

By: Zaffirini
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S.B. No. 1710

A BILL TO BE ENTITLED

AN ACT

relating to applications for the complete restoration of a ward's capacity or modification of a guardianship.

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

SECTION 1. Section 1202.051, Estates Code, is amended to read as follows:

Sec. 1202.051. APPLICATION AUTHORIZED.

(a) Notwithstanding Section 1055.003, a [A] ward or any person interested in the ward's welfare may file a written application with the court for an order:

(1) finding that the ward is no longer an incapacitated person and ordering the settlement and closing of the guardianship;

(2) finding that the ward lacks the capacity, or lacks sufficient capacity with supports and services, to do some or all of the tasks necessary to provide food, clothing, or shelter for himself or herself, to care for the ward's own physical health, or to manage the ward's own financial affairs and granting additional powers or duties to the guardian; or

(3) finding that the ward has the capacity, or sufficient capacity with supports and services, to do some, but not all, of the tasks necessary to provide food, clothing, or shelter for himself or herself, to care for the ward's own physical health, or to manage the ward's own financial affairs and:

(A) limiting the guardian's powers or duties; and

(B) permitting the ward to care for himself or herself, make personal decisions regarding residence, or manage the ward's own financial affairs commensurate with the ward's ability, with or without supports and services.

(b) If the guardian of a ward who is the subject of an application filed under Subsection (a) has resigned, was removed, or has died, the court may not require the appointment of a successor guardian before considering the application.

SECTION 2. Section 1202.054, Estates Code, is amended by adding Subsections (b-1) and (b-2) and amending Subsection (c) to read as follows:

(b-1) A written letter or certificate from a physician as described by Section 1202.152 is not required before the appointment of the court investigator or a guardian ad litem under Subsection (b).

(b-2) Not later than the 30th day after the date the court receives an informal letter from a ward under Subsection (a), the court shall send the ward a letter by certified mail:

(1) acknowledging receipt of the informal letter; and

(2) advising the ward of the date on which the court appointed the court investigator or guardian ad litem as required under Subsection (b) and the contact information for the court investigator or guardian ad litem.

(c) The court investigator or guardian ad litem shall file with the court and provide to the ward a report of the investigation's findings and conclusions. If the court

1 investigator or guardian ad litem determines that it is in the best
2 interest of the ward to terminate or modify the guardianship, the
3 court investigator or guardian ad litem shall file an application
4 under Section 1202.051 on the ward's behalf.

5 SECTION 3. (a) The changes in law made by this Act to
6 Section 1202.051, Estates Code, apply to an application for the
7 complete restoration of a ward's capacity or modification of a
8 guardianship filed before, on, or after the effective date of this
9 Act.

10 (b) The changes in law made by this Act to Section 1202.054,
11 Estates Code, apply only to a request by informal letter for a court
12 order that is delivered on or after the effective date of this Act.
13 A request by informal letter for a court order that is delivered
14 before the effective date of this Act is governed by the law in
15 effect on the date the informal letter was delivered, and the former
16 law is continued in effect for that purpose.

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