

By: Wray

H.B. No. 1022

A BILL TO BE ENTITLED

1 AN ACT

2 relating to a written declaration to designate a guardian before
3 the need for a guardian arises.

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

5 SECTION 1. Section 1104.203, Estates Code, is amended by
6 amending Subsections (a) and (b) and adding Subsection (a-1) to
7 read as follows:

8 (a) Except as provided by Subsection (a-1), a [A]
9 declaration under this subchapter must be signed by the declarant
10 and be:

11 (1) written wholly in the declarant's handwriting; or
12 (2) attested to in the declarant's presence by at least
13 two credible witnesses who are:

14 (A) 14 years of age or older; and

15 (B) not named as guardian or alternate guardian
16 in the declaration.

17 (a-1) If the declaration does not expressly disqualify any
18 individual from serving as guardian of the declarant's person or
19 estate, the declaration must be signed by the declarant and may be
20 acknowledged by a notary public instead of being attested to in the
21 declarant's presence by witnesses as required by Subsection (a)(2).

22 (b) Notwithstanding Subsection (a) or (a-1), a declaration
23 that is not written wholly in the declarant's handwriting may be
24 signed by another person for the declarant under the direction of

1 and in the presence of the declarant.

2 SECTION 2. Section 1104.204, Estates Code, is amended by
3 adding Subsections (c) and (d) to read as follows:

4 (c) A declaration that complies with the requirements of
5 Section 1104.203(a-1) may, but is not required to, be in the form
6 specified by Subsection (b), except that instead of having attached
7 the self-proving affidavit prescribed by that subsection, the
8 declaration shall have attached the following acknowledgment:

9 STATE OF _____

10 COUNTY OF _____

11 This instrument was acknowledged before me on the ____ day of
12 _____, 20_____,

13 by _____ (Declarant).

14 _____

15 Notary Public, in and for
16 the State of Texas

17 Notary's printed name:

18 _____

19 My commission expires:

20 _____

21 (d) A declaration that complies with the requirements of
22 Section 1104.203(a-1) that has attached the acknowledgment
23 provided by Subsection (c) is considered self-proved.

24 SECTION 3. The changes in law made by this Act apply only to
25 a declaration to designate a guardian executed on or after the
26 effective date of this Act. A declaration to designate a guardian
27 executed before the effective date of this Act is governed by the

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1 law in effect on the date the declaration was executed, and the
2 former law is continued in effect for that purpose.

3 SECTION 4. This Act takes effect September 1, 2017.