian
 2-36 under Paragraph (A);
 2-37 (17) to petition the court and retain counsel of the
 2-38 ward's choice who holds a certificate required by Subchapter E,
 2-39 Chapter 1054, to represent the ward's interest for capacity
 2-40 restoration, modification of the guardianship, the appointment of a
 2-41 different guardian, or for other appropriate relief under this
 2-42 subchapter, including a transition to a supported decision-making
 2-43 agreement, except as limited by Section 1054.006;
 2-44 (18) to vote in a public election, marry, and retain a
 2-45 license to operate a motor vehicle, unless restricted by the court;
 2-46 (19) to personal visits from the guardian or the
 2-47 guardian's designee at least once every three months, but more
 2-48 often, if necessary, unless the court orders otherwise;
 2-49 (20) to be informed of the name, address, phone
 2-50 number, and purpose of Disability Rights Texas, an organization
 2-51 whose mission is to protect the rights of, and advocate for, persons
 2-52 with disabilities, and to communicate and meet with representatives
 2-53 of that organization;
 2-54 (21) to be informed of the name, address, phone
 2-55 number, and purpose of an independent living center, an area agency
 2-56 on aging, an aging and disability resource center, and the local
 2-57 mental health and intellectual and developmental disability
 2-58 center, and to communicate and meet with representatives from these
 2-59 agencies and organizations;
 2-60 (22) to be informed of the name, address, phone
 2-61 number, and purpose of the Judicial Branch Certification Commission
 2-62 and the procedure for filing a complaint against a certified
 2-63 guardian;
 2-64 (23) to contact the Department of Family and
 2-65 Protective Services to report abuse, neglect, exploitation, or
 2-66 violation of personal rights without fear of punishment,
 2-67 interference, coercion, or retaliation; and
 2-68 (24) to have the guardian, on appointment and on
 2-69 annual renewal of the guardianship, explain the rights delineated

3-1 in this subsection in the ward's native language, or preferred mode
3-2 of communication, and in a manner accessible to the ward.

3-3 (c) A ward under guardianship may petition the court for the
3-4 specific enforcement of any right described by Subsection (b).

3-5 (d) The court, in accordance with Section 1155.151, may
3-6 award attorney's fees to an attorney appointed or retained to
3-7 represent a ward in a proceeding to enforce the ward's rights under
3-8 this section.

3-9 (e) This section does not supersede or abrogate other
3-10 remedies existing in law.

3-11 SECTION 2. This Act takes effect immediately if it receives
3-12 a vote of two-thirds of all the members elected to each house, as
3-13 provided by Section 39, Article III, Texas Constitution. If this
3-14 Act does not receive the vote necessary for immediate effect, this
3-15 Act takes effect September 1, 2015.

3-16 * * * * *