

SENATE AMENDMENTS

2nd Printing

By: Moody

H.B. No. 2665

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

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

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

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

23 (d) The guardian of a ward with respect to whom an
24 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.

ADOPTED

MAY 25 2015


Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: 

1 Amend H.B. No. 2665 (senate committee printing) as follows:

2 (1) In the heading to added Section 1151.055, Estates Code
3 (page 1, line 25), strike "CHILDREN" and substitute "CERTAIN
4 RELATIVES".

5 (2) In added Section 1151.055(a), Estates Code (page 1, line
6 26), strike "A child" and substitute "A relative".

7 (3) In added Section 1151.055, Estates Code (page 1, line
8 26), insert the following new Subsection (a) and reletter
9 subsequent subsections and cross-references to those subsections
10 accordingly:

11 (a) This section applies to a relative described under Sections
12 1101.001(b)(13)(A)-(D).

13 (4) At the end of added Section 1151.055(g), Estates Code
14 (page 2, line 10), insert the following:

15 Court costs or attorney's fees awarded under this subsection may
16 not be paid from the ward's estate.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 26, 2015

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2665 by Moody (Relating to access to and receipt of certain information regarding a ward by certain relatives of the ward.), **As Passed 2nd House**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would amend the Estates Code to authorize certain relatives of a ward to file an application with the court requesting access, visitation, or communication with the ward; provide for a court hearing; provide for terms of an order; and require the court to consider whether any prior protective orders have been issued against the applicant to protect the ward. The bill would also require a guardian to inform certain relatives about circumstances regarding the ward's health and residence, and about funeral arrangements upon the ward's death, however the bill provides that under certain circumstances the guardian would be authorized to file a motion with the court to be relieved of the duty to provide notice. The bill would prescribe factors that the court should consider in ruling on the guardian's motion, including the guardian's reasonable efforts to locate the relative, and evidence of a previous protective order against the relative or finding of past abuse or neglect by the relative. Based on the analysis of the Office of Court Administration, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, AG, GDz, FR, KVe

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 15, 2015

TO: Honorable Joan Huffman, Chair, Senate Committee on State Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2665 by Moody (Relating to access to and receipt of certain information regarding a ward by certain relatives of the ward.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Estates Code to authorize a child of a ward to file an application with the court requesting access, visitation, or communication with the ward; provide for a court hearing; provide for terms of an order; and require the court to consider whether any prior protective orders have been issued against the applicant to protect the ward. The bill would also require a guardian to inform certain relatives about circumstances regarding the ward's health and residence, and about funeral arrangements upon the ward's death, however the bill provides that under certain circumstances the guardian would be authorized to file a motion with the court to be relieved of the duty to provide notice. The bill would prescribe factors that the court should consider in ruling on the guardian's motion, including the guardian's reasonable efforts to locate the relative, and evidence of a previous protective order against the relative or finding of past abuse or neglect by the relative. Based on the analysis of the Office of Court Administration, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, AG, GDz, FR, KVe

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 24, 2015

TO: Honorable John T. Smithee, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2665 by Moody (Relating to access to and receipt of certain information regarding a ward by certain relatives of the ward.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Estates Code to authorize a child of a ward to file an application with the court requesting access, visitation, or communication with the ward; provide for a court hearing; provide for terms of an order; and require the court to consider whether any prior protective orders have been issued against the application to protect the ward. The bill would also require a guardian to inform certain relatives about circumstances regarding the ward's health and residence, and about funeral arrangements upon the ward's death unless the relative chooses to not receive them or the guardian is unable to locate each relative. Based on the analysis of the Office of Court Administration, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, GDz, FR, KVe

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 20, 2015

TO: Honorable John T. Smithee, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2665 by Moody (Relating to access to and receipt of certain information regarding a ward by certain relatives of the ward.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Estates Code to authorize a child of a ward to file an application with the court requesting access, visitation, or communication with the ward; provide for a court hearing; provide for terms of an order; and require the court to consider whether any prior protective orders have been issued against the application to protect the ward. The bill would also require a guardian to inform certain relatives about circumstances regarding the ward's health and residence, and about funeral arrangements upon the ward's death. Based on the analysis of the Office of Court Administration, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, FR, GDz, KVe