

By: Zaffirini

S.B. No. 1764

A BILL TO BE ENTITLED

AN ACT

1
2 relating to termination of a guardianship of the estate for a ward
3 who is the designated beneficiary of a Texas Achieving a Better Life
4 Experience (ABLE) Program account.

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

6 SECTION 1. Subchapter A, Chapter 1202, Estates Code, is
7 amended by adding Section 1202.003 to read as follows:

8 Sec. 1202.003. TERMINATION OF GUARDIANSHIP OF ESTATE ON
9 ESTABLISHMENT OF ABLE ACCOUNT BY CERTAIN PERSONS. On application
10 by the guardian of the estate of a ward or another person interested
11 in the ward's welfare, the court may order that the guardianship of
12 the estate of the ward terminate and be settled and closed if the
13 court finds that the ward no longer needs a guardian of the estate
14 because all of the ward's assets have been placed in an ABLE account
15 established in accordance with the Texas Achieving a Better Life
16 Experience (ABLE) Program under Subchapter J, Chapter 54, Education
17 Code, and the ward is the designated beneficiary of the account.

18 SECTION 2. Section 1161.003, Estates Code, is amended to
19 read as follows:

20 Sec. 1161.003. INVESTMENTS THAT MEET STANDARD FOR
21 INVESTMENT. A guardian of the estate is considered to have
22 exercised the standard required by Section 1161.002(a) with respect
23 to investing the ward's estate if the guardian invests in the
24 following:

- 1 (1) bonds or other obligations of the United States;
- 2 (2) tax-supported bonds of this state;
- 3 (3) except as limited by Sections 1161.004(b) and (c),
- 4 tax-supported bonds of a county, district, political subdivision,
- 5 or municipality in this state;
- 6 (4) if the payment of the shares or share accounts is
- 7 insured by the Federal Deposit Insurance Corporation, shares or
- 8 share accounts of:
- 9 (A) a state savings and loan association or
- 10 savings bank that has its main office or a branch office in this
- 11 state; or
- 12 (B) a federal savings and loan association or
- 13 savings bank that has its main office or a branch office in this
- 14 state;
- 15 (5) collateral bonds that:
- 16 (A) are issued by a company incorporated under
- 17 the laws of this state that has a paid-in capital of \$1 million or
- 18 more;
- 19 (B) are a direct obligation of the company; and
- 20 (C) are specifically secured by first mortgage
- 21 real estate notes or other securities pledged with a trustee; ~~or~~
- 22 (6) interest-bearing time deposits that may be
- 23 withdrawn on or before one year after demand in a bank that does
- 24 business in this state, if the payment of the time deposits is
- 25 insured by the Federal Deposit Insurance Corporation; or
- 26 (7) a Texas Achieving a Better Life Experience (ABLE)
- 27 Program account established under Subchapter J, Chapter 54,

1 Education Code.

2 SECTION 3. Section 142.004(a), Property Code, is amended to
3 read as follows:

4 (a) In a suit in which a minor or incapacitated person who
5 has no legal guardian is represented by a next friend or an
6 appointed guardian ad litem, any money recovered by the plaintiff,
7 if not otherwise managed under this chapter, may be invested:

8 (1) by the next friend or guardian ad litem in:

9 (A) a higher education savings plan established
10 under Subchapter G, Chapter 54, Education Code, a Texas Achieving a
11 Better Life Experience (ABLE) Program account established under
12 Subchapter J, Chapter 54, Education Code, or a prepaid tuition
13 program established under Subchapter H, Chapter 54, Education Code;
14 or

15 (B) interest-bearing time deposits in a
16 financial institution doing business in this state and insured by
17 the Federal Deposit Insurance Corporation; or

18 (2) by the clerk of the court, on written order of the
19 court of proper jurisdiction, in:

20 (A) a higher education savings plan established
21 under Subchapter G, Chapter 54, Education Code, or a prepaid
22 tuition program established under Subchapter H, Chapter 54,
23 Education Code;

24 (B) interest-bearing deposits in a financial
25 institution doing business in this state and insured by the Federal
26 Deposit Insurance Corporation;

27 (C) United States treasury bills;

1 (D) an eligible interlocal investment pool that
2 meets the requirements of Sections 2256.016, 2256.017, and
3 2256.019, Government Code; or

4 (E) a no-load money market mutual fund, if the
5 fund:

6 (i) is regulated by the Securities and
7 Exchange Commission;

8 (ii) has a dollar weighted average stated
9 maturity of 90 days or fewer; and

10 (iii) includes in its investment objectives
11 the maintenance of a stable net asset value of \$1 for each share.

12 SECTION 4. The changes in law made by this Act apply only to
13 an application for termination of a guardianship of the estate on or
14 after the effective date of this Act. An application for
15 termination of a guardianship of the estate filed before the
16 effective date of this Act is governed by the law in effect on the
17 date the application was filed, and the former law is continued in
18 effect for that purpose.

19 SECTION 5. This Act takes effect September 1, 2017.