

AN ACT

relating to probate and guardianship matters and certain procedures for persons who are incapacitated or have a mental illness.

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

SECTION 1. Section 30.014(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) In a civil action, including a probate or guardianship proceeding, filed in a district court, county court, ~~or~~ statutory county court, or statutory probate court, each party or the party's attorney shall include in its initial pleading:

(1) the last three numbers of the party's driver's license number, if the party has been issued a driver's license; and

(2) the last three numbers of the party's social security number, if the party has been issued a social security number.

SECTION 2. Section 33.101, Estates Code, is amended to read as follows:

Sec. 33.101. TRANSFER TO OTHER COUNTY IN WHICH VENUE IS PROPER. If probate proceedings involving the same estate are commenced in more than one county and the court making a determination of venue as provided by Section 33.053 determines that venue is proper in another county, the court clerk shall make and retain a copy of the entire file in the case and transmit the original file in electronic or paper form to the court in the county

1 in which venue is proper. The court to which the file is
2 transmitted shall conduct the proceeding in the same manner as if
3 the proceeding had originally been commenced in that county.

4 SECTION 3. Section 33.102(a), Estates Code, is amended to
5 read as follows:

6 (a) If it appears to the court at any time before the final
7 order in a probate proceeding is rendered that the court does not
8 have priority of venue over the proceeding, the court shall, on the
9 application of an interested person, transfer the proceeding to the
10 proper county by transmitting to the proper court in that county in
11 electronic or paper form:

- 12 (1) the original file in the case; and
13 (2) certified copies of all entries that have been
14 made in the judge's probate docket in the proceeding.

15 SECTION 4. Section 33.103, Estates Code, is amended by
16 adding Subsection (c) to read as follows:

17 (c) The transmittal under Subsection (b) of the original
18 file and the certified copy of the index may be in electronic or
19 paper form, except that an original will filed in the probate
20 proceeding, if any, must be delivered to the court to which the
21 proceeding is transferred.

22 SECTION 5. Section 51.003(b), Estates Code, is amended to
23 read as follows:

24 (b) A citation or notice issued by the county clerk must be
25 styled "The State of Texas" and be signed by the clerk under the
26 court's ~~clerk's~~ seal.

27 SECTION 6. Section 202.054, Estates Code, is amended to

1 read as follows:

2 Sec. 202.054. PERSONAL SERVICE OF CITATION MAY BE REQUIRED.

3 (a) The court may require that service of citation in a proceeding
4 to declare heirship be made by personal service on some or all of
5 those named as distributees in the application filed under Section
6 202.005.

7 (b) If a distributee to be cited under Subsection (a) is
8 absent from or is not a resident of this state, any disinterested
9 person competent to make an oath that the citation was served may
10 serve the citation.

11 SECTION 7. Section 351.351, Estates Code, is amended to
12 read as follows:

13 Sec. 351.351. APPLICABILITY. This subchapter does not
14 apply to:

15 (1) the appointment of an independent executor or
16 administrator under Section 401.002 or 401.003(a); or

17 (2) the appointment of a successor independent
18 administrator [~~executor~~] under Section 404.005.

19 SECTION 8. Section 404.0036(b), Estates Code, is amended to
20 read as follows:

21 (b) If an independent executor is removed by the court under
22 Section 404.003 or 404.0035, the court may, on application, appoint
23 a successor independent administrator [~~executor~~] as provided by
24 Section 404.005.

25 SECTION 9. The heading to Section 404.005, Estates Code, is
26 amended to read as follows:

27 Sec. 404.005. COURT-APPOINTED SUCCESSOR INDEPENDENT

1 ADMINISTRATOR [~~EXECUTOR~~].

2 SECTION 10. Sections 404.005(a), (b), (c), (h), and (i),
3 Estates Code, are amended to read as follows:

4 (a) If the will of a person who dies testate names an
5 independent executor who, having qualified, fails for any reason to
6 continue to serve, or is removed for cause by the court, and the
7 will does not name a successor independent executor or if each
8 successor executor named in the will fails for any reason to qualify
9 as executor or indicates by affidavit filed with the application
10 for an order continuing independent administration the successor
11 executor's inability or unwillingness to serve as successor
12 independent executor, all of the distributees of the decedent as of
13 the filing of the application for an order continuing independent
14 administration may apply to the probate court for the appointment
15 of a qualified person, firm, or corporation to serve as successor
16 independent administrator [~~executor~~]. If the probate court finds
17 that continued administration of the estate is necessary, the court
18 shall enter an order continuing independent administration and
19 appointing the person, firm, or corporation designated in the
20 application as successor independent administrator [~~executor~~],
21 unless the probate court finds that it would not be in the best
22 interest of the estate to do so. The successor independent
23 administrator [~~executor~~] shall serve with all of the powers and
24 privileges granted to the successor's predecessor independent
25 executor.

26 (b) Except as otherwise provided by this subsection, if a
27 distributee described in this section is an incapacitated person,

1 the guardian of the person of the distributee may sign the
2 application on behalf of the distributee. If the probate court
3 finds that either the continuing of independent administration or
4 the appointment of the person, firm, or corporation designated in
5 the application as successor independent administrator [~~executor~~]
6 would not be in the best interest of the incapacitated person, then,
7 notwithstanding Subsection (a), the court may not enter an order
8 continuing independent administration of the estate. If the
9 distributee is an incapacitated person and has no guardian of the
10 person, the court may appoint a guardian ad litem to make
11 application on behalf of the incapacitated person if the probate
12 court considers such an appointment necessary to protect the
13 interest of that distributee. If a distributee described in this
14 section is a minor and has no guardian of the person, a natural
15 guardian of the minor may sign the application for the order
16 continuing independent administration on the minor's behalf unless
17 a conflict of interest exists between the minor and the natural
18 guardian.

19 (c) Except as otherwise provided by this subsection, if a
20 trust is created in the decedent's will or if the decedent's will
21 devises property to a trustee as described by Section [254.001](#), the
22 person or class of persons entitled to receive property outright
23 from the trust on the decedent's death and those first eligible to
24 receive the income from the trust, determined as if the trust were
25 to be in existence on the date of the filing of the application for
26 an order continuing independent administration, shall, for the
27 purposes of this section, be considered to be the distributee or

1 distributees on behalf of the trust, and any other trust or trusts
2 coming into existence on the termination of the trust, and are
3 authorized to apply for an order continuing independent
4 administration on behalf of the trust without the consent or
5 agreement of the trustee or any other beneficiary of the trust, or
6 the trustee or any beneficiary of any other trust which may come
7 into existence on the termination of the trust. If a person
8 considered to be a distributee under this subsection is an
9 incapacitated person, the trustee or cotrustee may apply for the
10 order continuing independent administration or sign the
11 application on the incapacitated person's behalf if the trustee or
12 cotrustee is not the person proposed to serve as the independent
13 administrator [~~executor~~].

14 (h) If a successor independent administrator [~~executor~~] is
15 appointed under this section, then, unless the probate court shall
16 waive bond on application for waiver, the successor independent
17 administrator [~~executor~~] shall be required to enter into bond
18 payable to and to be approved by the judge and the judge's
19 successors in a sum that is found by the judge to be adequate under
20 all circumstances, or a bond with one surety in an amount that is
21 found by the judge to be adequate under all circumstances, if the
22 surety is an authorized corporate surety.

23 (i) Absent proof of fraud or collusion on the part of a
24 judge, the judge may not be held civilly liable for the commission
25 of misdeeds or the omission of any required act of any person, firm,
26 or corporation designated as a successor independent administrator
27 [~~executor~~] under this section. Section 351.354 does not apply to an

1 appointment of a successor independent administrator [~~executor~~]
2 under this section.

3 SECTION 11. Section 452.006, Estates Code, is amended by
4 adding Subsection (c) to read as follows:

5 (c) The appointee shall file with the court proof of service
6 of the notice required under Subsection (a) in the manner provided
7 by Section 51.103(b)(3).

8 SECTION 12. Section 503.002, Estates Code, is amended to
9 read as follows:

10 Sec. 503.002. RECORDING OF CERTAIN FOREIGN TESTAMENTARY
11 INSTRUMENTS IN LANGUAGE OTHER THAN ENGLISH [~~ORIGINAL SIGNATURES NOT~~
12 ~~REQUIRED~~]. (a) An authenticated copy of a will or other
13 testamentary instrument described by Section 503.001(a), along
14 with a copy of the judgment, order, or decree by which the
15 instrument was admitted to probate that has the attestation and
16 certificate required by Section 501.002(c), that is written in
17 whole or in part in a language other than English may be filed for
18 recording in the deed records in any county in this state in which
19 the land conveyed or disposed of in the instrument is located if:

20 (1) a correct English translation is recorded with the
21 authenticated copies of the will or other testamentary instrument
22 and judgment, order, or decree by which the instrument was admitted
23 to probate; and

24 (2) the accuracy of the translation is sworn to before
25 an officer authorized to administer oaths [~~Notwithstanding Section~~
26 ~~501.002(c), the original signatures required by that section may~~
27 ~~not be required for a recordation in the deed records in accordance~~

1 ~~with Section 503.001 or for a purpose described by Section 503.051~~
2 ~~or 503.052]~~.

3 (b) The recording of an authenticated copy of a will or
4 other testamentary instrument and a copy of the judgment, order, or
5 decree in the manner provided by Subsection (a) operates as
6 constructive notice from the date of filing to all persons of the:

7 (1) existence of the instrument; and

8 (2) title or titles conferred by the instrument.

9 SECTION 13. Chapter 1002, Estates Code, is amended by
10 adding Sections 1002.0215 and 1002.0265 to read as follows:

11 Sec. 1002.0215. OFFICE OF PUBLIC GUARDIAN. "Office of
12 public guardian" means an office of public guardian established by
13 the commissioners court of a county under Subchapter G-1, Chapter
14 1104.

15 Sec. 1002.0265. PUBLIC GUARDIAN. "Public guardian" means a
16 person:

17 (1) appointed to administer an office of public
18 guardian by the commissioners court of a county under Subchapter
19 G-1, Chapter 1104; or

20 (2) with which one or more counties enter into an
21 agreement under Section 1104.327(a)(2) or (d).

22 SECTION 14. Section 1021.001, Estates Code, is amended to
23 read as follows:

24 Sec. 1021.001. MATTERS RELATED TO GUARDIANSHIP PROCEEDING.

25 (a) For purposes of this code, in a county in which there is no
26 statutory probate court or county court of law exercising original
27 probate jurisdiction, a matter related to a guardianship proceeding

1 includes:

2 (1) the granting of letters of guardianship;

3 (2) the settling of an account of a guardian and all
4 other matters relating to the settlement, partition, or
5 distribution of a ward's estate;

6 (3) a claim brought by or against a guardianship
7 estate;

8 (4) an action for trial of title to real property that
9 is guardianship estate property, including the enforcement of a
10 lien against the property;

11 (5) an action for trial of the right of property that
12 is guardianship estate property;

13 (6) after a guardianship of the estate of a ward is
14 required to be settled as provided by Section [1204.001](#):

15 (A) an action brought by or on behalf of the
16 former ward against a former guardian of the ward for alleged
17 misconduct arising from the performance of the person's duties as
18 guardian;

19 (B) an action calling on the surety of a guardian
20 or former guardian to perform in place of the guardian or former
21 guardian, which may include the award of a judgment against the
22 guardian or former guardian in favor of the surety;

23 (C) an action against a former guardian of the
24 former ward that is brought by a surety that is called on to perform
25 in place of the former guardian;

26 (D) a claim for the payment of compensation,
27 expenses, and court costs, and any other matter authorized under

1 Chapter 1155; and

2 (E) a matter related to an authorization made or
3 duty performed by a guardian under Chapter 1204; and

4 (7) the appointment of a trustee for a trust created
5 under Section 1301.053 or 1301.054, the settling of an account of
6 the trustee, and all other matters relating to the trust.

7 (a-1) For purposes of this code, in a county in which there
8 is no statutory probate court, but in which there is a county court
9 at law exercising original probate jurisdiction, a matter related
10 to a guardianship proceeding includes:

11 (1) all matters and actions described in Subsection
12 (a);

13 (2) the interpretation and administration of a
14 testamentary trust in which a ward is an income or remainder
15 beneficiary; and

16 (3) the interpretation and administration of an inter
17 vivos trust in which a ward is an income or remainder beneficiary.

18 (b) For purposes of this code, in a county in which there is
19 a statutory probate court, a matter related to a guardianship
20 proceeding includes:

21 (1) all matters and actions described in Subsections
22 [Subsection] (a) and (a-1);

23 (2) a suit, action, or application filed against or on
24 behalf of a guardianship or a trustee of a trust created under
25 Section 1301.053 or 1301.054; and

26 (3) a cause of action in which a guardian in a
27 guardianship pending in the statutory probate court is a party.

1 SECTION 15. Section 1023.006, Estates Code, is amended to
2 read as follows:

3 Sec. 1023.006. TRANSFER OF RECORD. When an order of
4 transfer is made under Section 1023.005, the clerk shall record any
5 unrecorded papers of the guardianship required to be recorded. On
6 payment of the clerk's fee, the clerk shall transmit in electronic
7 or paper form to the county clerk of the county to which the
8 guardianship was ordered transferred:

- 9 (1) the case file of the guardianship proceedings; and
10 (2) a certified copy of the index of the guardianship
11 records.

12 SECTION 16. Section 1023.007, Estates Code, is amended to
13 read as follows:

14 Sec. 1023.007. TRANSFER EFFECTIVE. The order transferring
15 a guardianship does not take effect until:

16 (1) the case file and a certified copy of the index
17 required by Section 1023.006 are filed in electronic or paper form
18 in the office of the county clerk of the county to which the
19 guardianship was ordered transferred; and

20 (2) a certificate under the clerk's official seal and
21 reporting the filing of the case file and a certified copy of the
22 index is filed in electronic or paper form in the court ordering the
23 transfer by the county clerk of the county to which the guardianship
24 was ordered transferred.

25 SECTION 17. Section 1051.003(b), Estates Code, is amended
26 to read as follows:

27 (b) A citation or notice issued by the county clerk must be

1 styled "The State of Texas" and be signed by the clerk under the
2 court's ~~[clerk's]~~ seal.

3 SECTION 18. The heading to Chapter 1054, Estates Code, is
4 amended to read as follows:

5 CHAPTER 1054. COURT OFFICERS, ~~[AND]~~ COURT-APPOINTED PERSONS, AND
6 ATTORNEYS

7 SECTION 19. The heading to Subchapter E, Chapter 1054,
8 Estates Code, is amended to read as follows:

9 SUBCHAPTER E. QUALIFICATIONS TO SERVE AS ~~[COURT-APPOINTED]~~
10 ATTORNEY

11 SECTION 20. Section 1054.201, Estates Code, is amended by
12 amending Subsection (a) and adding Subsection (c) to read as
13 follows:

14 (a) Except as provided by Subsection (c), an [An] attorney
15 representing any person's interests ~~[for an applicant for~~
16 ~~guardianship and a court-appointed attorney]~~ in a guardianship
17 proceeding, including an attorney ad litem, must be certified by
18 the State Bar of Texas, or a person or other entity designated by
19 the state bar, as having successfully completed a course of study in
20 guardianship law and procedure sponsored by the state bar or the
21 state bar's designee.

22 (c) An attorney may commence representation of a person's
23 interests and file an appearance in a guardianship proceeding
24 before completing the course required for certification under
25 Subsection (a), but must complete the course not later than the 14th
26 day after the date of filing the appearance and before filing any
27 substantive motion in the guardianship proceeding.

1 SECTION 21. Section [1101.001\(b\)](#), Estates Code, is amended
2 to read as follows:

3 (b) The application must be sworn to by the applicant and
4 state:

5 (1) the proposed ward's name, sex, date of birth, and
6 address;

7 (2) the name, former name, if any, relationship, and
8 address of the person the applicant seeks to have appointed as
9 guardian;

10 (3) whether guardianship of the person or estate, or
11 both, is sought;

12 (3-a) whether alternatives to guardianship and
13 available supports and services to avoid guardianship were
14 considered;

15 (3-b) whether any alternatives to guardianship and
16 supports and services available to the proposed ward considered are
17 feasible and would avoid the need for a guardianship;

18 (4) the nature and degree of the alleged incapacity,
19 the specific areas of protection and assistance requested, and the
20 limitation or termination of rights requested to be included in the
21 court's order of appointment, including a termination of:

22 (A) the right of a proposed ward who is 18 years
23 of age or older to vote in a public election;

24 (B) the proposed ward's eligibility to hold or
25 obtain a license to operate a motor vehicle under Chapter [521](#),
26 Transportation Code; and

27 (C) the right of a proposed ward to make personal

1 decisions regarding residence;

2 (5) the facts requiring the appointment of a guardian;

3 (6) the interest of the applicant in the appointment
4 of a guardian;

5 (7) the nature and description of any kind of
6 guardianship existing for the proposed ward in any other state;

7 (8) the name and address of any person or institution
8 having the care and custody of the proposed ward;

9 (9) the approximate value and a detailed description
10 of the proposed ward's property, including:

11 (A) liquid assets, including any compensation,
12 pension, insurance, or allowance to which the proposed ward may be
13 entitled; and

14 (B) non-liquid assets, including real property;

15 (10) the name and address of any person whom the
16 applicant knows to hold a power of attorney signed by the proposed
17 ward and a description of the type of power of attorney;

18 (11) for a proposed ward who is a minor, the following
19 information if known by the applicant:

20 (A) the name of each of the proposed ward's
21 parents and either the parent's address or that the parent is
22 deceased;

23 (B) the name and age of each of the proposed
24 ward's siblings, if any, and either the sibling's address or that
25 the sibling is deceased; and

26 (C) if each of the proposed ward's parents and
27 adult siblings are deceased, the names and addresses of the

1 proposed ward's other living relatives who are related to the
2 proposed ward within the third degree by consanguinity and who are
3 adults;

4 (12) for a proposed ward who is a minor, whether the
5 minor was the subject of a legal or conservatorship proceeding in
6 the preceding two years and, if so:

7 (A) the court involved;

8 (B) the nature of the proceeding; and

9 (C) any final disposition of the proceeding;

10 (13) for a proposed ward who is an adult, the following
11 information if known by the applicant:

12 (A) the name of the proposed ward's spouse, if
13 any, and either the spouse's address or that the spouse is deceased;

14 (B) the name of each of the proposed ward's
15 parents and either the parent's address or that the parent is
16 deceased;

17 (C) the name and age of each of the proposed
18 ward's siblings, if any, and either the sibling's address or that
19 the sibling is deceased;

20 (D) the name and age of each of the proposed
21 ward's children, if any, and either the child's address or that the
22 child is deceased; and

23 (E) if there is no living spouse, parent, adult
24 sibling, or adult child of the proposed ward, the names and
25 addresses of the proposed ward's other living relatives who are
26 related to the proposed ward within the third degree by
27 consanguinity and who are adults;

1 (14) facts showing that the court has venue of the
2 proceeding; and

3 (15) if applicable, that the person whom the applicant
4 seeks to have appointed as a guardian is a private professional
5 guardian who is certified under Subchapter C, Chapter 155,
6 Government Code, and has complied with the requirements of
7 Subchapter G, Chapter 1104.

8 SECTION 22. Section 1101.153(a), Estates Code, is amended
9 to read as follows:

10 (a) A court order appointing a guardian must:

11 (1) specify:

12 (A) [~~(1)~~] the name of the person appointed;

13 (B) [~~(2)~~] the name of the ward;

14 (C) [~~(3)~~] whether the guardian is of the person
15 or estate of the ward, or both;

16 (D) [~~(4)~~] the amount of any bond required;

17 (E) [~~(5)~~] if it is a guardianship of the estate
18 of the ward and the court considers an appraisal to be necessary,
19 one, two, or three disinterested persons to appraise the estate and
20 to return the appraisement to the court; and

21 (F) [~~(6)~~] that the clerk will issue letters of
22 guardianship to the person appointed when the person has qualified
23 according to law; and

24 (2) if the court waives the guardian's training
25 requirement, contain a finding that the waiver is in accordance
26 with rules adopted by the supreme court under Section 155.203,
27 Government Code.

1 SECTION 23. Section 1104.251(a), Estates Code, is amended
2 to read as follows:

3 (a) An individual must be certified under Subchapter C,
4 Chapter 155, Government Code, if the individual:

5 (1) is a private professional guardian;

6 (2) will represent the interests of a ward as a
7 guardian on behalf of a private professional guardian;

8 (3) is providing guardianship services to a ward of a
9 guardianship program on the program's behalf, except as provided by
10 Section 1104.254; ~~or~~

11 (4) is an employee of the Health and Human Services
12 Commission [~~Department of Aging and Disability Services~~] providing
13 guardianship services to a ward of the commission;

14 (5) is a public guardian; or

15 (6) will represent the interests of a ward as a
16 guardian on behalf of a public guardian [~~department~~].

17 SECTION 24. Chapter 1104, Estates Code, is amended by
18 adding Subchapter G-1 to read as follows:

19 SUBCHAPTER G-1. PUBLIC GUARDIANS

20 Sec. 1104.326. DEFINITION. In this subchapter, unless the
21 context otherwise requires, "office" means an office of public
22 guardian established under this subchapter.

23 Sec. 1104.327. ESTABLISHMENT OF OFFICES; PUBLIC GUARDIANS.

24 (a) The commissioners court of a county by order may:

25 (1) create an office of public guardian to provide
26 guardianship services described by Section 1104.334 to
27 incapacitated persons; or

1 (2) enter into an agreement with a person operating a
2 nonprofit guardianship program or private professional
3 guardianship program located in the county or in an adjacent county
4 to act as a public guardian by providing guardianship services
5 described by Section 1104.334 to incapacitated persons.

6 (b) Subject to Subsection (c) and Section 1104.328, the
7 commissioners court of a county shall appoint an individual as
8 public guardian to administer the office of public guardian
9 established under Subsection (a)(1) and may employ or authorize the
10 public guardian to employ personnel necessary to perform the duties
11 of the office, including personnel who will represent the interests
12 of a ward as a guardian on behalf of the office if approved by the
13 commissioners court.

14 (c) The commissioners court of a county may enter into an
15 agreement with an individual to act as public guardian under
16 Subsection (b) on a part-time basis with appropriate compensation
17 if:

18 (1) the commissioners court determines a full-time
19 appointment does not serve the needs of the county; and

20 (2) the individual who is appointed on a part-time
21 basis is not employed in or does not hold another position that
22 presents a conflict of interest.

23 (d) The commissioners courts of two or more counties may
24 collectively enter into an agreement:

25 (1) to create and fund an office of public guardian for
26 purposes of Subsection (a)(1) and to appoint the same individual as
27 public guardian to that office under Subsection (b); or

1 (2) with a person operating a guardianship program
2 described by Subsection (a)(2) to serve as a public guardian for
3 purposes of that subdivision.

4 (e) An individual appointed as public guardian under
5 Subsection (b) serves a term of five years.

6 Sec. 1104.328. QUALIFICATIONS OF PUBLIC GUARDIAN. To be
7 appointed as public guardian under Section 1104.327(b), an
8 individual must:

9 (1) be a licensed attorney or be certified under
10 Subchapter C, Chapter 155, Government Code; and

11 (2) have demonstrable guardianship experience.

12 Sec. 1104.329. CONFLICT OF INTEREST. (a) Except as
13 provided by Subsection (b), an office or public guardian must be
14 independent from providers of services to wards and proposed wards
15 and may not directly provide housing, medical, legal, or other
16 direct, non-surrogate decision-making services to a ward or
17 proposed ward, unless approved by the court.

18 (b) An office or public guardian may provide money
19 management services described by Section 531.125, Government Code,
20 or other representative payee services to a ward or proposed ward.

21 Sec. 1104.330. COMPENSATION. A person appointed or acting
22 as public guardian under Section 1104.327 shall receive
23 compensation as set by the commissioners court and is not entitled
24 to compensation under Subchapter A, Chapter 1155, unless approved
25 by the court or the person is appointed as guardian of a ward in
26 accordance with Section 1104.334(a)(2)(B).

27 Sec. 1104.331. BOND REQUIREMENT. (a) A public guardian

1 shall file with the court clerk a general bond in an amount fixed by
2 the commissioners court payable to the county and issued by a surety
3 company approved by the county judge. The bond must be conditioned
4 on the faithful performance by the person of the person's duties
5 and, if the public guardian administers an office, the office's
6 duties.

7 (b) The bond required by this section satisfies any bond
8 required under Chapter 1105.

9 Sec. 1104.332. VACANCY. If an individual appointed as
10 public guardian under Section 1104.327(b) vacates the position, the
11 commissioners court shall appoint, subject to Section 1104.328, an
12 individual to serve as public guardian for the unexpired term.

13 Sec. 1104.333. POWERS AND DUTIES. (a) An office or public
14 guardian shall:

15 (1) if applicable, evaluate the financial status of a
16 proposed ward to determine whether the proposed ward is eligible to
17 have the office or public guardian appointed guardian of the ward
18 under Section 1104.334(a)(2)(A); and

19 (2) serve as guardian of the person or of the estate of
20 a ward, or both, on appointment by a court in accordance with the
21 requirements of this title.

22 (b) In connection with a financial evaluation under
23 Subsection (a)(1) and on the request of an office or public
24 guardian, a court with jurisdiction over the guardianship
25 proceeding may order the release of public and private records,
26 including otherwise confidential records, to the office or public
27 guardian.

1 (c) Notwithstanding Section 552.261, Government Code, a
2 state agency may not charge an office or public guardian for
3 providing the office or public guardian with a copy of public
4 information requested from the agency by the office or public
5 guardian.

6 Sec. 1104.334. APPOINTMENT OF OFFICE OR PUBLIC GUARDIAN AS
7 GUARDIAN. (a) In accordance with applicable law, including
8 Subchapter C, Chapter 1101, a court may appoint an office or public
9 guardian to serve as guardian of the person or of the estate of a
10 ward, or both, if:

11 (1) on the date the guardianship application is filed,
12 the ward resides in or is located in the county served by the office
13 or public guardian; and

14 (2) the court finds that the ward:

15 (A) does not have sufficient assets or other
16 resources to pay a private professional guardian to serve as the
17 ward's guardian and the appointment is in the ward's best interest;
18 or

19 (B) has sufficient assets or other resources to
20 pay a private professional guardian to serve as the ward's
21 guardian, the appointment is in the ward's best interest, and:

22 (i) the ward's family members who are
23 eligible for appointment as the ward's guardian agree to the
24 appointment of an office or public guardian to serve as the ward's
25 guardian or are unable to agree on the person or persons that should
26 be appointed as the ward's guardian; or

27 (ii) the ward does not have a family member,

1 friend, or other suitable person willing and able to serve as the
2 ward's guardian.

3 (b) For purposes of Subsection (a)(2), the determination of
4 a ward's ability to pay a private professional guardian is
5 dependent on:

6 (1) the nature, extent, and liquidity of the ward's
7 assets;

8 (2) the ward's disposable net income, including income
9 of a recipient of medical assistance that is used to pay expenses
10 under Section 1155.202(a);

11 (3) the nature of the guardianship;

12 (4) the type, duration, and complexity of services
13 required by the ward; and

14 (5) additional, foreseeable expenses.

15 (c) The number of appointments of an office under this
16 section may not exceed 35 wards for each guardian representing the
17 interests of wards on behalf of the office.

18 (d) If each guardian representing the interests of wards on
19 behalf of an office reaches the limitation provided by Subsection
20 (c), the office shall immediately give notice to the courts.

21 Sec. 1104.335. CONFIDENTIALITY AND DISCLOSURE OF
22 INFORMATION. (a) All files, reports, records, communications, or
23 working papers used or developed by an office or public guardian in
24 the performance of duties relating to a financial evaluation under
25 Section 1104.333(a)(1) or the provision of guardianship services
26 are confidential and not subject to disclosure under Chapter 552,
27 Government Code.

1 (b) Confidential information may be disclosed only for a
2 purpose consistent with this subchapter, as required by other state
3 or federal law, or as necessary to enable an office or public
4 guardian to exercise the powers and duties as guardian of the person
5 or of the estate of a ward, or both.

6 (c) A court on its own motion or on the motion of an
7 interested person may order disclosure of confidential information
8 only if:

9 (1) a hearing on the motion is conducted;

10 (2) notice of the hearing is served on the office or
11 public guardian and each interested person; and

12 (3) the court determines after the hearing and an in
13 camera review of the information that disclosure is essential to
14 the administration of justice and will not endanger the life or
15 safety of any individual who:

16 (A) is being assessed for guardianship services;

17 (B) is a ward of the office or public guardian; or

18 (C) provides services to a ward of the office or
19 public guardian.

20 (d) The Office of Court Administration of the Texas Judicial
21 System shall establish policies and procedures for the exchange of
22 information between offices, public guardians, and other
23 appropriate governmental entities, as necessary for offices,
24 public guardians, and governmental entities to properly execute
25 their respective duties and responsibilities relating to
26 guardianship services or other needed services for a ward. An
27 exchange of information under this subsection does not constitute a

1 release for purposes of waiving the confidentiality of the
2 information exchanged.

3 (e) To the extent consistent with policies and procedures
4 adopted by an office or public guardian, the office or public
5 guardian on request may release confidential information in the
6 record of an individual who is a former ward of the office or public
7 guardian to:

- 8 (1) the individual;
9 (2) the individual's guardian; or
10 (3) an executor or administrator of the individual's
11 estate.

12 (f) Before releasing confidential information under
13 Subsection (e), an office or public guardian shall edit the
14 information to protect the identity of any individual whose life or
15 safety may be endangered by the release. A release of information
16 under Subsection (e) does not constitute a release for purposes of
17 waiving the confidentiality of the information released.

18 Sec. 1104.336. CERTAIN ADMINISTRATIVE COSTS. (a) If an
19 office or public guardian is appointed guardian of the person or of
20 the estate of a ward, or both, the administrative costs of the
21 guardianship services provided to the ward may not be charged to the
22 ward's estate unless the court determines, subject to Subsection
23 (b), that the ward is financially able to pay all or part of the
24 costs.

25 (b) A court shall measure a ward's ability to pay for costs
26 under Subsection (a) by whether the ward has sufficient assets or
27 other resources to pay a private professional guardian to serve as

1 the ward's guardian in accordance with Section 1104.334(b).

2 Sec. 1104.337. OFFICE OF COURT ADMINISTRATION OF THE TEXAS
3 JUDICIAL SYSTEM; REPORT. (a) Not later than December 1 of each
4 even-numbered year, the Office of Court Administration of the Texas
5 Judicial System shall submit a report to the governor and the
6 legislature that contains an evaluation of public guardians
7 established under this subchapter, including the establishment and
8 operation of offices of public guardians under this subchapter and
9 the provision of guardianship services by the offices. The report
10 must include:

11 (1) an analysis of costs and offsetting savings or
12 other benefits to the state as a result of the establishment and
13 operation of offices and public guardians under this subchapter;
14 and

15 (2) recommendations for legislation, if any.

16 (b) If it is cost-effective and feasible, the Office of
17 Court Administration of the Texas Judicial System may contract with
18 an appropriate research or public policy entity with expertise in
19 gerontology, disabilities, and public administration to conduct
20 the analysis described by Subsection (a)(1).

21 Sec. 1104.338. RULES. The supreme court, in consultation
22 with the Office of Court Administration of the Texas Judicial
23 System and the presiding judge of the statutory probate courts
24 elected under Section 25.0022, Government Code, shall adopt rules
25 necessary to implement this subchapter.

26 SECTION 25. Section 1104.402, Estates Code, is amended to
27 read as follows:

1 Sec. 1104.402. COURT CLERK'S DUTY TO OBTAIN CRIMINAL
2 HISTORY RECORD INFORMATION[~~7~~ ~~AUTHORITY TO CHARGE FEE~~].

3 [~~(a)~~] Except as provided by Section [~~1104.403~~~~7~~] 1104.404[~~7~~] or
4 1104.406(a), the clerk of the county having venue of the proceeding
5 for the appointment of a guardian shall obtain criminal history
6 record information that is maintained by the Department of Public
7 Safety or the Federal Bureau of Investigation identification
8 division relating to:

9 (1) a private professional guardian;

10 (2) each person who represents or plans to represent
11 the interests of a ward as a guardian on behalf of the private
12 professional guardian;

13 (3) each person employed by a private professional
14 guardian who will:

15 (A) have personal contact with a ward or proposed
16 ward;

17 (B) exercise control over and manage a ward's
18 estate; or

19 (C) perform any duties with respect to the
20 management of a ward's estate;

21 (4) each person employed by or volunteering or
22 contracting with a guardianship program to provide guardianship
23 services to a ward of the program on the program's behalf; or

24 (5) any other person proposed to serve as a guardian
25 under this title, including a proposed temporary guardian and a
26 proposed successor guardian, other than an attorney.

27 ~~[(b) The clerk may charge a \$10 fee to recover the costs of~~

1 ~~obtaining criminal history record information under Subsection~~
2 ~~(a).]~~

3 SECTION 26. Section 1104.402(a), Estates Code, is amended
4 to read as follows:

5 (a) Except as provided by Section 1104.403, 1104.404, or
6 1104.406(a), the clerk of the county having venue of the proceeding
7 for the appointment of a guardian shall obtain criminal history
8 record information that is maintained by the Department of Public
9 Safety or the Federal Bureau of Investigation identification
10 division relating to:

11 (1) a private professional guardian;

12 (2) each person who represents or plans to represent
13 the interests of a ward as a guardian on behalf of the private
14 professional guardian;

15 (3) each person employed by a private professional
16 guardian who will:

17 (A) have personal contact with a ward or proposed
18 ward;

19 (B) exercise control over and manage a ward's
20 estate; or

21 (C) perform any duties with respect to the
22 management of a ward's estate;

23 (4) each person employed by or volunteering or
24 contracting with a guardianship program to provide guardianship
25 services to a ward of the program on the program's behalf; ~~or~~

26 (5) a public guardian appointed under Section
27 1104.327(b);

1 (6) each person who represents or plans to represent
2 the interests of a ward as a guardian on behalf of an office of
3 public guardian;

4 (7) each person employed by an office of public
5 guardian who will:

6 (A) have personal contact with a ward or proposed
7 ward;

8 (B) exercise control over and manage a ward's
9 estate; or

10 (C) perform any duties with respect to the
11 management of a ward's estate; or

12 (8) any other person proposed to serve as a guardian
13 under this title, including a proposed temporary guardian and a
14 proposed successor guardian, other than an attorney.

15 SECTION 27. Section 1104.405(a), Estates Code, is amended
16 to read as follows:

17 (a) Criminal history record information obtained or
18 provided under Section 1104.402 [~~1104.403~~] or 1104.404 is
19 privileged and confidential and is for the exclusive use of the
20 court. The criminal history record information may not be released
21 or otherwise disclosed to any person or agency except on court order
22 or consent of the person being investigated.

23 SECTION 28. Section 1104.409, Estates Code, is amended to
24 read as follows:

25 Sec. 1104.409. USE OF INFORMATION BY COURT. The court shall
26 use the information obtained under this subchapter only in
27 determining whether to:

1 (1) appoint, remove, or continue the appointment of a
2 private professional guardian, a guardianship program, an office of
3 public guardian, or the Health and Human Services Commission
4 ~~[department]~~; or

5 (2) appoint any other person proposed to serve as a
6 guardian under this title, including a proposed temporary guardian
7 and a proposed successor guardian, other than an attorney.

8 SECTION 29. Subchapter A, Chapter 1151, Estates Code, is
9 amended by adding Section 1151.005 to read as follows:

10 Sec. 1151.005. LEGAL PROCEEDINGS IN WHICH WARD IS PARTY OR
11 WITNESS. The guardian of the person or of the estate of a ward may
12 not be excluded from attending a legal proceeding in which the ward
13 is:

14 (1) a party; or

15 (2) participating as a witness.

16 SECTION 30. Section 1151.351(b), Estates Code, is amended
17 to read as follows:

18 (b) Unless limited by a court or otherwise restricted by
19 law, a ward is authorized to the following:

20 (1) to have a copy of the guardianship order and
21 letters of guardianship and contact information for the probate
22 court that issued the order and letters;

23 (2) to have a guardianship that encourages the
24 development or maintenance of maximum self-reliance and
25 independence in the ward with the eventual goal, if possible, of
26 self-sufficiency;

27 (3) to be treated with respect, consideration, and

1 recognition of the ward's dignity and individuality;

2 (4) to reside and receive support services in the most
3 integrated setting, including home-based or other community-based
4 settings, as required by Title II of the Americans with
5 Disabilities Act (42 U.S.C. Section 12131 et seq.);

6 (5) to consideration of the ward's current and
7 previously stated personal preferences, desires, medical and
8 psychiatric treatment preferences, religious beliefs, living
9 arrangements, and other preferences and opinions;

10 (6) to financial self-determination for all public
11 benefits after essential living expenses and health needs are met
12 and to have access to a monthly personal allowance;

13 (7) to receive timely and appropriate health care and
14 medical treatment that does not violate the ward's rights granted
15 by the constitution and laws of this state and the United States;

16 (8) to exercise full control of all aspects of life not
17 specifically granted by the court to the guardian;

18 (9) to control the ward's personal environment based
19 on the ward's preferences;

20 (10) to complain or raise concerns regarding the
21 guardian or guardianship to the court, including living
22 arrangements, retaliation by the guardian, conflicts of interest
23 between the guardian and service providers, or a violation of any
24 rights under this section;

25 (11) to receive notice in the ward's native language,
26 or preferred mode of communication, and in a manner accessible to
27 the ward, of a court proceeding to continue, modify, or terminate

1 the guardianship and the opportunity to appear before the court to
2 express the ward's preferences and concerns regarding whether the
3 guardianship should be continued, modified, or terminated;

4 (12) to have a court investigator or~~[~~ guardian ad
5 litem~~]~~~~[, or attorney ad litem]~~ appointed by the court to investigate
6 a complaint received by the court from the ward or any person about
7 the guardianship;

8 (13) to participate in social, religious, and
9 recreational activities, training, employment, education,
10 habilitation, and rehabilitation of the ward's choice in the most
11 integrated setting;

12 (14) to self-determination in the substantial
13 maintenance, disposition, and management of real and personal
14 property after essential living expenses and health needs are met,
15 including the right to receive notice and object about the
16 substantial maintenance, disposition, or management of clothing,
17 furniture, vehicles, and other personal effects;

18 (15) to personal privacy and confidentiality in
19 personal matters, subject to state and federal law;

20 (16) to unimpeded, private, and uncensored
21 communication and visitation with persons of the ward's choice,
22 except that if the guardian determines that certain communication
23 or visitation causes substantial harm to the ward:

24 (A) the guardian may limit, supervise, or
25 restrict communication or visitation, but only to the extent
26 necessary to protect the ward from substantial harm; and

27 (B) the ward may request a hearing to remove any

1 restrictions on communication or visitation imposed by the guardian
2 under Paragraph (A);

3 (17) to petition the court and retain counsel of the
4 ward's choice who holds a certificate required by Subchapter E,
5 Chapter 1054, to represent the ward's interest for capacity
6 restoration, modification of the guardianship, the appointment of a
7 different guardian, or for other appropriate relief under this
8 subchapter, including a transition to a supported decision-making
9 agreement, except as limited by Section 1054.006;

10 (18) to vote in a public election, marry, and retain a
11 license to operate a motor vehicle, unless restricted by the court;

12 (19) to personal visits from the guardian or the
13 guardian's designee at least once every three months, but more
14 often, if necessary, unless the court orders otherwise;

15 (20) to be informed of the name, address, phone
16 number, and purpose of Disability Rights Texas, an organization
17 whose mission is to protect the rights of, and advocate for, persons
18 with disabilities, and to communicate and meet with representatives
19 of that organization;

20 (21) to be informed of the name, address, phone
21 number, and purpose of an independent living center, an area agency
22 on aging, an aging and disability resource center, and the local
23 mental health and intellectual and developmental disability
24 center, and to communicate and meet with representatives from these
25 agencies and organizations;

26 (22) to be informed of the name, address, phone
27 number, and purpose of the Judicial Branch Certification Commission

1 and the procedure for filing a complaint against a certified
2 guardian;

3 (23) to contact the Department of Family and
4 Protective Services to report abuse, neglect, exploitation, or
5 violation of personal rights without fear of punishment,
6 interference, coercion, or retaliation; and

7 (24) to have the guardian, on appointment and on
8 annual renewal of the guardianship, explain the rights delineated
9 in this subsection in the ward's native language, or preferred mode
10 of communication, and in a manner accessible to the ward.

11 SECTION 31. Sections 1153.001(a) and (c), Estates Code, are
12 amended to read as follows:

13 (a) Within one month after receiving letters of
14 guardianship, a guardian of an estate shall provide notice
15 requiring each person who has a claim against the estate to present
16 the claim within the period prescribed by law. The notice must be:

17 (1) published in a newspaper of general circulation
18 [~~printed~~] in the county in which the letters were issued; and

19 (2) sent to the comptroller by certified or registered
20 mail, if the ward remitted or should have remitted taxes
21 administered by the comptroller.

22 (c) If there is no [~~a~~] newspaper of general circulation [~~is~~
23 ~~not printed~~] in the county in which the letters of guardianship were
24 issued, the notice must be posted and the return made and filed as
25 otherwise required by this title.

26 SECTION 32. Section 1155.054(d), Estates Code, is amended
27 to read as follows:

1 (d) If the court finds that a party in a guardianship
2 proceeding acted in bad faith or without just cause in prosecuting
3 or objecting to an application in the proceeding, the court may
4 order [~~require~~] the party to reimburse the ward's estate for all or
5 part of the attorney's fees awarded under this section and shall
6 issue judgment against the party and in favor of the estate for the
7 amount of attorney's fees ordered [~~required~~] to be reimbursed to
8 the estate.

9 SECTION 33. Section [1155.151](#)(a), Estates Code, is amended
10 to read as follows:

11 (a) In a guardianship proceeding, the court costs of the
12 proceeding, including the costs described by Subsection (a-1),
13 shall, except as provided by Subsection (c), be paid as follows, and
14 the court shall issue the judgment accordingly:

15 (1) out of the guardianship estate, if a guardianship
16 of the estate has been created for the benefit of the ward and the
17 court determines it is in the ward's best interest;

18 (2) out of the management trust, if a management trust
19 has been created for the benefit of the ward under Chapter [1301](#) and
20 the court determines it is in the ward's best interest;

21 (3) by the party to the proceeding who incurred the
22 costs, unless that party filed, on the party's own behalf, an
23 affidavit of inability to pay the costs under Rule 145, Texas Rules
24 of Civil Procedure, that shows the party is unable to afford the
25 costs, if:

26 (A) there is no guardianship estate or no
27 management trust has been created for the ward's benefit; or

1 (B) the assets of the guardianship estate or
2 management trust, as appropriate, are insufficient to pay the
3 costs; or

4 (4) out of the county treasury if:

5 (A)(i) there is no guardianship estate or
6 management trust;

7 (ii) [~~or~~] the assets of the guardianship
8 estate or management trust, as appropriate, are insufficient to pay
9 the costs; or

10 (iii) a guardianship of the estate has been
11 created for the benefit of the ward and the court determines it is
12 not in the ward's best interest to pay the costs; and

13 (B) the party to the proceeding who incurred the
14 costs filed, on the party's own behalf, an affidavit of inability to
15 pay the costs under Rule 145, Texas Rules of Civil Procedure, that
16 shows the party is unable to afford the costs.

17 SECTION 34. Section 1155.151(a-2), Estates Code, is amended
18 to read as follows:

19 (a-2) Notwithstanding any other law requiring the payment
20 of court costs in a guardianship proceeding, the following are not
21 required to pay court costs on the filing of or during a
22 guardianship proceeding:

23 (1) an attorney ad litem;

24 (2) a guardian ad litem;

25 (3) a person or entity who files an affidavit of
26 inability to pay the costs under Rule 145, Texas Rules of Civil
27 Procedure, that shows the person or entity is unable to afford the

1 costs;

2 (4) a nonprofit guardianship program;

3 (5) a governmental entity, including an office of
4 public guardian; and

5 (6) a government agency or nonprofit agency providing
6 guardianship services.

7 SECTION 35. Section 1163.005(a), Estates Code, is amended
8 to read as follows:

9 (a) The guardian of the estate shall attach to an account
10 the guardian's affidavit stating:

11 (1) that the account contains a correct and complete
12 statement of the matters to which the account relates;

13 (2) that the guardian has paid the bond premium for the
14 next accounting period;

15 (3) that the guardian has filed all tax returns of the
16 ward due during the accounting period;

17 (4) that the guardian has paid all taxes the ward owed
18 during the accounting period, the amount of the taxes, the date the
19 guardian paid the taxes, and the name of the governmental entity to
20 which the guardian paid the taxes; and

21 (5) if the guardian is a private professional
22 guardian, a guardianship program, an office of public guardian, or
23 the Health and Human Services Commission [~~Department of Aging and~~
24 ~~Disability Services~~], whether the guardian or an individual
25 certified under Subchapter C, Chapter 155 [~~111~~], Government Code,
26 who is providing guardianship services to the ward and who is
27 swearing to the account on the guardian's behalf, is or has been the

1 subject of an investigation conducted by the Judicial Branch
2 [~~Guardianship~~] Certification Commission [~~Board~~] during the
3 accounting period.

4 SECTION 36. Section 1163.101(c), Estates Code, is amended
5 to read as follows:

6 (c) The guardian of the person shall file a sworn affidavit
7 that contains:

8 (1) the guardian's current name, address, and
9 telephone number;

10 (2) the ward's date of birth and current name, address,
11 telephone number, and age;

12 (3) a description of the type of home in which the ward
13 resides, which shall be described as:

14 (A) the ward's own home;

15 (B) a nursing home;

16 (C) a guardian's home;

17 (D) a foster home;

18 (E) a boarding home;

19 (F) a relative's home, in which case the
20 description must specify the relative's relationship to the ward;

21 (G) a hospital or medical facility; or

22 (H) another type of residence;

23 (4) statements indicating:

24 (A) the length of time the ward has resided in the
25 present home;

26 (B) the reason for a change in the ward's
27 residence, if a change in the ward's residence has occurred in the

1 past year;

2 (C) the date the guardian most recently saw the
3 ward;

4 (D) how frequently the guardian has seen the ward
5 in the past year;

6 (E) whether the guardian has possession or
7 control of the ward's estate;

8 (F) whether the ward's mental health has
9 improved, deteriorated, or remained unchanged during the past year,
10 including a description of the change if a change has occurred;

11 (G) whether the ward's physical health has
12 improved, deteriorated, or remained unchanged during the past year,
13 including a description of the change if a change has occurred;

14 (H) whether the ward has regular medical care;
15 and

16 (I) the ward's treatment or evaluation by any of
17 the following persons during the past year, including the person's
18 name and a description of the treatment:

19 (i) a physician;

20 (ii) a psychiatrist, psychologist, or other
21 mental health care provider;

22 (iii) a dentist;

23 (iv) a social or other caseworker; or

24 (v) any other individual who provided
25 treatment;

26 (5) a description of the ward's activities during the
27 past year, including recreational, educational, social, and

1 occupational activities, or a statement that no activities were
2 available or that the ward was unable or refused to participate in
3 activities;

4 (6) the guardian's evaluation of:

5 (A) the ward's living arrangements as excellent,
6 average, or below average, including an explanation if the
7 conditions are below average;

8 (B) whether the ward is content or unhappy with
9 the ward's living arrangements; and

10 (C) unmet needs of the ward;

11 (7) a statement indicating whether the guardian's
12 power should be increased, decreased, or unaltered, including an
13 explanation if a change is recommended;

14 (8) a statement indicating that the guardian has paid
15 the bond premium for the next reporting period;

16 (9) if the guardian is a private professional
17 guardian, a guardianship program, an office of public guardian, or
18 the Health and Human Services Commission [~~Department of Aging and~~
19 ~~Disability Services~~], whether the guardian or an individual
20 certified under Subchapter C, Chapter 155, Government Code, who is
21 providing guardianship services to the ward and who is filing the
22 affidavit on the guardian's behalf, is or has been the subject of an
23 investigation conducted by the Judicial Branch [~~Guardianship~~
24 ~~Certification Commission~~ Commission ~~Board~~] during the preceding year; and

25 (10) any additional information the guardian desires
26 to share with the court regarding the ward, including:

27 (A) whether the guardian has filed for emergency

1 detention of the ward under Subchapter A, Chapter 573, Health and
2 Safety Code; and

3 (B) if applicable, the number of times the
4 guardian has filed for emergency detention and the dates of the
5 applications for emergency detention.

6 SECTION 37. Section 1253.001, Estates Code, is amended to
7 read as follows:

8 Sec. 1253.001. APPLICATION TO TRANSFER GUARDIANSHIP TO
9 FOREIGN JURISDICTION. On application of the guardian or on the
10 court's own motion, a [~~A guardian of the person or estate may apply~~
11 ~~to the~~] court that has jurisdiction over the guardianship may [~~to~~]
12 transfer the guardianship to a court in a foreign jurisdiction to
13 which the ward has permanently moved.

14 SECTION 38. Subchapter B, Chapter 1301, Estates Code, is
15 amended by adding Section 1301.0511 to read as follows:

16 Sec. 1301.0511. NOTICE REQUIRED FOR APPLICATION FOR
17 CREATION OF TRUST; CITATION OF APPLICANT NOT REQUIRED. (a) On the
18 filing of an application for creation of a management trust and
19 except as provided by Subsection (d), notice shall be issued and
20 served in the manner provided by Subchapter C, Chapter 1051, for the
21 issuance and service of notice on the filing of an application for
22 guardianship.

23 (b) It is not necessary to serve a citation on a person who
24 files an application for the creation of a management trust under
25 this subchapter or for that person to waive the issuance and
26 personal service of citation.

27 (c) If the person for whom an application for creation of a

1 management trust is filed is a ward, the sheriff or other officer,
2 in addition to serving the persons described by Section 1051.103,
3 shall personally serve each guardian of the ward with citation to
4 appear and answer the application.

5 (d) Notice under this section is not required if a
6 proceeding for the appointment of a guardian is pending for the
7 person for whom an application for creation of a management trust is
8 filed.

9 SECTION 39. Section 1301.101(a), Estates Code, is amended
10 to read as follows:

11 (a) Except as provided by Subsection (c), a management trust
12 created for a ward or incapacitated person must provide that:

13 (1) the ward or incapacitated person is the sole
14 beneficiary of the trust;

15 (2) the trustee may disburse an amount of the trust's
16 principal or income as the trustee determines is necessary to spend
17 for the health, education, maintenance, or support of the person
18 for whom the trust is created;

19 (3) the trust income that the trustee does not
20 disburse under Subdivision (2) must be added to the trust
21 principal;

22 (4) a trustee that is a corporate fiduciary serves
23 without giving a bond; ~~and~~

24 (5) subject to the court's approval and Subsection
25 (b), a trustee is entitled to receive reasonable compensation for
26 services the trustee provides to the person for whom the trust is
27 created as the person's trustee; and

1 (6) the trust terminates:

2 (A) except as provided by Paragraph (B), if the
3 person for whom the trust is created is a minor:

4 (i) on the earlier of:

5 (a) the person's death; or

6 (b) the person's 18th birthday; or

7 (ii) on the date provided by court order,
8 which may not be later than the person's 25th birthday;

9 (B) if the person for whom the trust is created is
10 a minor and is also incapacitated for a reason other than being a
11 minor:

12 (i) on the person's death; or

13 (ii) when the person regains capacity; or

14 (C) if the person for whom the trust is created is
15 not a minor:

16 (i) according to the terms of the trust;

17 (ii) on the date the court determines that
18 continuing the trust is no longer in the person's best interests,
19 subject to Section 1301.202(c); or

20 (iii) on the person's death.

21 SECTION 40. Section 1301.154(b), Estates Code, is amended
22 to read as follows:

23 (b) The trustee of a management trust created for a ward
24 shall provide a copy of the annual account to each ~~the~~ guardian of
25 the ward ~~ward's estate or person~~.

26 SECTION 41. Section 1301.203, Estates Code, is amended by
27 amending Subsection (a) and adding Subsection (a-1) to read as

1 follows:

2 (a) Except as provided by Subsection (a-1), if [~~If~~] the
3 person for whom a management trust is created is a minor, the trust
4 terminates on:

5 (1) the earlier of:

6 (A) the person's death; or

7 (B) the person's 18th birthday; or

8 (2) the date provided by court order, which may not be
9 later than the person's 25th birthday.

10 (a-1) If the person for whom a management trust is created
11 is a minor and is also incapacitated for a reason other than being a
12 minor, the trust terminates:

13 (1) on the person's death; or

14 (2) when the person regains capacity.

15 SECTION 42. Sections 1355.002(b), (c), (d), (e), and (f),
16 Estates Code, are amended to read as follows:

17 (b) This section applies only to a nonresident creditor who
18 is:

19 (1) a nonresident minor and has a nonresident guardian
20 of the estate appointed by a foreign court;

21 (2) [~~r~~] a nonresident person who is adjudged by a
22 foreign court [of competent jurisdiction] to be incapacitated and
23 has a nonresident guardian of the estate appointed by that
24 court; [~~r~~] or

25 (3) the nonresident former ward of a guardianship
26 terminated under Chapter 1204 who has no legal guardian qualified
27 in this state.

1 (c) A debtor in this state who owes money to a nonresident
2 creditor to whom this section applies may pay the money:

3 (1) to the creditor's guardian of the estate qualified
4 in the domiciliary jurisdiction; or

5 (2) to the county clerk of:

6 (A) any county in this state in which real
7 property owned by the creditor is located; or

8 (B) if the creditor is not known to own real
9 property in this state, the county in which the debtor resides.

10 (d) A payment made under this section is for the nonresident
11 creditor's account and for the nonresident creditor's use and
12 benefit.

13 (e) A receipt for payment signed by the county clerk is
14 binding on the nonresident creditor as of the date and to the extent
15 of payment if the receipt states:

16 (1) the creditor's name; and

17 (2) the creditor's post office address, if the address
18 is known.

19 (f) A county clerk who receives a payment under Subsection
20 (c) for a nonresident creditor shall handle the money in the same
21 manner as provided for a payment to the account of a resident
22 creditor under Sections [1355.001](#), [1355.051](#), [1355.052](#), [1355.102](#),
23 [1355.103](#), and [1355.104](#). Those sections apply to the handling and
24 disposition of money or any increase, dividend, or income paid to
25 the clerk for the use, benefit, and account of the nonresident
26 creditor to whom this section applies.

27 SECTION 43. Section [1355.105](#), Estates Code, is amended to

1 read as follows:

2 Sec. 1355.105. WITHDRAWAL OF MONEY BY CREDITOR OR
3 CREDITOR'S HEIR, ~~[OR]~~ REPRESENTATIVE, OR GUARDIAN. (a) On
4 presentation to the court clerk of an order of a county or probate
5 court of the county in which the money is held, money that is not
6 withdrawn by an authorized person as provided by this chapter may be
7 withdrawn by:

8 (1) the creditor, after termination of the creditor's
9 disability;

10 (2) a subsequent personal representative of the
11 creditor; ~~[or]~~

12 (3) the creditor's heirs; or

13 (4) a nonresident guardian of the estate appointed by
14 a foreign court for a creditor who is:

15 (A) a nonresident minor; or

16 (B) a nonresident person who is adjudged to be
17 incapacitated.

18 (b) Except as provided by Subsection (b-1), a [A] withdrawal
19 under Subsection (a) may be made at any time and without a special
20 bond for that purpose.

21 (b-1) A court may require a nonresident guardian of the
22 estate of a creditor who is a nonresident minor or nonresident
23 incapacitated person as described by Subsection (a)(4) to provide
24 proof that the nonresident guardian of the estate gave an adequate
25 bond in the foreign jurisdiction if the court determines that it is
26 in the nonresident minor's or nonresident incapacitated person's
27 best interest.

1 (c) The order presented under Subsection (a) must direct the
2 court clerk to deliver the money to:

3 (1) the creditor;

4 (2) ~~[r]~~ the creditor's personal representative;

5 (3) ~~[r-or]~~ the creditor's heirs named in the order; or

6 (4) if the creditor is a nonresident minor or
7 nonresident person who is adjudged to be incapacitated, the
8 creditor's nonresident guardian of the estate.

9 (d) Before the court may issue an order under this section,
10 the person's identity and credentials must be proved to the court's
11 satisfaction. For purposes of this subsection, a nonresident
12 guardian of the estate described by Subsection (c)(4) must present
13 to the court exemplified copies of the order of a foreign court
14 appointing the guardian and current letters of guardianship issued
15 in the foreign jurisdiction.

16 SECTION 44. Section 25.0006, Government Code, is amended by
17 amending Subsection (a) and adding Subsection (a-5) to read as
18 follows:

19 (a) Notwithstanding any other law except Subsection (a-4),
20 Subsections (a-1), (a-2), ~~[and]~~ (a-3), and (a-5) control over a
21 specific provision for a particular court or county that attempts
22 to create a requirement for a bond or insurance that conflicts with
23 those subsections.

24 (a-5) A bond executed under Subsection (a-1) by the judge
25 elected or appointed to a statutory county court or an insurance
26 policy obtained under Subsection (a-3) shall provide the same
27 coverage to a visiting judge assigned to the court as the bond or

1 insurance policy provides to the judge elected or appointed to the
2 court.

3 SECTION 45. Section 25.00231, Government Code, is amended
4 by adding Subsection (f) to read as follows:

5 (f) Notwithstanding Subsection (e), a bond executed under
6 Subsection (b) by the judge elected or appointed to a statutory
7 probate court or an insurance policy obtained under Subsection (c)
8 shall provide the same coverage to a visiting judge assigned to the
9 court as the bond or insurance policy provides to the judge elected
10 or appointed to the court.

11 SECTION 46. Section 26.001, Government Code, is amended by
12 adding Subsection (d) to read as follows:

13 (d) A bond executed under Subsection (a) by the judge
14 elected or appointed to a county court or an insurance policy
15 obtained under Subsection (c) shall provide the same coverage to a
16 visiting judge assigned to the court as the bond or insurance policy
17 provides to the judge elected or appointed to the court.

18 SECTION 47. Section 81.114, Government Code, is amended by
19 amending Subsection (a) and adding Subsection (e) to read as
20 follows:

21 (a) The state bar shall provide a course of instruction for
22 attorneys who represent any person's interests [~~parties~~] in
23 guardianship cases or who serve as court-appointed guardians.

24 (e) The course of instruction described by this section must
25 be low-cost and available to persons throughout this state,
26 including on the Internet provided through the state bar.

27 SECTION 48. Section 101.0814, Government Code, is amended

1 to read as follows:

2 Sec. 101.0814. STATUTORY COUNTY COURT FEES AND COSTS:
3 LOCAL GOVERNMENT CODE. The clerk of a statutory county court shall
4 collect fees and costs under the Local Government Code as follows:

5 (1) additional filing fee to fund contingency fund for
6 liability insurance, if authorized by the county commissioners
7 court (Sec. 82.003, Local Government Code) . . . not to exceed \$5;

8 (2) civil court actions (Sec. 118.052, Local
9 Government Code):

10 (A) filing of original action (Secs. 118.052 and
11 118.053, Local Government Code):

12 (i) garnishment after judgment (Sec.
13 118.052, Local Government Code) . . . \$15; and

14 (ii) all others (Sec. 118.052, Local
15 Government Code) . . . \$40;

16 (B) filing of action other than original (Secs.
17 118.052 and 118.054, Local Government Code) . . . \$30; and

18 (C) services rendered after judgment in original
19 action (Secs. 118.052 and 118.0545, Local Government Code):

20 (i) abstract of judgment (Sec. 118.052,
21 Local Government Code) . . . \$5; and

22 (ii) execution, order of sale, writ, or
23 other process (Sec. 118.052, Local Government Code) . . . \$5;

24 (3) probate court actions (Sec. 118.052, Local
25 Government Code):

26 (A) probate original action (Secs. 118.052 and
27 118.055, Local Government Code):

- 1 (i) probate of a will with independent
2 executor, administration with will attached, administration of an
3 estate, guardianship or receivership of an estate, or muniment of
4 title (Sec. 118.052, Local Government Code) . . . \$40;
- 5 (ii) community survivors (Sec. 118.052,
6 Local Government Code) . . . \$40;
- 7 (iii) small estates (Sec. 118.052, Local
8 Government Code) . . . \$40;
- 9 (iv) declarations of heirship (Sec.
10 118.052, Local Government Code) . . . \$40;
- 11 (v) mental health or chemical dependency
12 services (Sec. 118.052, Local Government Code) . . . \$40; and
- 13 (vi) additional, special fee (Secs. 118.052
14 and 118.064, Local Government Code) . . . \$5;
- 15 (B) services in pending probate action (Secs.
16 118.052 and 118.056, Local Government Code):
- 17 (i) filing an inventory and appraisalment
18 (Secs. 118.052 and 118.056(d), Local Government Code) . . . \$25;
- 19 (ii) approving and recording bond (Sec.
20 118.052, Local Government Code) . . . \$3;
- 21 (iii) administering oath (Sec. 118.052,
22 Local Government Code) . . . \$2;
- 23 (iv) filing annual or final account of
24 estate (Sec. 118.052, Local Government Code) . . . \$25;
- 25 (v) filing application for sale of real or
26 personal property (Sec. 118.052, Local Government Code) . . . \$25;
- 27 (vi) filing annual or final report of

1 guardian of a person (Sec. 118.052, Local Government Code) . . .
2 \$10; and

3 (vii) filing a document not listed under
4 this paragraph after the filing of an order approving the inventory
5 and appraisement or after the 120th day after the date of the
6 initial filing of the action, whichever occurs first (Secs. 118.052
7 and 191.007, Local Government Code), if more than 25 pages . . .
8 \$25;

9 (C) adverse probate action (Secs. 118.052 and
10 118.057, Local Government Code) . . . \$40;

11 (D) claim against estate (Secs. 118.052 and
12 118.058, Local Government Code) . . . \$10;

13 (E) supplemental public [~~court-initiated~~]
14 guardianship and related services fee (Secs. 118.052 and 118.067,
15 Local Government Code) . . . \$20; and

16 (F) supplemental public probate administrator
17 fee (Secs. 118.052 and 118.068, Local Government Code) . . . \$10;

18 (4) other fees (Sec. 118.052, Local Government Code):

19 (A) issuing document (Secs. 118.052 and 118.059,
20 Local Government Code):

21 (i) original document and one copy (Sec.
22 118.052, Local Government Code) . . . \$4; and

23 (ii) each additional set of an original and
24 one copy (Sec. 118.052, Local Government Code) . . . \$4;

25 (B) certified papers (Secs. 118.052 and 118.060,
26 Local Government Code):

27 (i) for the clerk's certificate (Sec.

1 118.052, Local Government Code) . . . \$5; and
2 (ii) a fee per page or part of a page (Sec.
3 118.052, Local Government Code) . . . \$1;
4 (C) noncertified papers, for each page or part of
5 a page (Secs. 118.052 and 118.0605, Local Government Code) . . .
6 \$1;
7 (D) letters testamentary, letter of
8 guardianship, letter of administration, or abstract of judgment
9 (Secs. 118.052 and 118.061, Local Government Code) . . . \$2;
10 (E) safekeeping of wills (Secs. 118.052 and
11 118.062, Local Government Code) . . . \$5;
12 (F) mail service of process (Secs. 118.052 and
13 118.063, Local Government Code) . . . same as sheriff; and
14 (G) records management and preservation fee
15 (Secs. 118.052, 118.0546, and 118.0645, Local Government Code)
16 . . . \$5;
17 (5) additional filing fee for filing any civil action
18 or proceeding requiring a filing fee, including an appeal, and on
19 the filing of any counterclaim, cross-action, intervention,
20 interpleader, or third-party action requiring a filing fee, to fund
21 civil legal services for the indigent (Sec. 133.153, Local
22 Government Code) . . . \$10;
23 (6) on the filing of a civil suit, an additional filing
24 fee to be used for court-related purposes for the support of the
25 judiciary (Sec. 133.154, Local Government Code) . . . \$42;
26 (7) additional filing fee to fund the courthouse
27 security fund, if authorized by the county commissioners court

1 (Sec. 291.008, Local Government Code) . . . not to exceed \$5;

2 (8) additional filing fee for filing documents not
3 subject to certain filing fees to fund the courthouse security
4 fund, if authorized by the county commissioners court (Sec.
5 291.008, Local Government Code) . . . \$1;

6 (9) additional filing fee to fund the courthouse
7 security fund in Webb County, if authorized by the county
8 commissioners court (Sec. 291.009, Local Government Code) . . . not
9 to exceed \$20; and

10 (10) court cost in civil cases other than suits for
11 delinquent taxes to fund the county law library fund, if authorized
12 by the county commissioners court (Sec. 323.023, Local Government
13 Code) . . . not to exceed \$35.

14 SECTION 49. Section 101.1013, Government Code, is amended
15 to read as follows:

16 Sec. 101.1013. STATUTORY PROBATE COURT FEES AND COSTS:
17 LOCAL GOVERNMENT CODE. The clerk of a statutory probate court shall
18 collect fees and costs under the Local Government Code as follows:

19 (1) additional filing fee for filing any civil action
20 or proceeding requiring a filing fee, including an appeal, and on
21 the filing of any counterclaim, cross-action, intervention,
22 interpleader, or third-party action requiring a filing fee to fund
23 civil legal services for the indigent (Sec. 133.153, Local
24 Government Code) . . . \$10;

25 (2) additional filing fee to fund contingency fund for
26 liability insurance, if authorized by the county commissioners
27 court (Sec. 82.003, Local Government Code) . . . not to exceed \$5;

1 (3) probate court actions (Sec. 118.052, Local
2 Government Code):

3 (A) probate original action (Secs. 118.052 and
4 118.055, Local Government Code):

5 (i) probate of a will with independent
6 executor, administration with will attached, administration of an
7 estate, guardianship or receivership of an estate, or muniment of
8 title (Sec. 118.052, Local Government Code) . . . \$40;

9 (ii) community survivors (Sec. 118.052,
10 Local Government Code) . . . \$40;

11 (iii) small estates (Sec. 118.052, Local
12 Government Code) . . . \$40;

13 (iv) declarations of heirship (Sec.
14 118.052, Local Government Code) . . . \$40;

15 (v) mental health or chemical dependency
16 services (Sec. 118.052, Local Government Code) . . . \$40; and

17 (vi) additional, special fee (Secs. 118.052
18 and 118.064, Local Government Code) . . . \$5;

19 (B) services in pending probate action (Secs.
20 118.052 and 118.056, Local Government Code):

21 (i) filing an inventory and appraisalment
22 (Secs. 118.052 and 118.056(d), Local Government Code) . . . \$25;

23 (ii) approving and recording bond (Sec.
24 118.052, Local Government Code) . . . \$3;

25 (iii) administering oath (Sec. 118.052,
26 Local Government Code) . . . \$2;

27 (iv) filing annual or final account of

- 1 estate (Sec. 118.052, Local Government Code) . . . \$25;
- 2 (v) filing application for sale of real or
3 personal property (Sec. 118.052, Local Government Code) . . . \$25;
- 4 (vi) filing annual or final report of
5 guardian of a person (Sec. 118.052, Local Government Code) . . .
6 \$10; and
- 7 (vii) filing a document not listed under
8 this paragraph after the filing of an order approving the inventory
9 and appraisal or after the 120th day after the date of the
10 initial filing of the action, whichever occurs first (Secs. 118.052
11 and 191.007, Local Government Code), if more than 25 pages . . .
12 \$25;
- 13 (C) adverse probate action (Secs. 118.052 and
14 118.057, Local Government Code) . . . \$40;
- 15 (D) claim against estate (Secs. 118.052 and
16 118.058, Local Government Code) . . . \$10;
- 17 (E) supplemental public [~~court-initiated~~]
18 guardianship and related services fee (Secs. 118.052 and 118.067,
19 Local Government Code) . . . \$20; and
- 20 (F) supplemental public probate administrator
21 fee (Secs. 118.052 and 118.068, Local Government Code) . . . \$10;
- 22 (4) other fees (Sec. 118.052, Local Government Code):
- 23 (A) issuing document (Secs. 118.052 and 118.059,
24 Local Government Code):
- 25 (i) original document and one copy (Sec.
26 118.052, Local Government Code) . . . \$4; and
- 27 (ii) each additional set of an original and

1 one copy (Sec. 118.052, Local Government Code) . . . \$4;

2 (B) certified papers (Secs. 118.052 and 118.060,
3 Local Government Code):

4 (i) for the clerk's certificate (Sec.
5 118.052, Local Government Code) . . . \$5; and

6 (ii) a fee per page or part of a page (Sec.
7 118.052, Local Government Code) . . . \$1;

8 (C) noncertified papers, for each page or part of
9 a page (Secs. 118.052 and 118.0605, Local Government Code) . . .
10 \$1;

11 (D) letters testamentary, letter of
12 guardianship, letter of administration, or abstract of judgment
13 (Secs. 118.052 and 118.061, Local Government Code) . . . \$2;

14 (E) safekeeping of wills (Secs. 118.052 and
15 118.062, Local Government Code) . . . \$5;

16 (F) mail service of process (Secs. 118.052 and
17 118.063, Local Government Code) . . . same as sheriff; and

18 (G) records management and preservation fee
19 (Secs. 118.052 and 118.0645, Local Government Code) . . . \$5; and

20 (5) court cost in civil cases other than suits for
21 delinquent taxes to fund the county law library fund, if authorized
22 by the county commissioners court (Sec. 323.023, Local Government
23 Code) . . . not to exceed \$35.

24 SECTION 50. Section 101.1214, Government Code, is amended
25 to read as follows:

26 Sec. 101.1214. COUNTY COURT FEES AND COSTS: LOCAL
27 GOVERNMENT CODE. The clerk of a county court shall collect the

1 following fees and costs under the Local Government Code:

2 (1) additional filing fee to fund contingency fund for
3 liability insurance, if authorized by the county commissioners
4 court (Sec. 82.003, Local Government Code) . . . not to exceed \$5;

5 (2) civil court actions (Sec. 118.052, Local
6 Government Code):

7 (A) filing of original action (Secs. 118.052 and
8 118.053, Local Government Code):

9 (i) garnishment after judgment (Sec.
10 118.052, Local Government Code) . . . \$15; and

11 (ii) all others (Sec. 118.052, Local
12 Government Code) . . . \$40;

13 (B) filing of action other than original (Secs.
14 118.052 and 118.054, Local Government Code) . . . \$30; and

15 (C) services rendered after judgment in original
16 action (Secs. 118.052 and 118.0545, Local Government Code):

17 (i) abstract of judgment (Sec. 118.052,
18 Local Government Code) . . . \$5; and

19 (ii) execution, order of sale, writ, or
20 other process (Sec. 118.052, Local Government Code) . . . \$5;

21 (3) probate court actions (Sec. 118.052, Local
22 Government Code):

23 (A) probate original action (Secs. 118.052 and
24 118.055, Local Government Code):

25 (i) probate of a will with independent
26 executor, administration with will attached, administration of an
27 estate, guardianship or receivership of an estate, or muniment of

- 1 title (Sec. 118.052, Local Government Code) . . . \$40;
- 2 (ii) community survivors (Sec. 118.052,
3 Local Government Code) . . . \$40;
- 4 (iii) small estates (Sec. 118.052, Local
5 Government Code) . . . \$40;
- 6 (iv) declarations of heirship (Sec.
7 118.052, Local Government Code) . . . \$40;
- 8 (v) mental health or chemical dependency
9 services (Sec. 118.052, Local Government Code) . . . \$40; and
- 10 (vi) additional, special fee (Secs. 118.052
11 and 118.064, Local Government Code) . . . \$5;
- 12 (B) services in pending probate action (Secs.
13 118.052 and 118.056, Local Government Code):
- 14 (i) filing an inventory and appraisalment
15 (Secs. 118.052 and 118.056(d), Local Government Code) . . . \$25;
- 16 (ii) approving and recording bond (Sec.
17 118.052, Local Government Code) . . . \$3;
- 18 (iii) administering oath (Sec. 118.052,
19 Local Government Code) . . . \$2;
- 20 (iv) filing annual or final account of
21 estate (Sec. 118.052, Local Government Code) . . . \$25;
- 22 (v) filing application for sale of real or
23 personal property (Sec. 118.052, Local Government Code) . . . \$25;
- 24 (vi) filing annual or final report of
25 guardian of a person (Sec. 118.052, Local Government Code) . . .
26 \$10; and
- 27 (vii) filing a document not listed under

1 this paragraph after the filing of an order approving the inventory
2 and appraisement or after the 120th day after the date of the
3 initial filing of the action, whichever occurs first (Secs. 118.052
4 and 191.007, Local Government Code), if more than 25 pages . . .
5 \$25;

6 (C) adverse probate action (Secs. 118.052 and
7 118.057, Local Government Code) . . . \$40;

8 (D) claim against estate (Secs. 118.052 and
9 118.058, Local Government Code) . . . \$10;

10 (E) supplemental public [~~court-initiated~~]
11 guardianship and related services fee (Secs. 118.052 and 118.067,
12 Local Government Code) . . . \$20; and

13 (F) supplemental public probate administrator
14 fee (Secs. 118.052 and 118.068, Local Government Code) . . . \$10;

15 (4) other fees (Sec. 118.052, Local Government Code):

16 (A) issuing document (Secs. 118.052 and 118.059,
17 Local Government Code):

18 (i) original document and one copy (Sec.
19 118.052, Local Government Code) . . . \$4; and

20 (ii) each additional set of an original and
21 one copy (Sec. 118.052, Local Government Code) . . . \$4;

22 (B) certified papers (Secs. 118.052 and 118.060,
23 Local Government Code):

24 (i) for the clerk's certificate (Sec.
25 118.052, Local Government Code) . . . \$5; and

26 (ii) a fee per page or part of a page (Sec.
27 118.052, Local Government Code) . . . \$1;

- 1 (C) noncertified papers, for each page or part of
2 a page (Secs. 118.052 and 118.0605, Local Government Code) . . .
3 \$1;
- 4 (D) letters testamentary, letter of
5 guardianship, letter of administration, or abstract of judgment
6 (Secs. 118.052 and 118.061, Local Government Code) . . . \$2;
- 7 (E) safekeeping of wills (Secs. 118.052 and
8 118.062, Local Government Code) . . . \$5;
- 9 (F) mail service of process (Secs. 118.052 and
10 118.063, Local Government Code) . . . same as sheriff; and
- 11 (G) records management and preservation fee
12 (Secs. 118.052, 118.0546, and 118.0645, Local Government Code)
13 . . . \$5;
- 14 (5) deposit on filing petition requesting permission
15 to create a municipal civic center authority (Sec. 281.013, Local
16 Government Code) . . . \$200;
- 17 (6) additional filing fee to fund the courthouse
18 security fund, if authorized by the county commissioners court
19 (Sec. 291.008, Local Government Code) . . . not to exceed \$5;
- 20 (7) additional filing fee for filing documents not
21 subject to certain filing fees to fund the courthouse security
22 fund, if authorized by the county commissioners court (Sec.
23 291.008, Local Government Code) . . . \$1;
- 24 (8) additional filing fee to fund the courthouse
25 security fund in Webb County, if authorized by the county
26 commissioners court (Sec. 291.009, Local Government Code) . . . not
27 to exceed \$20;

1 (9) court cost in civil cases other than suits for
2 delinquent taxes to fund the county law library fund, if authorized
3 by the county commissioners court (Sec. 323.023, Local Government
4 Code) . . . not to exceed \$35;

5 (10) additional filing fee for filing any civil action
6 or proceeding requiring a filing fee, including an appeal, and on
7 the filing of any counterclaim, cross-action, intervention,
8 interpleader, or third-party action requiring a filing fee, to fund
9 civil legal services for the indigent (Sec. 133.153, Local
10 Government Code) . . . \$10; and

11 (11) on the filing of a civil suit an additional filing
12 fee to be used for court-related purposes for the support of the
13 judiciary (Sec. 133.154, Local Government Code) . . . \$42.

14 SECTION 51. Section 155.001, Government Code, is amended by
15 amending Subdivisions (4), (6), and (6-a) and adding Subdivisions
16 (5-a) and (6-b) to read as follows:

17 (4) "Guardianship program" means a local, county, or
18 regional program, other than an office of public guardian, that
19 provides guardianship and related services to an incapacitated
20 person or other person who needs assistance in making decisions
21 concerning the person's own welfare or financial affairs.

22 (5-a) "Office of public guardian" has the meaning
23 assigned by Section 1002.0215, Estates Code.

24 (6) "Private professional guardian" means a person,
25 other than an attorney, ~~or~~ a corporate fiduciary, or an office of
26 public guardian, who is engaged in the business of providing
27 guardianship services.

1 (6-a) "Public guardian" has the meaning assigned by
2 Section 1002.0265, Estates Code.

3 (6-b) Notwithstanding Section 151.001, "registration"
4 means registration of a guardianship under this chapter.

5 SECTION 52. Subchapter B, Chapter 155, Government Code, is
6 amended by adding Section 155.053 to read as follows:

7 Sec. 155.053. MONITORING OF COUNTY PUBLIC GUARDIANSHIP AND
8 RELATED SERVICES FUNDS. The office shall monitor counties to
9 ensure money is appropriately deposited into the public
10 guardianship and related services funds established by counties
11 under Section 118.067, Local Government Code, and being used in
12 compliance with that section. Not later than December 1 of each
13 year, the office shall submit a report to the legislature detailing
14 how money in the funds is being used by counties across the state.

15 SECTION 53. Section 155.101(a), Government Code, is amended
16 to read as follows:

17 (a) The commission shall adopt minimum standards for:

18 (1) the provision of guardianship services or other
19 similar but less restrictive types of assistance or services by:

20 (A) individuals employed by or contracting with
21 guardianship programs to provide the assistance or services on
22 behalf of the programs; and

23 (B) private professional guardians; ~~and~~

24 (2) the provision of guardianship services by the
25 Health and Human Services Commission; and

26 (3) the provision of guardianship services by offices
27 of public guardians ~~[Department of Aging and Disability Services or~~

1 ~~its successor agency~~].

2 SECTION 54. Section 155.102(a), Government Code, is amended
3 to read as follows:

4 (a) To provide guardianship services in this state, the
5 following individuals must hold a certificate issued under this
6 section:

7 (1) an individual who is a private professional
8 guardian;

9 (2) an individual who will provide those services to a
10 ward of a private professional guardian on the guardian's behalf;
11 ~~and~~

12 (3) an individual, other than a volunteer, who will
13 provide those services or other services under Section 161.114,
14 Human Resources Code, to a ward of a guardianship program or the
15 Health and Human Services Commission [~~Department of Aging and~~
16 ~~Disability Services~~] on the program's or commission's
17 [~~department's~~] behalf;

18 (4) an individual who is a public guardian; and

19 (5) an individual who will provide those services to a
20 ward of an office of public guardian.

21 SECTION 55. Section 155.105, Government Code, is amended by
22 adding Subsection (b-1) to read as follows:

23 (b-1) Not later than January 31 of each year, each office of
24 public guardian shall provide to the commission a report containing
25 for the preceding year:

26 (1) the number of wards served by the office;

27 (2) the total amount of any money received from this

1 state for the provision of guardianship services; and
2 (3) the amount of money received from any other public
3 source, including a county or the federal government, for the
4 provision of guardianship services, reported by source, and the
5 total amount of money received from those public sources.

6 SECTION 56. Section 155.205(b), Government Code, is amended
7 to read as follows:

8 (b) The commission shall obtain:

9 (1) fingerprint-based criminal history record
10 information of a proposed guardian [~~an applicant~~] if:

11 (A) the liquid assets of the estate of a ward
12 exceed \$50,000; or

13 (B) the proposed guardian is not a resident of
14 this state; or

15 (2) name-based criminal history record information of
16 a proposed guardian, including any criminal history record
17 information under the current name and all former names of the
18 proposed guardian, [~~an applicant~~] if:

19 (A) the liquid assets of the estate of a ward are
20 \$50,000 or less; and

21 (B) the proposed guardian is a resident of this
22 state.

23 SECTION 57. Section 411.1386(a), Government Code, is
24 amended to read as follows:

25 (a) Except as provided by Subsections (a-1), (a-5), and
26 (a-6), the clerk of the county having venue over a proceeding for
27 the appointment of a guardian under Title 3, Estates Code, shall

1 obtain from the department criminal history record information
2 maintained by the department that relates to:

3 (1) a private professional guardian;

4 (2) each person who represents or plans to represent
5 the interests of a ward as a guardian on behalf of the private
6 professional guardian;

7 (3) each person employed by a private professional
8 guardian who will:

9 (A) have personal contact with a ward or proposed
10 ward;

11 (B) exercise control over and manage a ward's
12 estate; or

13 (C) perform any duties with respect to the
14 management of a ward's estate;

15 (4) each person employed by or volunteering or
16 contracting with a guardianship program to provide guardianship
17 services to a ward of the program on the program's behalf; ~~or~~

18 (5) a public guardian, as defined by Section
19 1002.0265(1), Estates Code;

20 (6) each person who represents or plans to represent
21 the interests of a ward as a guardian on behalf of an office of
22 public guardian;

23 (7) each person employed by an office of public
24 guardian, as defined by Section 1002.0215, Estates Code, who will:

25 (A) have personal contact with a ward or proposed
26 ward;

27 (B) exercise control over and manage a ward's

1 estate; or

2 (C) perform any duties with respect to the
3 management of a ward's estate; or

4 (8) any other person proposed to serve as a guardian
5 under Title 3, Estates Code, including a proposed temporary
6 guardian and a proposed successor guardian, other than an attorney.

7 SECTION 58. Section 571.013, Health and Safety Code, is
8 amended to read as follows:

9 Sec. 571.013. METHOD OF GIVING NOTICE. Except as otherwise
10 provided by this subtitle, notice required under this subtitle may
11 be given by:

12 (1) personal delivery of [delivering] a copy of the
13 notice or document by a constable or sheriff of the county; [in
14 person] or

15 (2) [in] another manner directed by the court that is
16 reasonably calculated to give actual notice.

17 SECTION 59. Section 571.014(c), Health and Safety Code, is
18 amended to read as follows:

19 (c) A person may ~~[initially]~~ file a paper with the county
20 clerk by the use of reproduced, photocopied, or electronically
21 transmitted paper copies of [if the person files] the original
22 signed copies of the paper. A person who files a reproduced,
23 photocopied, or electronically transmitted paper must maintain
24 possession of the original signed copies of the paper and shall make
25 the original paper available for inspection on request by the
26 parties or the court [with the clerk not later than the 72nd hour
27 after the hour on which the initial filing is made. If the 72-hour

1 ~~period ends on a Saturday, Sunday, or legal holiday, the filing~~
2 ~~period is extended until 4 p.m. on the first succeeding business~~
3 ~~day. If extremely hazardous weather conditions exist or a disaster~~
4 ~~occurs, the presiding judge or magistrate may by written order made~~
5 ~~each day extend the filing period until 4 p.m. on the first~~
6 ~~succeeding business day. The written order must declare that an~~
7 ~~emergency exists because of the weather or the occurrence of a~~
8 ~~disaster. If a person detained under this subtitle would otherwise~~
9 ~~be released because the original signed copy of a paper is not filed~~
10 ~~within the 72-hour period but for the extension of the filing period~~
11 ~~under this section, the person may be detained until the expiration~~
12 ~~of the extended filing period. This subsection does not affect~~
13 ~~another provision of this subtitle requiring the release or~~
14 ~~discharge of a person].~~

15 SECTION 60. Section [161.103](#), Human Resources Code, is
16 amended to read as follows:

17 Sec. 161.103. CONTRACT FOR GUARDIANSHIP SERVICES. (a) If
18 appropriate, the commission [~~department~~] may contract with a
19 political subdivision of this state, a guardianship program as
20 defined by Section [1002.016](#), Estates Code, a private agency, or
21 another state agency for the provision of guardianship services
22 under this section.

23 (b) A contract under Subsection (a) may allow for the
24 provision of guardianship services by an office of public guardian,
25 as defined by Section 1002.0215, Estates Code.

26 SECTION 61. Section [118.052](#), Local Government Code, is
27 amended to read as follows:

1 Sec. 118.052. FEE SCHEDULE. Each clerk of a county court
2 shall collect the following fees for services rendered to any
3 person:

4 (1) CIVIL COURT ACTIONS

5 (A) Filing of Original Action (Sec. 118.053):

6 (i) Garnishment after judgment . . . \$15.00

7 (ii) All others . . . \$40.00

8 (B) Filing of Action Other than Original (Sec.

9 118.054) . . . \$30.00

10 (C) Services Rendered After Judgment in Original

11 Action (Sec. 118.0545):

12 (i) Abstract of judgment . . . \$5.00

13 (ii) Execution, order of sale, writ, or
14 other process . . . \$5.00

15 (2) PROBATE COURT ACTIONS

16 (A) Probate Original Action (Sec. 118.055):

17 (i) Probate of a will with independent
18 executor, administration with will attached, administration of an
19 estate, guardianship or receivership of an estate, or muniment of
20 title . . . \$40.00

21 (ii) Community survivors . . . \$40.00

22 (iii) Small estates . . . \$40.00

23 (iv) Declarations of heirship . . . \$40.00

24 (v) Mental health or chemical dependency
25 services . . . \$40.00

26 (vi) Additional, special fee (Sec. 118.064)
27 . . . \$5.00

- 1 (B) Services in Pending Probate Action (Sec.
2 118.056):
 - 3 (i) Filing an inventory and appraisement as
4 provided by Section 118.056(d) . . . \$25.00
 - 5 (ii) Approving and recording bond . . .
6 \$3.00
 - 7 (iii) Administering oath . . . \$2.00
 - 8 (iv) Filing annual or final account of
9 estate . . . \$25.00
 - 10 (v) Filing application for sale of real or
11 personal property . . . \$25.00
 - 12 (vi) Filing annual or final report of
13 guardian of a person . . . \$10.00
 - 14 (vii) Filing a document not listed under
15 this paragraph after the filing of an order approving the inventory
16 and appraisement or after the 120th day after the date of the
17 initial filing of the action, whichever occurs first, if more than
18 25 pages . . . \$25.00
- 19 (C) Adverse Probate Action (Sec. 118.057) . . .
20 \$40.00
- 21 (D) Claim Against Estate (Sec. 118.058) . . .
22 \$10.00
- 23 (E) Supplemental Public [~~Court-Initiated~~]
24 Guardianship and Related Services Fee in Probate Original Actions
25 and Adverse Probate Actions (Sec. 118.067) . . . \$20.00
- 26 (F) Supplemental Public Probate Administrator
27 Fee For Counties That Have Appointed a Public Probate Administrator

- 1 (Sec. 118.068) . . . \$10.00
- 2 (3) OTHER FEES
- 3 (A) Issuing Document (Sec. 118.059):
- 4 original document and one copy . . . \$4.00
- 5 each additional set of an original and one copy . . . \$4.00
- 6 (B) Certified Papers (Sec. 118.060):
- 7 for the clerk's certificate . . . \$5.00
- 8 plus a fee per page or part of a page of . . . \$1.00
- 9 (C) Noncertified Papers (Sec. 118.0605):
- 10 for each page or part of a page . . . \$1.00
- 11 (D) Letters Testamentary, Letter of
- 12 Guardianship, Letter of Administration, or Abstract of Judgment
- 13 (Sec. 118.061) . . . \$2.00
- 14 (E) Deposit and Safekeeping of Wills (Sec.
- 15 118.062) . . . \$5.00
- 16 (F) Mail Service of Process (Sec. 118.063) . . .
- 17 same as sheriff
- 18 (G) Records Management and Preservation Fee
- 19 . . . \$5.00
- 20 (H) Records Technology and Infrastructure Fee if
- 21 authorized by the commissioners court of the county (Sec. 118.026)
- 22 . . . \$2.00

23 SECTION 62. Section 118.067, Local Government Code, is
24 amended to read as follows:

25 Sec. 118.067. SUPPLEMENTAL PUBLIC [~~COURT-INITIATED~~]
26 GUARDIANSHIP AND RELATED SERVICES FEE. (a) The "supplemental
27 public [~~court-initiated~~] guardianship and related services fee"

1 under Section 118.052(2)(E) is for the support of guardianship
2 services provided by public guardians, as defined by Section
3 1002.0265 [~~the judiciary in guardianships initiated under Chapter~~
4 ~~1102~~], Estates Code, or guardianship and other less restrictive
5 alternative services provided to indigent incapacitated persons
6 who do not have family members suitable and willing to serve as
7 guardians or provide less restrictive alternative services. Fees
8 collected under Section 118.052(2)(E) shall be deposited in a
9 public [~~court-initiated~~] guardianship and related services fund in
10 the county treasury and may be used only to supplement, rather than
11 supplant, other available county funds used to fund guardianship
12 services or other less restrictive alternative services provided to
13 individuals who are indigent [+

14 [~~(1) pay the compensation of a guardian ad litem~~
15 ~~appointed by a court under Section 1102.001, Estates Code,~~

16 [~~(2) pay the compensation of an attorney ad litem~~
17 ~~appointed by a court to represent a proposed ward in a guardianship~~
18 ~~proceeding initiated under Chapter 1102, Estates Code, and~~

19 [~~(3) fund local guardianship programs that provide~~
20 ~~guardians for indigent incapacitated persons who do not have family~~
21 ~~members suitable and willing to serve as guardians]~~.

22 (b) The supplemental public [~~court-initiated~~] guardianship
23 and related services fee is charged for:

24 (1) a probate original action described by Section
25 118.055 and for which a fee is charged in accordance with Section
26 118.052(2)(A)(i), (ii), (iii), (iv), or (v); and

27 (2) an adverse probate action described by Section

1 118.057 and for which a fee is charged in accordance with Section
2 118.052(2)(C).

3 (c) The supplemental public [~~court-initiated~~] guardianship
4 and related services fee must be paid by the person against whom the
5 fee for a probate original action or adverse probate action, as
6 applicable, is charged and is due at the time that fee is due.

7 (d) The supplemental public [~~court-initiated~~] guardianship
8 and related services fee is in addition to all other fees charged in
9 probate original actions and adverse probate actions.

10 SECTION 63. Section 1104.403, Estates Code, is repealed.

11 SECTION 64. Section 571.014(d), Health and Safety Code, is
12 repealed.

13 SECTION 65. (a) Section 202.054, Estates Code, as amended
14 by this Act, applies only to a proceeding to declare heirship
15 commenced on or after the effective date of this Act. A proceeding
16 to declare heirship commenced before that date is governed by the
17 law in effect on the date the proceeding was commenced, and the
18 former law is continued in effect for that purpose.

19 (b) Section 452.006(c), Estates Code, as added by this Act,
20 applies only to a temporary administrator appointed on or after the
21 effective date of this Act. A temporary administrator appointed
22 before the effective date of this Act is governed by the law in
23 effect on the date the administrator was appointed, and the former
24 law is continued in effect for that purpose.

25 (c) Section 503.002, Estates Code, as amended by this Act,
26 applies only to a copy of a testamentary instrument or other
27 document filed for recording on or after the effective date of this

1 Act. A copy of a testamentary instrument or other document filed
2 before the effective date of this Act is governed by the law in
3 effect on the date the instrument or document was filed, and the
4 former law is continued in effect for that purpose.

5 (d) The changes in law made by this Act to Sections 25.0006,
6 25.00231, and 26.001, Government Code, apply only to an insurance
7 policy delivered, issued for delivery, or renewed on or after
8 January 1, 2020. An insurance policy delivered, issued for
9 delivery, or renewed before January 1, 2020, is governed by the law
10 as it existed immediately before the effective date of this Act, and
11 that law is continued in effect for that purpose.

12 SECTION 66. (a) Except as otherwise provided by this
13 section, the changes in law made by this Act apply to:

14 (1) a guardianship created before, on, or after the
15 effective date of this Act; and

16 (2) an application for a guardianship pending on, or
17 filed on or after, the effective date of this Act.

18 (b) The changes in law made by this Act to Section 1021.001,
19 Estates Code, apply only to an action filed on or after the
20 effective date of this Act. An action filed before the effective
21 date of this Act is governed by the law in effect on the date the
22 action was filed, and the former law is continued in effect for that
23 purpose.

24 (c) The changes in law made by this Act to Sections
25 1054.201, 1101.153, 1155.054(d), and 1155.151(a), Estates Code,
26 and Section 155.205(b), Government Code, apply only to a
27 guardianship proceeding commenced on or after the effective date of

1 this Act. A guardianship proceeding commenced before the effective
2 date of this Act is governed by the law in effect on the date the
3 proceeding was commenced, and the former law is continued in effect
4 for that purpose.

5 (d) Section 1301.0511, Estates Code, as added by this Act,
6 applies only to an application for creation of a management trust
7 filed on or after the effective date of this Act. An application
8 for creation of a management trust filed before the effective date
9 of this Act is governed by the law in effect on the date the
10 application was filed, and the former law is continued in effect for
11 that purpose.

12 (e) The changes in law made by this Act to Sections [1301.101](#)
13 and [1301.203](#), Estates Code, apply only to an application for the
14 creation or modification of a management trust filed on or after the
15 effective date of this Act. An application for the creation or
16 modification of a management trust filed before the effective date
17 of this Act is governed by the law in effect on the date the
18 application was filed, and the former law is continued in effect for
19 that purpose.

20 (f) The changes in law made by this Act to Section [1355.105](#),
21 Estates Code, apply only to an application for an order for the
22 delivery of money that is filed on or after the effective date of
23 this Act. An application for an order for the delivery of money
24 that is filed before the effective date of this Act is governed by
25 the law in effect on the date the application was filed, and the
26 former law is continued in effect for that purpose.

27 (g) Section [1101.001](#), Estates Code, as amended by this Act,

1 applies only to an application for the appointment of a guardian
2 filed on or after the effective date of this Act. An application
3 for the appointment of a guardian filed before the effective date of
4 this Act is governed by the law in effect on the date the
5 application was filed, and the former law is continued in effect for
6 that purpose.

7 (h) The following provisions of this Act apply only to the
8 appointment of a guardian of the person or of the estate of a ward,
9 or both, made on or after July 1, 2020:

10 (1) Sections 1002.0215 and 1002.0265 and Subchapter
11 G-1, Chapter 1104, Estates Code, as added by this Act;

12 (2) Sections 1104.251(a), 1104.402(a), 1104.409,
13 1155.151(a-2), 1163.005(a), and 1163.101(c), Estates Code, as
14 amended by this Act;

15 (3) Sections 101.0814, 101.1013, 101.1214,
16 155.001(4), (6), and (6-a), 155.101(a), 155.102(a), and
17 411.1386(a), Government Code, as amended by this Act;

18 (4) Sections 155.001(5-a) and (6-b), 155.053, and
19 155.105(b-1), Government Code, as added by this Act;

20 (5) Section 161.103, Human Resources Code, as amended
21 by this Act; and

22 (6) Sections 118.052 and 118.067, Local Government
23 Code, as amended by this Act.

24 (i) Notwithstanding any other law, a person who,
25 immediately before July 1, 2020, is serving as guardian of the
26 person or of the estate of a ward, or both, and who, under Section
27 1104.334, Estates Code, as added by this Act, would be eligible for

1 appointment of an office of public guardian as the ward's guardian,
2 may continue to serve as guardian of the person or of the estate of
3 the ward, or both, unless otherwise removed as provided by law.

4 SECTION 67. Not later than January 1, 2020, the supreme
5 court shall adopt rules necessary to implement Subchapter G-1,
6 Chapter 1104, Estates Code, as added by this Act, including rules
7 governing the transfer of a guardianship of the person or of the
8 estate of a ward, or both, if appropriate, to an office of public
9 guardian established under that subchapter or a public guardian
10 contracted under that subchapter.

11 SECTION 68. This Act takes effect September 1, 2019.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 667 passed the Senate on March 26, 2019, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 23, 2019, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 667 passed the House, with amendments, on May 21, 2019, by the following vote: Yeas 115, Nays 26, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor