

## **BILL ANALYSIS**

Senate Research Center

S.B. 626  
By: Zaffirini  
Jurisprudence  
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Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

S.B. 626 is an omnibus guardianship bill prepared by the Real Estate Probate and Trust Law Section of the Texas Bar. To ensure the rights of all interested parties in a management trust are protected, S.B. 626 would require notice to the potential beneficiary, the beneficiary's guardian, and family members when an application for the creation of a management trust is filed. What's more, by allowing management trusts to last until the removal of an incapacity or until the beneficiary dies, this bill would ensure that a management trust benefitting a person with a disability is not terminated inadvertently when the person turns 25, which in turn would require reimbursement to Medicaid from the trust. S.B. 626 also would increase judicial efficiency by allowing county courts-at-law to hear trust cases when the person under guardianship also is a trust's beneficiary. Presently, some of these cases are forced to go to district court.

What's more, S.B. 626 would clean up statutes regarding guardianship sale and auction procedures, including by amending statutes relating to the sale of property by an out-of-state guardian to allow the guardian to use the sale proceeds for the benefit of the person under guardianship. To make the Guardianship Bill of Rights consistent with current law, S.B. 626 would clarify that a court investigator or guardian ad litem, not an attorney ad litem, may investigate a complaint relating to modification or termination of a guardianship. This bill also would provide that the proper newspaper to be used for notice of a guardianship proceeding is a newspaper of general circulation in the county, rather than a newspaper printed in the county. This addresses the reality that newspapers often are printed in a county other than the county in which they are circulated. Lastly, S.B. 626 would allow for guardianship applicants to submit a declaration under penalty of perjury, in lieu of a notarized oath, regarding their commitment to discharge their duties as a guardian faithfully. Because a statutory declaration is not notarized, this change would make the process more efficient and accessible for applicants.

(Original Author's / Sponsor's Statement of Intent)

S.B. 626 amends current law relating to guardianships, management trusts, and certain other procedures and proceedings for persons who are incapacitated, probate matters and proceedings, and other matters involving statutory county courts, including statutory probate courts.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 30.014(a), Civil Practice and Remedies Code, as follows:

- (a) Requires each party or the party's attorney to include certain identifying information in its initial pleading in a civil action, including a probate or guardianship proceeding, filed in certain courts, including in a statutory probate court. Makes a nonsubstantive change.

SECTION 2. Amends Section 33.101, Estates Code, as follows:

Sec. 33.101. TRANSFER TO OTHER COUNTY IN WHICH VENUE IS PROPER. Requires the county clerk, 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 (Probate Proceedings in More Than One County) determines that venue is proper in another county, to 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.

SECTION 3. Amends Section 33.102(a), Estates Code, to make a conforming change.

SECTION 4. Amends Section 33.103, Estates Code, by adding Subsection (c), as follows:

(c) Authorizes the transmittal under Subsection (b) (relating to requiring the clerk of the court from which a probate proceeding is transferred to transmit to the court to which the proceeding is transferred the original file in the proceeding and a certified copy of the index) of the original file and the certified copy of the index to be in electronic or paper form, except that an original will filed in the probate proceeding, if any, is required to be delivered to the court to which the proceeding is transferred.

SECTION 5. Amends Section 51.003(b), Estates Code, to require that a citation or notice issued by the county clerk be styled "The State of Texas" and be signed by the clerk under the court's seal, rather than under the clerk's seal.

SECTION 6. Amends Section 202.054, Estates Code, as follows:

Sec. 202.054. PERSONAL SERVICE OF CITATION MAY BE REQUIRED. (a) Creates this subsection from existing text. Authorizes the court to 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 (Application for Proceeding to Declare Heirship).

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

SECTION 7. Amends Section 351.351, Estates Code, as follows:

Sec. 351.351. APPLICABILITY. Provides that Subchapter H (Certain Administered Estates) does not apply to, among other things, the appointment of a successor independent administrator, rather than a successor independent executor, under Section 404.005.

SECTION 8. Amends Section 404.0036(b), Estates Code, to make conforming changes.

SECTION 9. Amends the heading to Section 404.005, Estates Code, to read as follows:

Sec. 404.005. COURT-APPOINTED SUCCESSOR INDEPENDENT ADMINISTRATOR.

SECTION 10. Amends Sections 404.005(a), (b), (c), (h), and (i), Estates Code, to make conforming changes.

SECTION 11. Amends Section 452.006, Estates Code, by adding Subsection (c), as follows:

(c) Requires the appointed temporary administrator to file with the court proof of service of the notice required under Subsection (a) (relating to requiring the county clerk to post on the courthouse door a notice of the appointment to all interested persons and requiring the appointee to notify the decedent's known heirs of the appointment on the date the county clerk issues letters of temporary administration) in the manner provided by

Section 51.103(b)(3) (relating to providing that proof of service of citation or notice, if the service is made by mail, consists of certain information).

SECTION 12. Amends Section 503.002, Estates Code, as follows:

Sec. 503.002. New heading: RECORDING OF CERTAIN FOREIGN TESTAMENTARY INSTRUMENTS IN LANGUAGE OTHER THAN ENGLISH. (a) Authorizes an authenticated copy of a will or other testamentary instrument described by Section 503.001(a) (relating to authorizing certain foreign testamentary instruments to be filed and recorded in a county's deed records), 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) (relating to requiring that an application for an ancillary probate of a foreign will include for filing a copy of the foreign will and the judgment, order, or decree by which the will was admitted to probate or otherwise established), that is written in whole or in part in a language other than English to 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.

Deletes existing text prohibiting the original signatures required by Section 501.002(c), notwithstanding that section, from being required for a recordation in the deed records in accordance with Section 503.001 (Authorization to Record Certain Foreign Testamentary Instruments in Deed Records) or for a purpose described by Section 503.051 (Recorded Foreign Testamentary Instrument as Conveyance) or 503.052 (Recorded Foreign Testamentary Instrument as Notice of Title).

(b) Provides that 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 existence of the instrument and the title or titles conferred by the instrument.

SECTION 13. Amends Section 1021.001, Estates Code, as follows:

Sec. 1021.001. MATTERS RELATED TO GUARDIANSHIP PROCEEDING. (a) Provides that, for purposes of this code, in a county in which there is no statutory probate court or county court at law exercising original probate jurisdiction, rather than in a county in which there is no statutory probate court, a matter related to a guardianship proceeding includes certain elements.

(a-1) Provides that, for purposes of this code, in a county in which there is no statutory probate court, but in which there is a county court at law exercising original probate jurisdiction, a matter related to a guardianship proceeding includes all matters and actions described in Subsection (a); the interpretation and administration of a testamentary trust in which a ward is an income or remainder beneficiary; and the interpretation and administration of an inter vivos trust in which a ward is an income or remainder beneficiary.

(b) Provides that, for purposes of this code, in a county in which there is a statutory probate court, a matter related to a guardianship proceeding includes, among other things, all matters and actions described in Subsections (a) and (a-1), rather than Subsection (a).

SECTION 14. Amends Section 1023.006, Estates Code, as follows:

Sec. 1023.006. TRANSFER OF RECORD. Requires the clerk, on payment of the clerk's fee, to transmit in electronic or paper form to the county clerk of the county to which the guardianship was ordered transferred the case file of the guardianship proceedings and a certified copy of the index of the guardianship records.

SECTION 15. Amends Section 1023.007, Estates Code, as follows:

Sec. 1023.007. TRANSFER EFFECTIVE. Makes conforming changes to this section.

SECTION 16. Amends Section 1051.003(b), Estates Code, to require that a citation or notice issued by the county clerk be styled "The State of Texas" and be signed by the clerk under the court's seal, rather than under the clerk's seal.

SECTION 17. Amends Section 1052.052(b), Estates Code, to require that each case file contain each order, judgment, and proceeding of the court and any other guardianship filing with the court, including, among other things, each bond and official oath or declaration, rather than each bond and official oath.

SECTION 18. Amends the heading to Chapter 1054, Estates Code, to read as follows:

CHAPTER 1054. COURT OFFICERS, COURT-APPOINTED PERSONS, AND  
ATTORNEYS

SECTION 19. Amends the heading to Subchapter E, Chapter 1054, Estates Code, to read as follows:

SUBCHAPTER E. QUALIFICATIONS TO SERVE AS ATTORNEY

SECTION 20. Amends Section 1054.201, Estates Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Requires an attorney representing any person's interests, rather than an attorney for an applicant for guardianship and a court-appointed attorney, except as provided by Subsection (c), in a guardianship proceeding, including an attorney ad litem, to be certified by the State Bar of Texas (state bar), 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. Makes a nonsubstantive change.

(c) Provides that an attorney is authorized to 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 is required to 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 21. Amends Section 1101.001(b), Estates Code, as follows:

(b) Requires that the application for the appointment of a guardian be sworn to by the applicant and state:

(1) makes no changes to this subdivision;

(2) certain information, including the former name, if any, of the person the applicant seeks to have appointed as guardian;

(3)-(8) makes no changes to these subdivisions;

(9) the approximate value and a detailed description of the proposed ward's property, including liquid assets, including any compensation, pension, insurance,

or allowance to which the proposed ward may be entitled and non-liquid assets, including real property;

(10)-(15) makes no changes to these subdivisions.

SECTION 22. Amends Section 1101.153(a), Estates Code, as follows:

(a) Requires that a court order appointing a guardian:

(1) creates this subdivision from existing text and makes nonsubstantive changes; 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 (Duty to Provide Assistance in Qualifying Guardians; Supreme Court Rulemaking), Government Code.

SECTION 23. Amends Section 1103.003, Estates Code, as follows:

Sec. 1103.003. EFFECTIVE DATE OF GUARDIANSHIP. Makes a conforming change to this section.

SECTION 24. Amends Section 1105.001, Estates Code, by adding Subdivision (1-a) and amending Subdivision (2), to define "declaration" and redefine "oath" for Chapter 1105 (Qualification of Guardians).

SECTION 25. Amends Section 1105.002, Estates Code, as follows:

Sec. 1105.002. MANNER OF QUALIFICATION OF GUARDIAN. (a) and (b) Makes conforming and nonsubstantive changes to these subsections.

SECTION 26. Amends Section 1105.003, Estates Code, as follows:

Sec. 1105.003. New heading: PERIOD FOR TAKING OATH OR MAKING DECLARATION AND GIVING BOND. (a) Makes a conforming change to this subsection.

(b) Makes no changes to this subsection.

SECTION 27. Amends the heading to Subchapter B, Chapter 1105, Estates Code, to read as follows:

#### SUBCHAPTER B. OATHS AND DECLARATIONS

SECTION 28. Amends Section 1105.051, Estates Code, as follows:

Sec. 1105.051. New heading: OATH OR DECLARATION OF GUARDIAN. (a) Requires a guardian to perform certain actions, including making a declaration as prescribed by Subsection (d). Makes nonsubstantive changes.

(b) Makes nonsubstantive changes to this subsection.

(c) Requires that an oath taken by a person named as guardian or temporary guardian, as applicable, be in substantially a certain form. Sets forth the required language of the oath.

(d) Requires that a declaration made by a person named as guardian or temporary guardian, as applicable, be in substantially a certain form. Sets forth the required language of the declaration.

SECTION 29. Amends Section 1105.052, Estates Code, as follows:

Sec. 1105.052. New heading: ADMINISTRATION OF OATH OR MAKING OF DECLARATION. Authorizes the oath prescribed by Section 1105.051 to be taken before any person authorized to administer oaths under the laws of this state. Requires that the declaration prescribed by Section 1105.051 be signed by the declarant. Makes a nonsubstantive change.

SECTION 30. Amends Section 1105.103(f), Estates Code, to make a conforming change.

SECTION 31. Amends Subchapter A, Chapter 1151, Estates Code, by adding Section 1151.005, as follows:

Sec. 1151.005. LEGAL PROCEEDINGS IN WHICH WARD IS PARTY OR WITNESS. Prohibits the guardian of the person or of the estate of a ward from being excluded from attending a legal proceeding in which the ward is a party or participating as a witness.

SECTION 32. Amends Section 1151.351(b), Estates Code, to delete existing text authorizing a ward, unless limited by a court or otherwise restricted by law, to, among other things, have an attorney ad litem appointed by the court to investigate a complaint received by the court from the ward or any person about the guardianship.

SECTION 33. Amends Sections 1153.001(a) and (c), Estates Code, as follows:

(a) Requires that the notice requiring each person who has a claim against the estate to present the claim within the period prescribed by law meet certain requirements, including being published in a newspaper of general circulation, rather than being published in a newspaper printed, in the county in which the letters were issued.

(c) Makes conforming and nonsubstantive changes to this subsection.

SECTION 34. Amends Section 1155.054(d), Estates Code, to make conforming changes.

SECTION 35. Amends Section 1158.105(a), Estates Code, to require that a successful bid or contract for the sale of estate personal property, rather than a sale of estate personal property, be reported to the court. Makes conforming changes.

SECTION 36. Amends the heading to Subchapter I, Chapter 1158, Estates Code, to read as follows:

#### SUBCHAPTER I. SALE OF REAL ESTATE: PUBLIC AUCTION

SECTION 37. Amends Section 1158.401(a), Estates Code, as follows:

(a) Requires that a public sale of real estate of an estate be made at public auction. Requires the guardian of the estate to advertise a public auction, rather than a public sale, of real estate of the estate by a notice published in the county in which the estate is pending, as provided by Title 3 (Guardianship and Related Procedures) for publication of notices or citations, except as otherwise provided by Section 1158.403(c), rather than as provided by Title 3. Makes nonsubstantive changes.

SECTION 38. Amends Section 1158.402, Estates Code, as follows:

Sec. 1158.402. New heading: COMPLETION OF AUCTION. Makes a conforming change to this section.

SECTION 39. Amends Section 1158.403, Estates Code, as follows:

Sec. 1158.403. New heading: TIME AND PLACE OF AUCTION. (a) Requires that a public auction of real estate of an estate, except as provided by Subsection (c), be held at:

(1) the courthouse door in the county in which the real estate is located, or if the real estate is located in more than one county, the courthouse door in any county in which the real estate is located, rather than the county in which the guardianship proceedings are pending; or

(2) another place in a county described by Subdivision (1) at which auctions of real estate are specifically authorized to be held as designated by the commissioners court of the county under Section 51.002(a), Property Code.

(b) Requires that the auction, except as otherwise provided by this subsection, occur between 10 a.m. and 4 p.m. on the first Tuesday of the month after publication of notice has been completed. Requires that the auction, if the first Tuesday of the month occurs on January 1 or July 4, occur between 10 a.m. and 4 p.m. on the first Wednesday of the month. Makes a conforming change.

(c) Makes conforming changes to this subsection.

SECTION 40. Amends Section 1158.404, Estates Code, as follows:

Sec. 1158.404. New heading: CONTINUANCE OF AUCTION. (a)-(c) Makes conforming changes to these subsections.

SECTION 41. Amends Section 1158.405, Estates Code, as follows:

Sec. 1158.405. FAILURE OF BIDDER TO COMPLY. (a)-(c) Makes conforming changes to these subsections.

SECTION 42. Amends the heading to Subchapter J, Chapter 1158, Estates Code, to read as follows:

**SUBCHAPTER J. SALE OF REAL ESTATE: CONTRACT FOR PRIVATE SALE**

SECTION 43. Amends Section 1158.451, Estates Code, as follows:

Sec. 1158.451. New heading: TERMS OF SALE. Authorizes the guardian of the estate to enter into a contract for the private sale of real estate of the estate made in the manner the court directs in the order of sale. Makes nonsubstantive changes.

SECTION 44. Amends Section 1158.502, Estates Code, as follows:

Sec. 1158.502. PROCEDURE. Makes conforming changes to this section.

SECTION 45. Amends the heading to Subchapter L, Chapter 1158, Estates Code, to read as follows:

**SUBCHAPTER L. APPROVAL OF SALE OF REAL PROPERTY AND  
TRANSFER OF TITLE**

SECTION 46. Amends Section 1158.551, Estates Code, as follows:

Sec. 1158.551. REPORT. Requires that a successful bid or private contract for the sale of estate real property, rather than a sale of estate real property, be reported to the court ordering the sale not later than the 30th day after the date the bid is made or the property is placed under contract. Makes conforming changes to the required content of the report.

SECTION 47. Amends Section 1158.552, Estates Code, as follows:

Sec. 1158.552. New heading: ACTION OF COURT ON REPORT. Requires the court, after the expiration of five days from the date a report, rather than a report of sale, is filed under Section 1158.551, to:

- (1) consider the manner in which the auction described in the report was held or the contract described in the report was entered into, rather than inquire into the manner in which the sale was made;
- (2) consider, rather than hear, evidence in support of or against the report; and
- (3) makes no changes to this subdivision.

SECTION 48. Amends Section 1158.553, Estates Code, as follows:

Sec. 1158.553. New heading: APPROVAL OF SALE WHEN BOND NOT REQUIRED. Makes conforming changes to this section.

SECTION 49. Amends Sections 1158.554(a), (b), and (c), Estates Code, to make conforming changes.

SECTION 50. Amends Section 1158.556, Estates Code, as follows:

Sec. 1158.556. New heading: APPROVAL OR DISAPPROVAL ORDER. (a)-(c) Makes conforming changes to these subsections.

SECTION 51. Amends Section 1158.557, Estates Code, as follows:

Sec. 1158.557. DEED. Makes conforming and nonsubstantive changes to this section.

SECTION 52. Amends Section 1158.558(a), Estates Code, as follows:

(a) Requires the guardian of the estate, after the court has approved a sale and the purchaser has complied with the terms of the sale, to execute and deliver to the purchaser a proper deed conveying the property promptly. Makes a conforming change.

SECTION 53. Amends Section 1163.005(a), Estates Code, to make nonsubstantive changes.

SECTION 54. Amends Section 1163.101(c), Estates Code, to make nonsubstantive changes.

SECTION 55. Amends Section 1251.005, Estates Code, as follows:

Sec. 1251.005. New heading: CITATION AND NOTICE OF APPLICATION. (a) Requires the court clerk, on the filing of an application for temporary guardianship, to issue citation to be served on the proposed ward and on the proposed temporary guardian named in the application, if that person is not the applicant. Makes conforming changes.

(b) Makes conforming changes to this subsection.

(b-1) Requires that the citation issued as provided by Subsection (a) contain a statement regarding the authority of a person under Section 1051.252 (Request for Notice of Filing of Pleading) 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) Makes a conforming change to this subsection.

SECTION 56. Amends Sections 1251.101(a), (b), and (d), Estates Code, to make conforming changes.



SECTION 57. Amends the heading to Section 1251.153, Estates Code, to read as follows:

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

SECTION 58. Amends Section 1251.153, Estates Code, by adding Subsection (a-1) and amending Subsection (b), as follows:

(a-1) Requires the temporary guardian, at the expiration of a temporary guardianship of the person, to 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 (Reports in Case of Deceased Ward).

(b) Provides that, on proof of delivery under Subsection (a) (relating to requiring the court, when temporary letters expire or cease to be effective for any reason, to enter an order requiring the temporary guardian to deliver the estate remaining in the temporary guardian's possession to the person legally entitled to possession of the estate) and approval by the court of a final report filed with the court clerk under Subsection (a-1), as applicable, the temporary guardian is required to be discharged and the sureties on the temporary guardian's bond are required to be released as to future liability.

SECTION 59. Amends Section 1253.001, Estates Code, as follows:

Sec. 1253.001. APPLICATION TO TRANSFER GUARDIANSHIP TO FOREIGN JURISDICTION. Authorizes a court that has jurisdiction over the guardianship, on the court's own motion, to transfer the guardianship to a court in a foreign jurisdiction to which the ward has permanently moved.

SECTION 60. Amends Subchapter B, Chapter 1301, Estates Code, by adding Section 1301.0511, as follows:

Sec. 1301.0511. NOTICE REQUIRED FOR APPLICATION FOR CREATION OF TRUST; CITATION OF APPLICANT NOT REQUIRED. (a) Requires that notice, on the filing of an application for creation of a management trust and except as provided by Subsection (d), be issued and served in the manner provided by Subchapter C (Notice and Citation Required for Application for Guardianship), Chapter 1051 (Notices and Process in Guardianship Proceedings in General), for the issuance and service of notice on the filing of an application for guardianship.

(b) Provides that it is not necessary to serve a citation on a person who files an application for the creation of a management trust under Subchapter B (Creation of Management Trusts) or for that person to waive the issuance and personal service of citation.

(c) Requires the sheriff or other officer, in addition to serving the persons described by Section 1051.103 (Service of Citation for Application for Guardianship), to personally serve each guardian of the ward with citation to appear and answer the application if the person for whom an application for creation of a management trust is filed is a ward.

(d) Provides that notice under this section is not required if a proceeding for the appointment of a guardian is pending for the person for whom an application for creation of a management trust is filed.

SECTION 61. Amends Section 1301.101(a), Estates Code, as follows:

(a) Requires that a management trust created for a ward or incapacitated person, except as provided by Subsection (c) (relating to exceptions to the criteria required for creation of a management trust for a ward or incapacitated person), provide that:

(1)-(3) makes no changes to these subdivisions;

(4) and (5) makes nonsubstantive changes to these subdivisions; and

(6) the trust terminates:

(A) except as provided by Paragraph (B), if the person for whom the trust is created is a minor, on the earlier of the person's death or the person's 18th birthday, or on the date provided by court order, which is prohibited from being later than the person's 25th birthday;

(B) if the person for whom the trust is created is a minor and is also incapacitated for a reason other than being a minor, on the person's death or when the person regains capacity; or

(C) if the person for whom the trust is created is not a minor, according to the terms of the trust, on the date the court determines that continuing the trust is no longer in the person's best interests, subject to Section 1301.202(c) (relating to court-authorized termination of the management trust under certain conditions), or on the person's death.

SECTION 62. Amends Section 1301.154(b), Estates Code, to require the trustee of a management trust created for a ward to provide a copy of the annual account to each guardian of the ward, rather than to the guardian of the ward's estate or person.

SECTION 63. Amends Section 1301.203, Estates Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Creates an exception as provided by Subsection (a-1) to the provision that a management trust created for a minor terminates on a certain date. Makes a nonsubstantive change.

(a-1) Provides that if the person for whom a management trust is created is a minor and is also incapacitated for a reason other than being a minor, the trust terminates on the person's death or when the person regains capacity.

SECTION 64. Amends Sections 1355.002(b), (c), (d), (e), and (f), Estates Code, as follows:

(b) Provides that Section 1355.002 (Payment of Claims to Nonresident Creditor) applies only to a nonresident creditor, rather than only to a creditor, who is:

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

(2) a nonresident person who is adjudged by a foreign court, rather than a court of competent jurisdiction, to be incapacitated and has a nonresident guardian of the estate appointed by that court; or

(3) the nonresident former ward, rather than the former ward, of a guardianship terminated under Chapter 1204 (Final Settlement, Accounting, and Discharge) who has no legal guardian qualified in this state.

(c)-(f) Makes conforming changes to these subsections.

SECTION 65. Amends Section 1355.105, Estates Code, as follows:

Sec. 1355.105. New heading: WITHDRAWAL OF MONEY BY CREDITOR OR CREDITOR'S HEIR, REPRESENTATIVE, OR GUARDIAN. (a) Authorizes money that is not withdrawn by an authorized person as provided by Chapter 1355 (Payment of Certain Claims Without Guardianship), on presentation to the court clerk of an order of a county or probate court of the county in which the money is held, to be withdrawn by:

(1) makes no changes to this subdivision;

(2) and (3) makes nonsubstantive changes to these subdivisions; or

(4) a nonresident guardian of the estate appointed by a foreign court for a creditor who is a nonresident minor or a nonresident person who is adjudged to be incapacitated.

(b) Creates an exception as provided by Subsection (b-1) to the authorization of a withdrawal under Subsection (a) to be made at any time and without a special bond for that purpose. Makes a nonsubstantive change.

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

(c) Requires that the order presented under Subsection (a) direct the court clerk to deliver the money to:

(1)-(3) creates these subdivisions from existing text and makes nonsubstantive changes; or

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

(d) Requires a nonresident guardian of the estate described by Subsection (c)(4), for purposes of proving the person's identity and credentials to the court's satisfaction, to present to the court exemplified copies of the order of a foreign court appointing the guardian and current letters of guardianship issued in the foreign jurisdiction.

SECTION 66. Amends Section 25.0006, Government Code, by amending Subsection (a) and adding Subsection (a-5), as follows:

(a) Provides that, notwithstanding any other law except Subsection (a-4) (relating to providing that Section 25.0006 (Bond; Removal) does not apply to certain judges), certain subsections, including Subsection (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. Makes a nonsubstantive change.

(a-5) Requires that a bond executed under Subsection (a-1) (relating to requiring the judge of a statutory county court, before beginning the duties of the office, to execute a bond that meets certain requirements) by the judge elected or appointed to a statutory county court or an insurance policy obtained under Subsection (a-3) (relating to authorizing a county to elect to obtain insurance against losses caused by the gross negligence of a judge of a statutory county court in performing the duties of office) 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 67. Amends Section 25.00231, Government Code, by adding Subsection (f), as follows:

(f) Requires that a bond executed under Subsection (b) (relating to requiring a judge of a statutory probate court, before beginning the duties of office, to execute a bond that meets certain requirements) by the judge elected or appointed to a statutory probate court or an insurance policy obtained under Subsection (c) (relating to authorizing a county to elect to obtain insurance or to self-insure in the amount required by Subsection (b) against losses caused by the statutory probate court judge's gross negligence in performing the duties of office), notwithstanding Subsection (e) (relating to providing that Section 25.00231 (Bond; Insurance) does not apply to an assigned or visiting judge sitting by assignment in a statutory probate court), 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 68. Amends Section 25.0027, Government Code, as follows:

Sec. 25.0027. JURIES; PRACTICE AND PROCEDURE. Requires that the drawing of jury panels, selection of jurors, and practice in the statutory probate courts 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, rather than including the number of 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 69. Amends Section 74.141, Government Code, as follows:

Sec. 74.141. DEFENSE OF JUDGES. Requires the attorney general to defend certain judges, including a visiting judge assigned to hear a guardianship or probate matter by the presiding judge of the statutory probate courts, in any action or suit in any court in which the judge is a defendant because of the judge's office or capacity as judge, rather than because of his office as judge, if the judge requests the attorney general's assistance in the defense of the suit.

SECTION 70. Amends Section 81.114, Government Code, by amending Subsection (a) and adding Subsection (e), as follows:

(a) Requires the state bar to provide a course of instruction for attorneys who represent any person's interests in guardianship cases, rather than who represent parties in guardianship cases, or who serve as court-appointed guardians.

(e) Requires that the course of instruction described by Section 81.114 (Attorney Instruction Related to Guardianship Issues) be low-cost and available to persons throughout this state, including on the Internet provided through the state bar.

SECTION 71. Amends Section 155.205(b), Government Code, as follows:

(b) Requires JBCC to obtain:

(1) fingerprint-based criminal history record information of a proposed guardian, rather than of an applicant, if the liquid assets of the estate of a ward exceed \$50,000 or 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, if the liquid assets of the estate of a ward are \$50,000 or less and the proposed guardian is a resident of this state.

Makes conforming and nonsubstantive changes.

SECTION 72. (a) Provides that, except as otherwise provided by this section, the changes in law made by this Act apply to a guardianship created before, on, or after the effective date of this Act, and to an application for a guardianship pending on, or filed on or after, the effective date of this Act.

(b) Makes application of Section 202.054, Estates Code, as amended by this Act, prospective.

(c) Makes application of Section 452.006(c), Estates Code, as added by this Act, prospective.

(d) Makes application of Section 503.002, Estates Code, as amended by this Act, prospective.

(e) Makes application of Section 1021.001, Estates Code, as amended by this Act, prospective.

(f) Makes application of Sections 1101.001 and 1251.005, Estates Code, as amended by this Act, prospective.

(g) Makes application of Sections 1054.201 and 1101.153, Estates Code, as amended by this Act, and Section 155.205, Government Code, as amended by this Act, prospective.

(h) Makes application of Section 1251.101, Estates Code, as amended by this Act, and Chapter 1105, Estates Code, as amended by this Act, prospective.

(i) Makes application of Section 1301.0511, Estates Code, as amended by this Act, prospective.

(j) Makes application of Sections 1301.101 and 1301.203, Estates Code, as amended by this Act, prospective.

(k) Makes application of Section 1355.105, Estates Code, as amended by this Act, prospective.

(l) Makes application of Sections 25.0006 and 25.00231, Government Code, as amended by this Act, prospective to January 1, 2022.

(m) Makes application of Section 74.141, Government Code, as amended by this Act, prospective.

SECTION 73. Effective date: September 1, 2021.