

By: Zaffirini

S.B. No. 1768

A BILL TO BE ENTITLED

1 AN ACT
2 relating to guardianships and supports and services for
3 incapacitated persons.

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

5 SECTION 1. Section 22.016, Estates Code, is amended to read
6 as follows:

7 Sec. 22.016. INCAPACITATED PERSON. A person is
8 "incapacitated" if the person:

9 (1) is a minor;

10 (2) is an adult who lacks the ability to meet essential
11 requirements for his or her own physical health, safety, or
12 self-care or to manage the person's own financial affairs because
13 the person is unable, due to a physical or mental condition, to
14 receive and evaluate information or make or communicate decisions,
15 even with:

16 (A) appropriate supports and services, including
17 assistive technology; or

18 (B) supported decision-making [~~because of a~~
19 ~~physical or mental condition, is substantially unable to:~~

20 [~~(A) provide food, clothing, or shelter for~~
21 ~~himself or herself,~~

22 [~~(B) care for the person's own physical health,~~
23 ~~or~~

24 [~~(C) manage the person's own financial affairs];~~

1 or

2 (3) must have a guardian appointed for the person to
3 receive funds due the person from a governmental source.

4 SECTION 2. Section 22.033, Estates Code, is amended to read
5 as follows:

6 Sec. 22.033. WARD; PERSON WITH A GUARDIAN. "Ward" or
7 "person with a guardian" means a person for whom a guardian has been
8 appointed.

9 SECTION 3. Chapter 1001, Estates Code, is amended by adding
10 Section 1001.004 to read as follows:

11 Sec. 1001.004. USE OF PERSON FIRST RESPECTFUL LANGUAGE
12 INSTEAD OF WARD. (a) The legislature, the Texas Legislative
13 Council, and other state agencies and entities are directed to
14 avoid using the term "ward" in any new provision of law and are
15 directed to replace, as appropriate, that term in any existing law
16 as that existing law is otherwise amended with the following
17 preferred terms or phrases or appropriate variations of those terms
18 or phrases:

- 19 (1) "person";
- 20 (2) "incapacitated person"; and
- 21 (3) "person with a guardian."

22 (b) A law is not invalid solely because it does not employ
23 this section's preferred terms or phrases.

24 SECTION 4. Section 1002.017, Estates Code, is amended to
25 read as follows:

26 Sec. 1002.017. INCAPACITATED PERSON. "Incapacitated
27 person" means:

1 (1) a minor;
2 (2) an adult who lacks the ability to meet essential
3 requirements for his or her own physical health, safety, or
4 self-care or to manage the person's own financial affairs because
5 the person is unable, due to a physical or mental condition, to
6 receive and evaluate information or make or communicate decisions,
7 even with:

8 (A) appropriate supports and services, including
9 assistive technology; or

10 (B) supported decision-making [~~because of a~~
11 ~~physical or mental condition, is substantially unable to:~~

12 ~~[(A) provide food, clothing, or shelter for~~
13 ~~himself or herself;~~

14 ~~[(B) care for the person's own physical health;~~

15 ~~or~~

16 ~~[(C) manage the person's own financial affairs];~~

17 or

18 (3) a person who must have a guardian appointed for the
19 person to receive funds due the person from a governmental source.

20 SECTION 5. Section 1002.026, Estates Code, is amended to
21 read as follows:

22 Sec. 1002.026. PROPOSED WARD; ALLEGED INCAPACITATED
23 PERSON. "Proposed ward" or "alleged incapacitated person" means a
24 person alleged in a guardianship proceeding to be incapacitated.

25 SECTION 6. Section 1002.030, Estates Code, is amended to
26 read as follows:

27 Sec. 1002.030. WARD; PERSON WITH A GUARDIAN. "Ward" or

1 "person with a guardian" means a person for whom a guardian has been
2 appointed.

3 SECTION 7. Section 1002.031, Estates Code, is amended to
4 read as follows:

5 Sec. 1002.031. SUPPORTS AND SERVICES. (a) "Supports and
6 services" means available community-based formal and informal
7 resources and assistance that enable an individual to:

8 (1) meet the individual's needs for food, clothing, or
9 shelter, regardless of whether the individual is able to make or
10 communicate decisions about those needs;

11 (2) care for the individual's physical or mental
12 health, regardless of whether the individual is able to make or
13 communicate decisions about health needs;

14 (3) manage the individual's financial affairs, regardless of whether the individual is able to make or communicate
15 decisions about those affairs; or

17 (4) make personal decisions regarding residence,
18 voting, operating a motor vehicle, and marriage.

19 (b) "Community-based informal resources and assistance"
20 means resources and assistance provided to an individual by a
21 family member, friend, neighbor, or other support system that help
22 the individual address daily living needs and responsibilities. The
23 term includes:

24 (1) providing free or reduced cost meals and
25 transportation to the individual;

26 (2) providing food and prescription delivery to the
27 individual;

1 (3) providing peer support to the individual;

2 (4) opening a joint checking account or obtaining a
3 joint debit card with the individual;

4 (5) providing assistance with arranging for direct
5 deposits at a bank or other financial institution or with paying
6 bills for the individual;

7 (6) making daily telephone calls on the individual's
8 behalf; and

9 (7) making home visits to the individual.

10 (c) "Community-based formal resources and assistance" means
11 resources and assistance provided to an individual with a
12 disability or an elderly individual under a state or federal
13 program that enable the individual to remain in his or her own home
14 or in the community by providing assistance with activities of
15 daily living, including instrumental activities of daily living.

16 The term includes:

17 (1) personal attendant services;

18 (2) assistance in communicating the individual's
19 decisions to other persons, including through the use of an
20 interpreter;

21 (3) assistance with shopping, handling medication,
22 and housekeeping;

23 (4) assistance in accessing or collecting financial
24 and health benefits;

25 (5) nurse-delegated tasks;

26 (6) customized durable medical equipment, assistive
27 technology, or assistance animals; and

1 (7) affordable integrated housing and transportation
2 assistance.

3 SECTION 8. Section 1054.004, Estates Code, is amended by
4 amending Subsection (c) and adding Subsections (d), (e), and (f) to
5 read as follows:

6 (c) Before the hearing, the attorney ad litem shall:

7 (1) discuss with the alleged incapacitated person:

8 (A) [~~proposed ward~~] the attorney ad litem's
9 opinion regarding[+]

10 [~~(1)~~] whether a guardianship is necessary for the
11 alleged incapacitated person [~~proposed ward~~]; and

12 (B) if the attorney ad litem believes a
13 guardianship is necessary, discuss with the alleged incapacitated
14 person [~~(2) if a guardianship is necessary,~~] the specific powers
15 or duties of the guardian that should be limited if the person
16 [~~proposed ward~~] receives supports and services; and

17 (2) advise the alleged incapacitated person of his or
18 her right to oppose the guardianship and shall allow the person to
19 make the decision regarding whether to oppose the guardianship.

20 (d) If the alleged incapacitated person expresses a desire
21 to oppose the guardianship, the attorney ad litem appointed to
22 represent the person shall advocate zealously on the person's
23 behalf and seek alternatives to guardianship or supports and
24 services to avoid the need for the guardianship.

25 (e) The attorney ad litem representing the alleged
26 incapacitated person shall make every reasonable effort within the
27 bounds of law to advocate for the protection of the person's rights

1 by ensuring that the applicant for the appointment of a guardian
2 meets the burden of proof required under Section 1101.101 to
3 establish the need for that appointment.

4 (f) The attorney ad litem shall communicate the information
5 required by this section in the alleged incapacitated person's
6 native language or preferred mode of communication and in a manner
7 that is accessible and understandable to the alleged incapacitated
8 person.

9 SECTION 9. Section 1101.051(a), Estates Code, is amended to
10 read as follows:

11 (a) At a hearing for the appointment of a guardian, the
12 court shall:

13 (1) inquire into the ability of any allegedly
14 incapacitated adult to:

15 (A) meet the essential requirements for his or
16 her own physical health, safety, or self-care [~~feed, clothe, and~~
17 ~~shelter himself or herself,~~

18 [~~(B) care for his or her own physical health~~];

19 and

20 (B) [(C)] manage his or her property or financial
21 affairs;

22 (2) ascertain the age of any alleged incapacitated
23 person [~~proposed ward~~] who is a minor;

24 (3) inquire into the governmental reports for any
25 person who must have a guardian appointed to receive funds due the
26 person from any governmental source; and

27 (4) inquire into the qualifications, abilities, and

1 capabilities of the person seeking to be appointed guardian.

2 SECTION 10. Sections 1101.101(a) and (c), Estates Code, are
3 amended to read as follows:

4 (a) Before appointing a guardian for an alleged
5 incapacitated person [~~a proposed ward~~], the court must:

6 (1) find by clear and convincing evidence that:

7 (A) the alleged incapacitated person [~~proposed~~
8 ~~ward~~] is an incapacitated person;

9 (B) it is in the alleged incapacitated person's
10 [~~proposed ward's~~] best interest to have the court appoint a person
11 as the alleged incapacitated person's [~~proposed ward's~~] guardian;

12 (C) the alleged incapacitated person's [~~proposed~~
13 ~~ward's~~] rights or property will be protected by the appointment of a
14 guardian;

15 (D) alternatives to guardianship that would
16 avoid the need for the appointment of a guardian have been
17 considered and determined not to be feasible; and

18 (E) supports and services available to the
19 alleged incapacitated person [~~proposed ward~~] that would avoid the
20 need for the appointment of a guardian have been considered and
21 determined not to be feasible; and

22 (2) find by a preponderance of the evidence that:

23 (A) the court has venue of the case;

24 (B) the person to be appointed guardian is
25 eligible to act as guardian and is entitled to appointment, or, if
26 no eligible person entitled to appointment applies, the person
27 appointed is a proper person to act as guardian;

1 (C) if a guardian is appointed for a minor, the
2 guardianship is not created for the primary purpose of enabling the
3 minor to establish residency for enrollment in a school or school
4 district for which the minor is not otherwise eligible for
5 enrollment; and

6 (D) the alleged incapacitated person [~~proposed~~
7 ~~ward~~]:

8 (i) [~~is~~] totally lacks the ability to meet
9 the essential requirements for his or her own physical health,
10 safety, or self-care [~~without capacity as provided by this title to~~
11 ~~care for himself or herself~~] and to manage his or her property for
12 the reasons provided by Section 1002.017(2); or

13 (ii) lacks the ability [~~capacity~~] to do
14 some, but not all, of the tasks necessary to meet the essential
15 requirements for his or her own physical health, safety, or
16 self-care [~~care for himself or herself~~] or to manage his or her
17 property for the reasons provided by Section 1002.017(2).

18 (c) A finding under Subsection (a)(2)(D)(ii) must
19 specifically state whether the alleged incapacitated person
20 [~~proposed ward~~] lacks the ability [~~capacity~~], or lacks the
21 sufficient ability [~~capacity~~] with supports and services, to make
22 personal decisions regarding residence, voting, operating a motor
23 vehicle, and marriage.

24 SECTION 11. Sections 1101.103(a) and (d), Estates Code, are
25 amended to read as follows:

26 (a) The [~~Except as provided by Section 1101.104, the~~] court
27 may not grant an application to create a guardianship for an

1 incapacitated person, other than a minor or person for whom it is
2 necessary to have a guardian appointed only to receive funds from a
3 governmental source, unless the applicant presents to the court a
4 written letter or certificate from a physician licensed in this
5 state that is:

6 (1) dated not earlier than the 120th day before the
7 date the application is filed; and

8 (2) based on an examination the physician performed
9 not earlier than the 120th day before the date the application is
10 filed.

11 (d) A physician who examines the alleged incapacitated
12 person [~~proposed ward, other than a physician or psychologist who~~
13 ~~examines the proposed ward under Section 1101.104(2),~~] shall make
14 available for inspection by the attorney ad litem appointed to
15 represent the alleged incapacitated person [~~proposed ward~~] a
16 written letter or certificate from the physician that complies with
17 the requirements of Subsections (a) and (b).

18 SECTION 12. Section 1101.151, Estates Code, is amended to
19 read as follows:

20 Sec. 1101.151. ORDER APPOINTING GUARDIAN WITH FULL
21 AUTHORITY. (a) If it is found that the alleged incapacitated
22 person [~~proposed ward is~~] totally lacks the ability, for the
23 reasons provided by Section 1002.017(2), to meet the essential
24 requirements for his or her own health, safety, or self-care
25 [~~without capacity to care for himself or herself~~], manage his or her
26 property, operate a motor vehicle, make personal decisions
27 regarding residence, and vote in a public election, even with

1 appropriate supports and services or supported decision-making,
2 the court may appoint a guardian of the alleged incapacitated
3 person's [~~proposed ward's~~] person or estate, or both, with full
4 authority over the incapacitated person except as provided by law.

5 (b) An order appointing a guardian under this section must
6 contain findings of fact and specify:

7 (1) the information required by Section 1101.153(a);

8 (2) that the guardian has full authority over the
9 incapacitated person;

10 (3) if necessary, the amount of funds from the corpus
11 of the person's estate the court will allow the guardian to spend
12 for the education and maintenance of the person under Subchapter A,
13 Chapter 1156;

14 (4) whether the person [~~is~~] totally lacks the ability
15 to meet the essential requirements for his or her own health,
16 safety, or self-care [~~incapacitated~~] because of a mental condition;

17 (5) that the person does not have the ability
18 [~~capacity~~] to operate a motor vehicle, make personal decisions
19 regarding residence, and vote in a public election; and

20 (6) if it is a guardianship of the person of the
21 incapacitated person [~~ward~~] or of both the person and the estate of
22 the incapacitated person [~~ward~~], the rights of the guardian with
23 respect to the person as specified in Section 1151.051(c)(1).

24 (c) An order appointing a guardian under this section that
25 includes the rights of the guardian with respect to the person as
26 specified in Section 1151.051(c)(1) must also contain the following
27 prominently displayed statement in boldfaced type, in capital

1 letters, or underlined:

2 "NOTICE TO ANY PEACE OFFICER OF THE STATE OF TEXAS: YOU MAY
3 USE REASONABLE EFFORTS TO ENFORCE THE RIGHT OF A GUARDIAN OF THE
4 PERSON OF AN INCAPACITATED PERSON [~~A WARD~~] TO HAVE PHYSICAL
5 POSSESSION OF THE INCAPACITATED PERSON [~~WARD~~] OR TO ESTABLISH THE
6 INCAPACITATED PERSON'S [~~WARD'S~~] LEGAL DOMICILE AS SPECIFIED IN THIS
7 ORDER. A PEACE OFFICER WHO RELIES ON THE TERMS OF A COURT ORDER AND
8 THE OFFICER'S AGENCY ARE ENTITLED TO THE APPLICABLE IMMUNITY
9 AGAINST ANY CIVIL OR OTHER CLAIM REGARDING THE OFFICER'S GOOD FAITH
10 ACTS PERFORMED IN THE SCOPE OF THE OFFICER'S DUTIES IN ENFORCING THE
11 TERMS OF THIS ORDER THAT RELATE TO THE ABOVE-MENTIONED RIGHTS OF THE
12 COURT-APPOINTED GUARDIAN OF THE PERSON OF THE INCAPACITATED PERSON
13 [~~WARD~~]. ANY PERSON WHO KNOWINGLY PRESENTS FOR ENFORCEMENT AN ORDER
14 THAT IS INVALID OR NO LONGER IN EFFECT COMMITS AN OFFENSE THAT MAY
15 BE PUNISHABLE BY CONFINEMENT IN JAIL FOR AS LONG AS TWO YEARS AND A
16 FINE OF AS MUCH AS \$10,000."

17 SECTION 13. Section 1101.152, Estates Code, is amended to
18 read as follows:

19 Sec. 1101.152. ORDER APPOINTING GUARDIAN WITH LIMITED
20 AUTHORITY. (a) If it is found that the alleged incapacitated
21 person [~~proposed ward~~] lacks the ability, for the reasons provided
22 by Section 1002.017(2), [~~capacity~~] to do some, but not all, of the
23 tasks necessary to meet the essential requirements for his or her
24 own health, safety, or self-care [~~care for himself or herself~~] or to
25 manage his or her property with or without supports and services,
26 the court may appoint a guardian with limited powers and permit the
27 alleged incapacitated person [~~proposed ward~~] to care for himself or

1 herself, including making personal decisions regarding residence
2 and regarding the person's own physical health, safety, or
3 self-care, or to manage his or her property commensurate with the
4 alleged incapacitated person's [~~proposed ward's~~] ability.

5 (b) An order appointing a guardian under this section must
6 contain findings of fact and specify:

7 (1) the information required by Section 1101.153(a);

8 (2) the specific powers, limitations, or duties of the
9 guardian with respect to the person's health, safety, or care or the
10 management of the person's property by the guardian;

11 (2-a) the specific rights and powers retained by the
12 person:

13 (A) with the necessity for supports and services;

14 and

15 (B) without the necessity for supports and
16 services;

17 (3) if necessary, the amount of funds from the corpus
18 of the person's estate the court will allow the guardian to spend
19 for the education and maintenance of the person under Subchapter A,
20 Chapter 1156; and

21 (4) whether the person is incapacitated because of a
22 mental condition and, if so, whether the person:

23 (A) retains the right to make personal decisions
24 regarding residence or vote in a public election; or

25 (B) maintains eligibility to hold or obtain a
26 license to operate a motor vehicle under Chapter 521,
27 Transportation Code.

1 (c) An order appointing a guardian under this section that
2 includes the right of the guardian to have physical possession of
3 the incapacitated person [~~ward~~] or to establish the incapacitated
4 person's [~~ward's~~] legal domicile as specified in Section
5 1151.051(c)(1) must also contain the following prominently
6 displayed statement in boldfaced type, in capital letters, or
7 underlined:

8 "NOTICE TO ANY PEACE OFFICER OF THE STATE OF TEXAS: YOU MAY
9 USE REASONABLE EFFORTS TO ENFORCE THE RIGHT OF A GUARDIAN OF THE
10 PERSON OF AN INCAPACITATED PERSON [~~A WARD~~] TO HAVE PHYSICAL
11 POSSESSION OF THE INCAPACITATED PERSON [~~WARD~~] OR TO ESTABLISH THE
12 INCAPACITATED PERSON'S [~~WARD'S~~] LEGAL DOMICILE AS SPECIFIED IN THIS
13 ORDER. A PEACE OFFICER WHO RELIES ON THE TERMS OF A COURT ORDER AND
14 THE OFFICER'S AGENCY ARE ENTITLED TO THE APPLICABLE IMMUNITY
15 AGAINST ANY CIVIL OR OTHER CLAIM REGARDING THE OFFICER'S GOOD FAITH
16 ACTS PERFORMED IN THE SCOPE OF THE OFFICER'S DUTIES IN ENFORCING THE
17 TERMS OF THIS ORDER THAT RELATE TO THE ABOVE-MENTIONED RIGHTS OF THE
18 COURT-APPOINTED GUARDIAN OF THE PERSON OF THE INCAPACITATED PERSON
19 [~~WARD~~]. ANY PERSON WHO KNOWINGLY PRESENTS FOR ENFORCEMENT AN ORDER
20 THAT IS INVALID OR NO LONGER IN EFFECT COMMITS AN OFFENSE THAT MAY
21 BE PUNISHABLE BY CONFINEMENT IN JAIL FOR AS LONG AS TWO YEARS AND A
22 FINE OF AS MUCH AS \$10,000."

23 SECTION 14. Section 1101.155, Estates Code, is amended to
24 read as follows:

25 Sec. 1101.155. DISMISSAL OF APPLICATION. If it is found
26 that an alleged incapacitated person [~~a proposed ward~~] who is an
27 adult possesses the ability to meet the essential requirements for

1 his or her own physical health, safety, or self-care [~~capacity to~~
2 ~~care for himself or herself~~] and to manage his or her property as
3 would a reasonably prudent person, the court shall dismiss an
4 application for guardianship.

5 SECTION 15. Section 1202.001(b), Estates Code, is amended
6 to read as follows:

7 (b) A guardianship shall be settled and closed when the
8 incapacitated person [~~ward~~]:

9 (1) dies and, if the incapacitated person [~~ward~~] was
10 married, the person's [~~ward's~~] spouse qualifies as survivor in
11 community;

12 (2) is found by the court to have full ability
13 [~~capacity~~], or sufficient ability [~~capacity~~] with supports and
14 services, to meet the essential requirements for his or her own
15 physical health, safety, or self-care [~~care for himself or herself~~]
16 and to manage the incapacitated person's [~~ward's~~] property;

17 (3) is no longer a minor; or

18 (4) no longer must have a guardian appointed to
19 receive funds due the incapacitated person [~~ward~~] from any
20 governmental source.

21 SECTION 16. Section 1202.051(a), Estates Code, is amended
22 to read as follows:

23 (a) Notwithstanding Section 1055.003, a person with a
24 guardian [~~ward~~] or any person interested in the [~~ward's~~] welfare of
25 the person with a guardian may file a written application with the
26 court for an order:

27 (1) finding that the person with a guardian [~~ward~~] is

1 no longer an incapacitated person and ordering the settlement and
2 closing of the guardianship;

3 (2) finding that the person with a guardian [~~ward~~]
4 lacks the ability, for the reasons provided by Section 1002.017(2)
5 [~~capacity~~], or lacks the sufficient ability [~~capacity~~] with
6 supports and services, to do some or all of the tasks necessary to
7 meet the essential requirements for his or her own physical health,
8 safety, or self-care [~~provide food, clothing, or shelter for~~
9 ~~himself or herself, to care for the ward's own physical health,~~] or
10 to manage his or her [~~the ward's~~] own financial affairs and granting
11 additional powers or duties to the guardian; or

12 (3) finding that the person with a guardian, despite
13 the reasons provided by Section 1002.017(2), [~~ward~~] has the ability
14 [~~capacity~~], or sufficient ability [~~capacity~~] with supports and
15 services, to do some, but not all, of the tasks necessary to meet
16 the essential requirements for his or her own physical health,
17 safety, or self-care [~~provide food, clothing, or shelter for~~
18 ~~himself or herself, to care for the ward's own physical health,~~] or
19 to manage his or her [~~the ward's~~] own financial affairs and:

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

21 (B) permitting the person with a guardian [~~ward~~]
22 to provide for his or her own physical health, safety, or self-care
23 [~~care for himself or herself~~], make personal decisions regarding
24 residence, or manage the person's [~~ward's~~] own financial affairs
25 commensurate with the person's [~~ward's~~] ability, with or without
26 supports and services.

27 SECTION 17. Section 1202.152, Estates Code, is amended to

1 read as follows:

2 Sec. 1202.152. PHYSICIAN'S LETTER OR CERTIFICATE REQUIRED.

3 (a) The court may not grant an order completely restoring the [~~a~~
4 ~~ward's~~] capacity of or modifying a [~~ward's~~] guardianship for a
5 person with a guardian under an application filed under Section
6 1202.051 unless the applicant presents to the court a written
7 letter or certificate from a physician licensed in this state that
8 is dated:

9 (1) not earlier than the 120th day before the date the
10 application was filed; or

11 (2) after the date the application was filed but
12 before the date of the hearing.

13 (b) A letter or certificate presented under Subsection (a)
14 must:

15 (1) describe the nature and degree of incapacity,
16 including the medical history if reasonably available, or state
17 that, in the physician's opinion, the person with a guardian [~~ward~~]
18 has the ability [~~capacity~~], or sufficient ability [~~capacity~~] with
19 supports and services, to:

20 (A) meet the essential requirements for his or
21 her own health, safety, or self-care [~~provide food, clothing, and~~
22 ~~shelter for himself or herself,~~

23 [~~(B) care for the ward's own physical health~~];

24 and

25 (B) [~~(C)~~] manage the person's [~~ward's~~] financial
26 affairs;

27 (2) provide a medical prognosis specifying the

1 estimated severity of any incapacity;

2 (3) state how or in what manner the ~~[ward's]~~ ability of
3 the person with a guardian to make or communicate responsible
4 decisions concerning himself or herself is affected by the person's
5 ~~[ward's]~~ physical or mental health;

6 (4) state whether any current medication affects the
7 ~~[ward's]~~ demeanor of the person with a guardian or the person's
8 ~~[ward's]~~ ability to participate fully in a court proceeding;

9 (5) describe the precise physical and mental
10 conditions underlying a diagnosis of senility, if applicable; and

11 (6) include any other information required by the
12 court.

13 (c) If the court determines it is necessary, the court may
14 appoint the necessary physicians to examine the person with a
15 guardian ~~[ward]~~ in the same manner and to the same extent as a
16 person with a guardian ~~[ward]~~ is examined by a physician under
17 Section 1101.103 ~~[or 1101.104]~~.

18 SECTION 18. Section 36.001(1), Government Code, is amended
19 to read as follows:

20 (1) "Competency evaluator" means a physician or
21 psychologist who is licensed or certified in this state and who
22 performs examinations to determine whether an individual is
23 incapacitated or has an intellectual disability for purposes of
24 appointing a guardian for the individual. The term includes
25 physicians and psychologists conducting examinations under Section
26 ~~[Sections]~~ 1101.103 ~~[and 1101.104]~~, Estates Code.

27 SECTION 19. Section 155.001(7), Government Code, is amended

1 to read as follows:

2 (7) "Ward" or "person with a guardian" has the meaning
3 assigned by Section 22.033, Estates Code.

4 SECTION 20. Section 240.002(15), Property Code, is amended
5 to read as follows:

6 (15) "Ward" or "person with a guardian" has the
7 meaning assigned by Section 22.033, Estates Code.

8 SECTION 21. Section 1101.104, Estates Code, is repealed.

9 SECTION 22. The changes in law made by this Act to Sections
10 1054.004, 1101.051(a), 1101.101(a) and (c), 1101.103(a) and (d),
11 1101.151, 1101.152, and 1101.155, Estates Code, apply only to a
12 guardianship proceeding commenced on or after the effective date of
13 this Act. A guardianship proceeding commenced before the effective
14 date of this Act is governed by the law in effect on the date the
15 proceeding was commenced, and the former law is continued in effect
16 for that purpose.

17 SECTION 23. The changes in law made by this Act to Sections
18 1202.001(b), 1202.051(a), and 1202.152, Estates Code, apply only to
19 a proceeding for the complete restoration of capacity of an
20 incapacitated person or modification of a guardianship commenced on
21 or after the effective date of this Act. A proceeding described by
22 this section commenced before the effective date of this Act is
23 governed by the law in effect on the date the proceeding was
24 commenced, and the former law is continued in effect for that
25 purpose.

26 SECTION 24. This Act takes effect September 1, 2019.