

1-1 By: Zaffirini S.B. No. 667
 1-2 (In the Senate - Filed February 6, 2019; March 1, 2019, read
 1-3 first time and referred to Committee on State Affairs;
 1-4 March 18, 2019, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 9, Nays 0; March 18, 2019,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 667 By: Zaffirini

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to guardianships, management trusts, and certain other
 1-22 procedures and proceedings for persons who are incapacitated.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 1021.001, Estates Code, is amended to
 1-25 read as follows:

1-26 Sec. 1021.001. MATTERS RELATED TO GUARDIANSHIP PROCEEDING.

1-27 (a) For purposes of this code, in a county in which there is no
 1-28 statutory probate court or county court of law exercising original
 1-29 probate jurisdiction, a matter related to a guardianship proceeding
 1-30 includes:

1-31 (1) the granting of letters of guardianship;

1-32 (2) the settling of an account of a guardian and all
 1-33 other matters relating to the settlement, partition, or
 1-34 distribution of a ward's estate;

1-35 (3) a claim brought by or against a guardianship
 1-36 estate;

1-37 (4) an action for trial of title to real property that
 1-38 is guardianship estate property, including the enforcement of a
 1-39 lien against the property;

1-40 (5) an action for trial of the right of property that
 1-41 is guardianship estate property;

1-42 (6) after a guardianship of the estate of a ward is
 1-43 required to be settled as provided by Section 1204.001:

1-44 (A) an action brought by or on behalf of the
 1-45 former ward against a former guardian of the ward for alleged
 1-46 misconduct arising from the performance of the person's duties as
 1-47 guardian;

1-48 (B) an action calling on the surety of a guardian
 1-49 or former guardian to perform in place of the guardian or former
 1-50 guardian, which may include the award of a judgment against the
 1-51 guardian or former guardian in favor of the surety;

1-52 (C) an action against a former guardian of the
 1-53 former ward that is brought by a surety that is called on to perform
 1-54 in place of the former guardian;

1-55 (D) a claim for the payment of compensation,
 1-56 expenses, and court costs, and any other matter authorized under
 1-57 Chapter 1155; and

1-58 (E) a matter related to an authorization made or
 1-59 duty performed by a guardian under Chapter 1204; and

1-60 (7) the appointment of a trustee for a trust created

2-1 under Section 1301.053 or 1301.054, the settling of an account of
2-2 the trustee, and all other matters relating to the trust.

2-3 (a-1) For purposes of this code, in a county in which there
2-4 is no statutory probate court, but in which there is a county court
2-5 at law exercising original probate jurisdiction, a matter related
2-6 to a guardianship proceeding includes:

2-7 (1) all matters and actions described in Subsection
2-8 (a);

2-9 (2) the interpretation and administration of a
2-10 testamentary trust in which a ward is an income or remainder
2-11 beneficiary; and

2-12 (3) the interpretation and administration of an inter
2-13 vivos trust in which a ward is an income or remainder beneficiary.

2-14 (b) For purposes of this code, in a county in which there is
2-15 a statutory probate court, a matter related to a guardianship
2-16 proceeding includes:

2-17 (1) all matters and actions described in Subsections
2-18 [Subsection] (a) and (a-1);

2-19 (2) a suit, action, or application filed against or on
2-20 behalf of a guardianship or a trustee of a trust created under
2-21 Section 1301.053 or 1301.054; and

2-22 (3) a cause of action in which a guardian in a
2-23 guardianship pending in the statutory probate court is a party.

2-24 SECTION 2. Section 1151.351(b), Estates Code, is amended to
2-25 read as follows:

2-26 (b) Unless limited by a court or otherwise restricted by
2-27 law, a ward is authorized to the following:

2-28 (1) to have a copy of the guardianship order and
2-29 letters of guardianship and contact information for the probate
2-30 court that issued the order and letters;

2-31 (2) to have a guardianship that encourages the
2-32 development or maintenance of maximum self-reliance and
2-33 independence in the ward with the eventual goal, if possible, of
2-34 self-sufficiency;

2-35 (3) to be treated with respect, consideration, and
2-36 recognition of the ward's dignity and individuality;

2-37 (4) to reside and receive support services in the most
2-38 integrated setting, including home-based or other community-based
2-39 settings, as required by Title II of the Americans with
2-40 Disabilities Act (42 U.S.C. Section 12131 et seq.);

2-41 (5) to consideration of the ward's current and
2-42 previously stated personal preferences, desires, medical and
2-43 psychiatric treatment preferences, religious beliefs, living
2-44 arrangements, and other preferences and opinions;

2-45 (6) to financial self-determination for all public
2-46 benefits after essential living expenses and health needs are met
2-47 and to have access to a monthly personal allowance;

2-48 (7) to receive timely and appropriate health care and
2-49 medical treatment that does not violate the ward's rights granted
2-50 by the constitution and laws of this state and the United States;

2-51 (8) to exercise full control of all aspects of life not
2-52 specifically granted by the court to the guardian;

2-53 (9) to control the ward's personal environment based
2-54 on the ward's preferences;

2-55 (10) to complain or raise concerns regarding the
2-56 guardian or guardianship to the court, including living
2-57 arrangements, retaliation by the guardian, conflicts of interest
2-58 between the guardian and service providers, or a violation of any
2-59 rights under this section;

2-60 (11) to receive notice in the ward's native language,
2-61 or preferred mode of communication, and in a manner accessible to
2-62 the ward, of a court proceeding to continue, modify, or terminate
2-63 the guardianship and the opportunity to appear before the court to
2-64 express the ward's preferences and concerns regarding whether the
2-65 guardianship should be continued, modified, or terminated;

2-66 (12) to have a court investigator or ~~[7]~~ guardian ad
2-67 litem ~~[, or attorney ad litem]~~ appointed by the court to investigate
2-68 a complaint received by the court from the ward or any person about
2-69 the guardianship;

3-1 (13) to participate in social, religious, and
3-2 recreational activities, training, employment, education,
3-3 habilitation, and rehabilitation of the ward's choice in the most
3-4 integrated setting;
3-5 (14) to self-determination in the substantial
3-6 maintenance, disposition, and management of real and personal
3-7 property after essential living expenses and health needs are met,
3-8 including the right to receive notice and object about the
3-9 substantial maintenance, disposition, or management of clothing,
3-10 furniture, vehicles, and other personal effects;
3-11 (15) to personal privacy and confidentiality in
3-12 personal matters, subject to state and federal law;
3-13 (16) to unimpeded, private, and uncensored
3-14 communication and visitation with persons of the ward's choice,
3-15 except that if the guardian determines that certain communication
3-16 or visitation causes substantial harm to the ward:
3-17 (A) the guardian may limit, supervise, or
3-18 restrict communication or visitation, but only to the extent
3-19 necessary to protect the ward from substantial harm; and
3-20 (B) the ward may request a hearing to remove any
3-21 restrictions on communication or visitation imposed by the guardian
3-22 under Paragraph (A);
3-23 (17) to petition the court and retain counsel of the
3-24 ward's choice who holds a certificate required by Subchapter E,
3-25 Chapter 1054, to represent the ward's interest for capacity
3-26 restoration, modification of the guardianship, the appointment of a
3-27 different guardian, or for other appropriate relief under this
3-28 subchapter, including a transition to a supported decision-making
3-29 agreement, except as limited by Section 1054.006;
3-30 (18) to vote in a public election, marry, and retain a
3-31 license to operate a motor vehicle, unless restricted by the court;
3-32 (19) to personal visits from the guardian or the
3-33 guardian's designee at least once every three months, but more
3-34 often, if necessary, unless the court orders otherwise;
3-35 (20) to be informed of the name, address, phone
3-36 number, and purpose of Disability Rights Texas, an organization
3-37 whose mission is to protect the rights of, and advocate for, persons
3-38 with disabilities, and to communicate and meet with representatives
3-39 of that organization;
3-40 (21) to be informed of the name, address, phone
3-41 number, and purpose of an independent living center, an area agency
3-42 on aging, an aging and disability resource center, and the local
3-43 mental health and intellectual and developmental disability
3-44 center, and to communicate and meet with representatives from these
3-45 agencies and organizations;
3-46 (22) to be informed of the name, address, phone
3-47 number, and purpose of the Judicial Branch Certification Commission
3-48 and the procedure for filing a complaint against a certified
3-49 guardian;
3-50 (23) to contact the Department of Family and
3-51 Protective Services to report abuse, neglect, exploitation, or
3-52 violation of personal rights without fear of punishment,
3-53 interference, coercion, or retaliation; and
3-54 (24) to have the guardian, on appointment and on
3-55 annual renewal of the guardianship, explain the rights delineated
3-56 in this subsection in the ward's native language, or preferred mode
3-57 of communication, and in a manner accessible to the ward.

3-58 SECTION 3. Sections 1153.001(a) and (c), Estates Code, are
3-59 amended to read as follows:
3-60 (a) Within one month after receiving letters of
3-61 guardianship, a guardian of an estate shall provide notice
3-62 requiring each person who has a claim against the estate to present
3-63 the claim within the period prescribed by law. The notice must be:
3-64 (1) published in a newspaper of general circulation
3-65 [~~printed~~] in the county in which the letters were issued; and
3-66 (2) sent to the comptroller by certified or registered
3-67 mail, if the ward remitted or should have remitted taxes
3-68 administered by the comptroller.
3-69 (c) If there is no [a] newspaper of general circulation [~~is~~

4-1 ~~not printed~~] in the county in which the letters of guardianship were
4-2 issued, the notice must be posted and the return made and filed as
4-3 otherwise required by this title.

4-4 SECTION 4. Section 1155.054(d), Estates Code, is amended to
4-5 read as follows:

4-6 (d) If the court finds that a party in a guardianship
4-7 proceeding acted in bad faith or without just cause in prosecuting
4-8 or objecting to an application in the proceeding, the court may
4-9 order ~~require~~ the party to reimburse the ward's estate for all or
4-10 part of the attorney's fees awarded under this section and shall
4-11 issue judgment against the party and in favor of the estate for the
4-12 amount of attorney's fees ordered ~~required~~ to be reimbursed to
4-13 the estate.

4-14 SECTION 5. Section 1155.151(a), Estates Code, is amended to
4-15 read as follows:

4-16 (a) In a guardianship proceeding, the court costs of the
4-17 proceeding, including the costs described by Subsection (a-1),
4-18 shall, except as provided by Subsection (c), be paid as follows, and
4-19 the court shall issue the judgment accordingly:

4-20 (1) out of the guardianship estate, if a guardianship
4-21 of the estate has been created for the benefit of the ward and the
4-22 court determines it is in the ward's best interest;

4-23 (2) out of the management trust, if a management trust
4-24 has been created for the benefit of the ward under Chapter 1301 and
4-25 the court determines it is in the ward's best interest;

4-26 (3) by the party to the proceeding who incurred the
4-27 costs, unless that party filed, on the party's own behalf, an
4-28 affidavit of inability to pay the costs under Rule 145, Texas Rules
4-29 of Civil Procedure, that shows the party is unable to afford the
4-30 costs, if:

4-31 (A) there is no guardianship estate or no
4-32 management trust has been created for the ward's benefit; or

4-33 (B) the assets of the guardianship estate or
4-34 management trust, as appropriate, are insufficient to pay the
4-35 costs; or

4-36 (4) out of the county treasury if:

4-37 (A)(i) there is no guardianship estate or
4-38 management trust;

4-39 (ii) ~~or~~ the assets of the guardianship
4-40 estate or management trust, as appropriate, are insufficient to pay
4-41 the costs; or

4-42 (iii) a guardianship of the estate has been
4-43 created for the benefit of the ward and the court determines it is
4-44 not in the ward's best interest to pay the costs; and

4-45 (B) the party to the proceeding who incurred the
4-46 costs filed, on the party's own behalf, an affidavit of inability to
4-47 pay the costs under Rule 145, Texas Rules of Civil Procedure, that
4-48 shows the party is unable to afford the costs.

4-49 SECTION 6. Section 1163.005(a), Estates Code, is amended to
4-50 read as follows:

4-51 (a) The guardian of the estate shall attach to an account
4-52 the guardian's affidavit stating:

4-53 (1) that the account contains a correct and complete
4-54 statement of the matters to which the account relates;

4-55 (2) that the guardian has paid the bond premium for the
4-56 next accounting period;

4-57 (3) that the guardian has filed all tax returns of the
4-58 ward due during the accounting period;

4-59 (4) that the guardian has paid all taxes the ward owed
4-60 during the accounting period, the amount of the taxes, the date the
4-61 guardian paid the taxes, and the name of the governmental entity to
4-62 which the guardian paid the taxes; and

4-63 (5) if the guardian is a private professional
4-64 guardian, a guardianship program, or the Health and Human Services
4-65 Commission ~~[Department of Aging and Disability Services]~~, whether
4-66 the guardian or an individual certified under Subchapter C, Chapter
4-67 155 ~~[111]~~, Government Code, who is providing guardianship services
4-68 to the ward and who is swearing to the account on the guardian's
4-69 behalf, is or has been the subject of an investigation conducted by

5-1 the Judicial Branch [~~Guardianship~~] Certification Commission
 5-2 [~~Board~~] during the accounting period.

5-3 SECTION 7. Section 1163.101(c), Estates Code, is amended to
 5-4 read as follows:

5-5 (c) The guardian of the person shall file a sworn affidavit
 5-6 that contains:

5-7 (1) the guardian's current name, address, and
 5-8 telephone number;

5-9 (2) the ward's date of birth and current name, address,
 5-10 telephone number, and age;

5-11 (3) a description of the type of home in which the ward
 5-12 resides, which shall be described as:

5-13 (A) the ward's own home;

5-14 (B) a nursing home;

5-15 (C) a guardian's home;

5-16 (D) a foster home;

5-17 (E) a boarding home;

5-18 (F) a relative's home, in which case the
 5-19 description must specify the relative's relationship to the ward;

5-20 (G) a hospital or medical facility; or

5-21 (H) another type of residence;

5-22 (4) statements indicating:

5-23 (A) the length of time the ward has resided in the
 5-24 present home;

5-25 (B) the reason for a change in the ward's
 5-26 residence, if a change in the ward's residence has occurred in the
 5-27 past year;

5-28 (C) the date the guardian most recently saw the
 5-29 ward;

5-30 (D) how frequently the guardian has seen the ward
 5-31 in the past year;

5-32 (E) whether the guardian has possession or
 5-33 control of the ward's estate;

5-34 (F) whether the ward's mental health has
 5-35 improved, deteriorated, or remained unchanged during the past year,
 5-36 including a description of the change if a change has occurred;

5-37 (G) whether the ward's physical health has
 5-38 improved, deteriorated, or remained unchanged during the past year,
 5-39 including a description of the change if a change has occurred;

5-40 (H) whether the ward has regular medical care;
 5-41 and

5-42 (I) the ward's treatment or evaluation by any of
 5-43 the following persons during the past year, including the person's
 5-44 name and a description of the treatment:

5-45 (i) a physician;

5-46 (ii) a psychiatrist, psychologist, or other
 5-47 mental health care provider;

5-48 (iii) a dentist;

5-49 (iv) a social or other caseworker; or

5-50 (v) any other individual who provided
 5-51 treatment;

5-52 (5) a description of the ward's activities during the
 5-53 past year, including recreational, educational, social, and
 5-54 occupational activities, or a statement that no activities were
 5-55 available or that the ward was unable or refused to participate in
 5-56 activities;

5-57 (6) the guardian's evaluation of:

5-58 (A) the ward's living arrangements as excellent,
 5-59 average, or below average, including an explanation if the
 5-60 conditions are below average;

5-61 (B) whether the ward is content or unhappy with
 5-62 the ward's living arrangements; and

5-63 (C) unmet needs of the ward;

5-64 (7) a statement indicating whether the guardian's
 5-65 power should be increased, decreased, or unaltered, including an
 5-66 explanation if a change is recommended;

5-67 (8) a statement indicating that the guardian has paid
 5-68 the bond premium for the next reporting period;

5-69 (9) if the guardian is a private professional

6-1 guardian, a guardianship program, or the Health and Human Services
6-2 Commission [~~Department of Aging and Disability Services~~], whether
6-3 the guardian or an individual certified under Subchapter C, Chapter
6-4 155, Government Code, who is providing guardianship services to the
6-5 ward and who is filing the affidavit on the guardian's behalf, is or
6-6 has been the subject of an investigation conducted by the Judicial
6-7 Branch [~~Guardianship~~] Certification Commission [~~Board~~] during the
6-8 preceding year; and

6-9 (10) any additional information the guardian desires
6-10 to share with the court regarding the ward, including:

6-11 (A) whether the guardian has filed for emergency
6-12 detention of the ward under Subchapter A, Chapter 573, Health and
6-13 Safety Code; and

6-14 (B) if applicable, the number of times the
6-15 guardian has filed for emergency detention and the dates of the
6-16 applications for emergency detention.

6-17 SECTION 8. Subchapter B, Chapter 1301, Estates Code, is
6-18 amended by adding Section 1301.0511 to read as follows:

6-19 Sec. 1301.0511. NOTICE REQUIRED FOR APPLICATION FOR
6-20 CREATION OF TRUST; CITATION OF APPLICANT NOT REQUIRED. (a) On the
6-21 filing of an application for creation of a management trust and
6-22 except as provided by Subsection (d), notice shall be issued and
6-23 served in the manner provided by Subchapter C, Chapter 1051, for the
6-24 issuance and service of notice on the filing of an application for
6-25 guardianship.

6-26 (b) It is not necessary to serve a citation on a person who
6-27 files an application for the creation of a management trust under
6-28 this subchapter or for that person to waive the issuance and
6-29 personal service of citation.

6-30 (c) If the person for whom an application for creation of a
6-31 management trust is filed is a ward, the sheriff or other officer,
6-32 in addition to serving the persons described by Section 1051.103,
6-33 shall personally serve each guardian of the ward with citation to
6-34 appear and answer the application.

6-35 (d) Notice under this section is not required if a
6-36 proceeding for the appointment of a guardian is pending for the
6-37 person for whom an application for creation of a management trust is
6-38 filed.

6-39 SECTION 9. Section 1301.101(a), Estates Code, is amended to
6-40 read as follows:

6-41 (a) Except as provided by Subsection (c), a management trust
6-42 created for a ward or incapacitated person must provide that:

6-43 (1) the ward or incapacitated person is the sole
6-44 beneficiary of the trust;

6-45 (2) the trustee may disburse an amount of the trust's
6-46 principal or income as the trustee determines is necessary to spend
6-47 for the health, education, maintenance, or support of the person
6-48 for whom the trust is created;

6-49 (3) the trust income that the trustee does not
6-50 disburse under Subdivision (2) must be added to the trust
6-51 principal;

6-52 (4) a trustee that is a corporate fiduciary serves
6-53 without giving a bond; ~~and~~

6-54 (5) subject to the court's approval and Subsection
6-55 (b), a trustee is entitled to receive reasonable compensation for
6-56 services the trustee provides to the person for whom the trust is
6-57 created as the person's trustee; and

6-58 (6) the trust terminates:

6-59 (A) except as provided by Paragraph (B), if the
6-60 person for whom the trust is created is a minor:

6-61 (i) on the earlier of:

6-62 (a) the person's death; or

6-63 (b) the person's 18th birthday; or

6-64 (ii) on the date provided by court order,
6-65 which may not be later than the person's 25th birthday;

6-66 (B) if the person for whom the trust is created is
6-67 a minor and is also incapacitated for a reason other than being a
6-68 minor:

6-69 (i) on the person's death; or

7-1 (ii) when the person regains capacity; or
 7-2 (C) if the person for whom the trust is created is
 7-3 not a minor:
 7-4 (i) according to the terms of the trust;
 7-5 (ii) on the date the court determines that
 7-6 continuing the trust is no longer in the person's best interests,
 7-7 subject to Section 1301.202(c); or
 7-8 (iii) on the person's death.

7-9 SECTION 10. Section 1301.154(b), Estates Code, is amended
 7-10 to read as follows:

7-11 (b) The trustee of a management trust created for a ward
 7-12 shall provide a copy of the annual account to each ~~the~~ guardian of
 7-13 the ward ~~ward's estate or person~~.

7-14 SECTION 11. Section 1301.203, Estates Code, is amended by
 7-15 amending Subsection (a) and adding Subsection (a-1) to read as
 7-16 follows:

7-17 (a) Except as provided by Subsection (a-1), if ~~if~~ the
 7-18 person for whom a management trust is created is a minor, the trust
 7-19 terminates on:

- 7-20 (1) the earlier of:
 - 7-21 (A) the person's death; or
 - 7-22 (B) the person's 18th birthday; or
- 7-23 (2) the date provided by court order, which may not be
 7-24 later than the person's 25th birthday.

7-25 (a-1) If the person for whom a management trust is created
 7-26 is a minor and is also incapacitated for a reason other than being a
 7-27 minor, the trust terminates:

- 7-28 (1) on the person's death; or
- 7-29 (2) when the person regains capacity.

7-30 SECTION 12. Sections 1355.002(b), (c), (d), (e), and (f),
 7-31 Estates Code, are amended to read as follows:

7-32 (b) This section applies only to a nonresident creditor who
 7-33 is:

- 7-34 (1) a nonresident minor and has a nonresident guardian
 7-35 of the estate appointed by a foreign court;
- 7-36 (2) [✓] a nonresident person who is adjudged by a
 7-37 foreign court ~~[of competent jurisdiction]~~ to be incapacitated and
 7-38 has a nonresident guardian of the estate appointed by that
 7-39 court; [✓] or
- 7-40 (3) the nonresident former ward of a guardianship
 7-41 terminated under Chapter 1204 who has no legal guardian qualified
 7-42 in this state.

7-43 (c) A debtor in this state who owes money to a nonresident
 7-44 creditor to whom this section applies may pay the money:

- 7-45 (1) to the creditor's guardian of the estate qualified
 7-46 in the domiciliary jurisdiction; or
- 7-47 (2) to the county clerk of:
 - 7-48 (A) any county in this state in which real
 7-49 property owned by the creditor is located; or
 - 7-50 (B) if the creditor is not known to own real
 7-51 property in this state, the county in which the debtor resides.

7-52 (d) A payment made under this section is for the nonresident
 7-53 creditor's account and for the nonresident creditor's use and
 7-54 benefit.

7-55 (e) A receipt for payment signed by the county clerk is
 7-56 binding on the nonresident creditor as of the date and to the extent
 7-57 of payment if the receipt states:

- 7-58 (1) the creditor's name; and
- 7-59 (2) the creditor's post office address, if the address
 7-60 is known.

7-61 (f) A county clerk who receives a payment under Subsection
 7-62 (c) for a nonresident creditor shall handle the money in the same
 7-63 manner as provided for a payment to the account of a resident
 7-64 creditor under Sections 1355.001, 1355.051, 1355.052, 1355.102,
 7-65 1355.103, and 1355.104. Those sections apply to the handling and
 7-66 disposition of money or any increase, dividend, or income paid to
 7-67 the clerk for the use, benefit, and account of the nonresident
 7-68 creditor to whom this section applies.

7-69 SECTION 13. Section 1355.105, Estates Code, is amended to

8-1 read as follows:

8-2 Sec. 1355.105. WITHDRAWAL OF MONEY BY CREDITOR OR
8-3 CREDITOR'S HEIR, ~~[OR]~~ REPRESENTATIVE, OR GUARDIAN. (a) On
8-4 presentation to the court clerk of an order of a county or probate
8-5 court of the county in which the money is held, money that is not
8-6 withdrawn by an authorized person as provided by this chapter may be
8-7 withdrawn by:

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

8-10 (2) a subsequent personal representative of the
8-11 creditor; ~~[or]~~

8-12 (3) the creditor's heirs; or

8-13 (4) a nonresident guardian of the estate appointed by
8-14 a foreign court for a creditor who is:

8-15 (A) a nonresident minor; or

8-16 (B) a nonresident person who is adjudged to be
8-17 incapacitated.

8-18 (b) Except as provided by Subsection (b-1), a [A] withdrawal
8-19 under Subsection (a) may be made at any time and without a special
8-20 bond for that purpose.

8-21 (b-1) A court may require a nonresident guardian of the
8-22 estate of a creditor who is a nonresident minor or nonresident
8-23 incapacitated person as described by Subsection (a)(4) to provide
8-24 proof that the nonresident guardian of the estate gave an adequate
8-25 bond in the foreign jurisdiction if the court determines that it is
8-26 in the nonresident minor's or nonresident incapacitated person's
8-27 best interest.

8-28 (c) The order presented under Subsection (a) must direct the
8-29 court clerk to deliver the money to:

8-30 (1) the creditor;

8-31 (2) ~~[r]~~ the creditor's personal representative;

8-32 (3) ~~[, or]~~ the creditor's heirs named in the order; or

8-33 (4) if the creditor is a nonresident minor or
8-34 nonresident person who is adjudged to be incapacitated, the
8-35 creditor's nonresident guardian of the estate.

8-36 (d) Before the court may issue an order under this section,
8-37 the person's identity and credentials must be proved to the court's
8-38 satisfaction. For purposes of this subsection, a nonresident
8-39 guardian of the estate described by Subsection (c)(4) must present
8-40 to the court exemplified copies of the order of a foreign court
8-41 appointing the guardian and current letters of guardianship issued
8-42 in the foreign jurisdiction.

8-43 SECTION 14. Section 155.205(b), Government Code, is amended
8-44 to read as follows:

8-45 (b) The commission shall obtain:

8-46 (1) fingerprint-based criminal history record
8-47 information of a proposed guardian ~~[an applicant]~~ if:

8-48 (A) the liquid assets of the estate of a ward
8-49 exceed \$50,000; or

8-50 (B) the proposed guardian is not a resident of
8-51 this state; or

8-52 (2) name-based criminal history record information of
8-53 a proposed guardian, including any criminal history record
8-54 information under the current name and all former names of the
8-55 proposed guardian, ~~[an applicant]~~ if:

8-56 (A) the liquid assets of the estate of a ward are
8-57 \$50,000 or less; and

8-58 (B) the proposed guardian is a resident of this
8-59 state.

8-60 SECTION 15. (a) Except as otherwise provided by this
8-61 section, the changes in law made by this Act apply to:

8-62 (1) a guardianship created before, on, or after the
8-63 effective date of this Act; and

8-64 (2) an application for a guardianship pending on, or
8-65 filed on or after, the effective date of this Act.

8-66 (b) The changes in law made by this Act to Section 1021.001,
8-67 Estates Code, apply only to an action filed on or after the
8-68 effective date of this Act. An action filed before the effective
8-69 date of this Act is governed by the law in effect on the date the

9-1 action was filed, and the former law is continued in effect for that
9-2 purpose.

9-3 (c) The changes in law made by this Act to Sections
9-4 1155.054(d) and 1155.151(a), Estates Code, and Section 155.205(b),
9-5 Government Code, apply only to a guardianship proceeding commenced
9-6 on or after the effective date of this Act. A guardianship
9-7 proceeding commenced before the effective date of this Act is
9-8 governed by the law in effect on the date the proceeding was
9-9 commenced, and the former law is continued in effect for that
9-10 purpose.

9-11 (d) Section 1301.0511, Estates Code, as added by this Act,
9-12 applies only to an application for creation of a management trust
9-13 filed on or after the effective date of this Act. An application
9-14 for creation of a management trust filed before the effective date
9-15 of this Act is governed by the law in effect on the date the
9-16 application was filed, and the former law is continued in effect for
9-17 that purpose.

9-18 (e) The changes in law made by this Act to Sections 1301.101
9-19 and 1301.203, Estates Code, apply only to an application for the
9-20 creation or modification of a management trust filed on or after the
9-21 effective date of this Act. An application for the creation or
9-22 modification of a management trust filed before the effective date
9-23 of this Act is governed by the law in effect on the date the
9-24 application was filed, and the former law is continued in effect for
9-25 that purpose.

9-26 (f) The changes in law made by this Act to Section 1355.105,
9-27 Estates Code, apply only to an application for an order for the
9-28 delivery of money that is filed on or after the effective date of
9-29 this Act. An application for an order for the delivery of money
9-30 that is filed before the effective date of this Act is governed by
9-31 the law in effect on the date the application was filed, and the
9-32 former law is continued in effect for that purpose.

9-33 SECTION 16. This Act takes effect September 1, 2019.

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