

Amend SB 626 (house committee printing) as follows:

(1) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly:

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

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

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

(1) the original file in the case; and

(2) certified copies of all entries that have been made in the judge's probate docket in the proceeding.

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

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

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

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

SECTION _____. Section 202.054, Estates Code, is amended to read as follows:

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

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

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

SECTION _____. Section 351.351, Estates Code, is amended to read as follows:

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

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

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

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

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

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

Sec. 404.005. COURT-APPOINTED SUCCESSOR INDEPENDENT ADMINISTRATOR [~~EXECUTOR~~].

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

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

(b) Except as otherwise provided by this subsection, if a distributee described in this section is an incapacitated person, the guardian of the person of the distributee may sign the application on behalf of the distributee. If the probate court finds that either the continuing of independent administration or the appointment of the person, firm, or corporation designated in the application as successor independent administrator [~~executor~~] would not be in the best interest of the incapacitated person, then, notwithstanding Subsection (a), the court may not enter an order

continuing independent administration of the estate. If the distributee is an incapacitated person and has no guardian of the person, the court may appoint a guardian ad litem to make application on behalf of the incapacitated person if the probate court considers such an appointment necessary to protect the interest of that distributee. If a distributee described in this section is a minor and has no guardian of the person, a natural guardian of the minor may sign the application for the order continuing independent administration on the minor's behalf unless a conflict of interest exists between the minor and the natural guardian.

(c) Except as otherwise provided by this subsection, if a trust is created in the decedent's will or if the decedent's will devises property to a trustee as described by Section 254.001, the person or class of persons entitled to receive property outright from the trust on the decedent's death and those first eligible to receive the income from the trust, determined as if the trust were to be in existence on the date of the filing of the application for an order continuing independent administration, shall, for the purposes of this section, be considered to be the distributee or distributees on behalf of the trust, and any other trust or trusts coming into existence on the termination of the trust, and are authorized to apply for an order continuing independent administration on behalf of the trust without the consent or agreement of the trustee or any other beneficiary of the trust, or the trustee or any beneficiary of any other trust which may come into existence on the termination of the trust. If a person considered to be a distributee under this subsection is an incapacitated person, the trustee or cotrustee may apply for the order continuing independent administration or sign the application on the incapacitated person's behalf if the trustee or cotrustee is not the person proposed to serve as the independent administrator ~~[executor]~~.

(h) If a successor independent administrator ~~[executor]~~ is appointed under this section, then, unless the probate court shall waive bond on application for waiver, the successor independent administrator ~~[executor]~~ shall be required to enter into bond

payable to and to be approved by the judge and the judge's successors in a sum that is found by the judge to be adequate under all circumstances, or a bond with one surety in an amount that is found by the judge to be adequate under all circumstances, if the surety is an authorized corporate surety.

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

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

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

SECTION _____. Section 503.002, Estates Code, is amended to read as follows:

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

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

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

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

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

(1) existence of the instrument; and

(2) title or titles conferred by the instrument.

SECTION _____. Section 1023.006, Estates Code, is amended to read as follows:

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

(1) the case file of the guardianship proceedings; and

(2) a certified copy of the index of the guardianship records.

SECTION _____. Section 1023.007, Estates Code, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

SECTION _____. Section 1101.001(b), Estates Code, is amended to read as follows:

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

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

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

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

(3-a) whether alternatives to guardianship and

available supports and services to avoid guardianship were considered;

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

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

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

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

(C) the right of a proposed ward to make personal decisions regarding residence;

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

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

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

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

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

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

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

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

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

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

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

(C) if each of the proposed ward's parents and adult siblings are deceased, the names and addresses of the proposed ward's other living relatives who are related to the proposed ward within the third degree by consanguinity and who are adults;

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

(A) the court involved;

(B) the nature of the proceeding; and

(C) any final disposition of the proceeding;

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

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

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

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

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

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

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

(15) if applicable, that the person whom the applicant seeks to have appointed as a guardian is a private professional guardian who is certified under Subchapter C, Chapter 155,

Government Code, and has complied with the requirements of Subchapter G, Chapter 1104.

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

(a) A court order appointing a guardian must:

(1) specify:

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

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

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

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

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

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

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

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

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

(1) a party; or

(2) participating as a witness.

SECTION _____. Section 1251.005, Estates Code, is amended to read as follows:

Sec. 1251.005. CITATION AND NOTICE OF APPLICATION. (a) On the filing of an application for temporary guardianship, the court clerk shall issue:

(1) citation [~~notice~~] to be served on:

(A) [~~(1)~~] the proposed ward; and

(B) [(2) the proposed ward's appointed attorney,
and

[(3)] the proposed temporary guardian named in the
application, if that person is not the applicant; and

(2) notice to be served on the proposed ward's
appointed attorney.

(b) The citation or notice issued as provided by Subsection
(a) must describe:

(1) the rights of the parties; and

(2) the date, time, place, purpose, and possible
consequences of a hearing on the application.

(b-1) The citation issued as provided by Subsection (a) must
contain a statement regarding the authority of a person under
Section 1051.252 who is interested in the estate or welfare of a
proposed ward or, if a guardianship is created, the ward to file
with the county clerk a written request to be notified of all, or
any specified, motions, applications, or pleadings filed with
respect to the temporary guardianship proceeding by any person or
by a person specifically designated in the request.

(c) A copy of the application must be attached to the
citation or notice.

SECTION _____. The heading to Section 1251.153, Estates
Code, is amended to read as follows:

Sec. 1251.153. DELIVERY OF ESTATE, FILING OF FINAL REPORT,
AND[+] DISCHARGE OF TEMPORARY GUARDIAN.

SECTION _____. Section 1251.153, Estates Code, is amended by
adding Subsection (a-1) and amending Subsection (b) to read as
follows:

(a-1) At the expiration of a temporary guardianship of the
person, the temporary guardian shall file with the court clerk a
final report that:

(1) if the ward is living, describes each reason the
temporary guardianship of the person expired, including a statement
of facts regarding whether the temporary guardianship expired
because:

(A) the ward was found by the court to have full
capacity, or sufficient capacity with supports and services, to

care for himself or herself;

(B) alternatives to guardianship have been established to meet the needs of the ward; or

(C) a permanent guardian appointed by the court has qualified to serve as the ward's guardian; or

(2) if the ward is deceased, includes the date and place of death, if known, in the form and manner of the report required to be filed by a guardian of the person under Section 1163.103.

(b) On proof of delivery under Subsection (a) and approval by the court of a final report filed with the court clerk under Subsection (a-1), as applicable:

(1) the temporary guardian shall be discharged; and

(2) the sureties on the temporary guardian's bond shall be released as to future liability.

SECTION _____. Section 1253.001, Estates Code, is amended to read as follows:

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

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

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

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

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

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

SECTION _____. Section 25.0027, Government Code, is amended to read as follows:

Sec. 25.0027. JURIES; PRACTICE AND PROCEDURE. The drawing of jury panels, selection of jurors, and practice in the statutory probate courts must conform to that prescribed by law for county courts, except that practice, procedure, rules of evidence, issuance of process and writs, juries, including the number of jurors provided the parties to a proceeding may agree to try a particular case with fewer than 12 jurors, and all other matters pertaining to the conduct of trials and hearings in the statutory probate courts involving those matters of concurrent jurisdiction with district courts are governed by the laws and rules pertaining to district courts.

SECTION _____. Section 74.141, Government Code, is amended to read as follows:

Sec. 74.141. DEFENSE OF JUDGES. The attorney general shall defend a state district judge, a presiding judge of an administrative region, the presiding judge of the statutory probate courts, a visiting judge assigned to hear a guardianship or probate matter by the presiding judge of the statutory probate courts, or an active, retired, or former judge assigned under this chapter in any action or suit in any court in which the judge is a defendant because of his office or capacity as judge if the judge requests the attorney general's assistance in the defense of the suit.

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

(a) The state bar shall provide a course of instruction for

attorneys who represent any person's interests [~~parties~~] in guardianship cases or who serve as court-appointed guardians.

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

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

(b) The commission shall obtain:

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

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

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

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

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

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

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

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

(c) Section 503.002, Estates Code, as amended by this Act, applies only to a copy of a testamentary instrument or other

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

(d) Sections 1101.001 and 1251.005, Estates Code, as amended by this Act, apply only to an application for the appointment of a guardian or temporary guardian filed on or after the effective date of this Act. An application for the appointment of a guardian or temporary guardian filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(e) Sections 1054.201 and 1101.153, Estates Code, as amended by this Act, and Section 155.205, Government Code, as amended by this Act, apply only to a guardianship proceeding commenced on or after the effective date of this Act. A guardianship proceeding commenced before the effective date of this Act is governed by the law applicable to the proceeding immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(f) Sections 1251.153 and 1253.001, Estates Code, as amended by this Act, apply to a guardianship created before, on, or after the effective date of this Act.

(g) The changes in law made by this Act to Sections 25.0006 and 25.00231, Government Code, apply only to an insurance policy delivered, issued for delivery, or renewed on or after January 1, 2022. An insurance policy delivered, issued for delivery, or renewed before January 1, 2022, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(h) Section 74.141, Government Code, as amended by this Act, applies to a cause of action filed on or after the effective date of this Act. A cause of action filed before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(2) On page 30, line 24, strike "section" and substitute "Act".