

Amend SB 626 (house committee printing) as follows:

(1) On page 21, line 7, strike "1163.101(c)" and substitute "1163.101".

(2) On page 21, lines 7 and 8, between "amended" and "to" insert "by amending Subsections (a) and (c) and adding Subsection (a-1)".

(3) On page 21, between lines 8 and 9, insert the following:

(a) Except as provided by Subsection (a-1), once ~~Once~~ each year for the duration of the guardianship, a guardian of the person shall file with the court a report that contains the information required by this section.

(a-1) Unless the court finds that it is not in the best interest of the ward, a guardian of the person of a ward appointed under Section 1103A.001 is not required to file an annual report under this section.

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

SECTION _____. Section 1054.001, Estates Code, is amended to read as follows:

Sec. 1054.001. APPOINTMENT OF ATTORNEY AD LITEM IN PROCEEDING FOR APPOINTMENT OF GUARDIAN. In a proceeding under this title for the appointment of a guardian and except as provided by Section 1103A.001, the court shall appoint an attorney ad litem to represent the proposed ward's interests.

SECTION _____. Section 1054.151, Estates Code, is amended to read as follows:

Sec. 1054.151. INVESTIGATION OF GUARDIANSHIP APPLICATION. On the filing of an application for guardianship under Section 1101.001 and except as provided by Section 1103A.001, a court investigator shall investigate the circumstances alleged in the application to determine whether a less restrictive alternative to guardianship is appropriate.

SECTION _____. Subtitle D, Title 3, Estates Code, is amended by adding Chapter 1103A to read as follows:

CHAPTER 1103A. PROCEDURE TO APPOINT CAREGIVER PARENT AS INDEPENDENT
GUARDIAN OF THE PERSON FOR CERTAIN MINORS REQUIRING GUARDIANSHIPS
AS ADULTS

Sec. 1103A.001. PROCEDURE FOR APPOINTMENT OF CAREGIVER PARENT AS INDEPENDENT GUARDIAN OF THE PERSON OF CERTAIN MINORS WITH PROFOUND INTELLECTUAL DISABILITIES. (a) This section applies only to a proceeding for the appointment of a guardian of the person of a proposed ward under Section 1101.001 or 1103.001 in which the:

(1) proposed ward is a minor who:

(A) has a profound intellectual disability, as diagnosed by a physician licensed to practice in this state or as determined, following an examination, by a psychologist licensed in this state or certified by the Health and Human Services Commission to perform the examination, in accordance with rules adopted by the executive commissioner of the commission governing examinations of that kind; and

(B) because of the incapacity described by Paragraph (A) will require a guardianship of the person after the proposed ward is no longer a minor; and

(2) proposed guardian of the person is a parent and primary caregiver of the proposed ward.

(b) Notwithstanding any other law, if the applicant who files an application for appointment as guardian of the person of a proposed ward under Section 1101.001 or 1103.001 is the parent and primary caregiver of the proposed ward, the applicant may present to the court:

(1) an affidavit sworn to by the applicant that states that the applicant is a parent of a proposed ward described by Subsection (a)(1) and:

(A) is and has been the primary caregiver of the proposed ward throughout all or most of his or her childhood;

(B) has never been the subject of an allegation, complaint, or investigation concerning the abuse, neglect, or exploitation of the proposed ward;

(C) seeks to be appointed guardian of the person of the proposed ward; and

(D) is not disqualified from serving as guardian under Subchapter H, Chapter 1104;

(2) at least one written letter or certificate that meets the requirements of:

(A) Sections 1101.103(a) and (b); or

(B) Section 1101.104, except that the period prescribed by Section 1101.104(2) would apply to the date the application is filed; and

(3) a written request that:

(A) the court make the findings required by Section 1101.101 and appoint the parent as guardian of the person of the proposed ward in accordance with this section without the necessity of an investigation by a court investigator under Section 1054.151; and

(B) after appointment and qualification of the applicant as guardian of the person of the ward, no other action shall be had in the probate court in relation to the guardianship of the person of the ward other than the review required by Section 1201.052(b).

(c) If, following a written request under Subsection (b) and on receipt of an affidavit that complies with Subsection (b)(1) and a letter or certificate that complies with Subsection (b)(2), the court is able to make the findings required by Section 1101.101, the court, notwithstanding Subchapter C, Chapter 1104, shall appoint the parent as guardian of the proposed ward's person without appointing a court investigator or the continued appointment of an attorney ad litem unless:

(1) the parent is disqualified from serving as guardian under Subchapter H, Chapter 1104;

(2) the court has any reason to believe that one or more of the assertions set out in the affidavit are untrue; or

(3) the court finds that the appointment is not in the best interest of the proposed ward.

(d) A guardianship created under this section is considered an independent guardianship of the person of a ward, and a guardian appointed under this section is considered an independent guardian of the person of a ward.

Sec. 1103A.002. SEALING OF CERTAIN RECORDS. (a) The court shall seal a written letter or certificate submitted under Section 1103A.001(b) and any other medical record or document examined by the court for purposes of this section unless the court finds good

cause not to seal the document.

(b) The court's records sealed under this section are not open for inspection by any person except:

(1) on further order of the court after notice to the guardian of the person of the ward whose information is sealed and a finding of good cause; or

(2) in connection with a criminal or civil proceeding as otherwise provided by law.

Sec. 1103A.003. PETITION FOR CONVERSION OF GUARDIANSHIP OF THE PERSON TO INDEPENDENT GUARDIANSHIP OF THE PERSON. (a) This section applies only to a guardianship of the person of a ward created before September 1, 2021, if on the date the application for guardianship was filed under Section 1101.001 or 1103.001:

(1) the ward met the description of a proposed ward under Section 1103A.001(a)(1); and

(2) the guardian was the parent and primary caregiver of the ward.

(b) The guardian in a guardianship to which this section applies may petition the court with jurisdiction over the guardianship to authorize that the guardianship of the person be treated on a prospective basis as if the guardianship was created and, if applicable, the guardian of the person appointed, under Section 1103A.001.

SECTION _____. Section 1105.101(c), Estates Code, is amended to read as follows:

(c) The court shall issue letters of guardianship of the person to a person without the requirement of a bond if:

(1) the person is:

(A) a parent of the ward appointed under Section 1103A.001 who is not also appointed as guardian of the estate of the ward; or

(B) named to be appointed guardian in a will made by a surviving parent that is probated by a court in this state, or in a written declaration made by a surviving parent, and the will or declaration directs that the guardian serve without a bond; and

(2) the court finds that the guardian is qualified.

SECTION _____. Section 1106.002, Estates Code, is amended to

read as follows:

Sec. 1106.002. EXPIRATION OF LETTERS OF GUARDIANSHIP. (a) Except as provided by Subsection (b), letters [Letters] of guardianship expire one year and four months after the date the letters are issued, unless renewed.

(b) Unless the court finds that it is not in the best interest of the ward, letters of guardianship issued to a guardian of the person of a ward appointed under Section 1103A.001 do not expire unless the guardian is removed or would otherwise be ineligible to serve as guardian.

SECTION _____. The heading to Subchapter B, Chapter 1201, Estates Code, is amended to read as follows:

SUBCHAPTER B. ~~[ANNUAL]~~ DETERMINATION TO CONTINUE, MODIFY, OR
TERMINATE GUARDIANSHIP

SECTION _____. Section 1201.052, Estates Code, is amended to read as follows:

Sec. 1201.052. ANNUAL OR OTHER DETERMINATION. (a) To determine whether a guardianship should be continued, modified, or terminated, the court in which the guardianship proceeding is pending:

(1) shall, except as provided by Subsection (b), review annually each guardianship in which the application to create the guardianship was filed after September 1, 1993; and

(2) may review annually any other guardianship.

(b) To determine whether a guardianship of the person of a ward created under Section 1103A.001 should be continued, modified, or terminated, the court in which the guardianship proceeding is pending shall review the guardianship of the person at the discretion of the court but not more frequently than once every five years unless the guardian of the person of the ward is also the guardian of the estate of the ward.

(c) Notwithstanding Subsection (b), on receipt of a claim that the guardianship is no longer in the best interest of the ward, the court may review the matter and take any action the court determines necessary.