

AN ACT

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.

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

SECTION 1. 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 2. 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

1 and retain a copy of the entire file in the case and transmit the  
2 original file in electronic or paper form to the court in the county  
3 in which venue is proper. The court to which the file is transmitted  
4 shall conduct the proceeding in the same manner as if the proceeding  
5 had originally been commenced in that county.

6 SECTION 3. Section 33.102(a), Estates Code, is amended to  
7 read as follows:

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

- 14 (1) the original file in the case; and  
15 (2) certified copies of all entries that have been  
16 made in the judge's probate docket in the proceeding.

17 SECTION 4. Section 33.103, Estates Code, is amended by  
18 adding Subsection (c) to read as follows:

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

24 SECTION 5. Section 51.003(b), Estates Code, is amended to  
25 read as follows:

26 (b) A citation or notice issued by the county clerk must be  
27 styled "The State of Texas" and be signed by the clerk under the

1 court's [~~clerk's~~] seal.

2 SECTION 6. Section 202.054, Estates Code, is amended to  
3 read as follows:

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

5 (a) The court may require that service of citation in a proceeding  
6 to declare heirship be made by personal service on some or all of  
7 those named as distributees in the application filed under Section  
8 202.005.

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

13 SECTION 7. Section 351.351, Estates Code, is amended to  
14 read as follows:

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

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

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

21 SECTION 8. Section 404.0036(b), Estates Code, is amended to  
22 read as follows:

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

27 SECTION 9. The heading to Section 404.005, Estates Code, is

1 amended to read as follows:

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

4           SECTION 10. Sections 404.005(a), (b), (c), (h), and (i),  
5 Estates Code, are amended to read as follows:

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

1           (b) Except as otherwise provided by this subsection, if a  
2 distributee described in this section is an incapacitated person,  
3 the guardian of the person of the distributee may sign the  
4 application on behalf of the distributee. If the probate court  
5 finds that either the continuing of independent administration or  
6 the appointment of the person, firm, or corporation designated in  
7 the application as successor independent administrator [~~executor~~]  
8 would not be in the best interest of the incapacitated person, then,  
9 notwithstanding Subsection (a), the court may not enter an order  
10 continuing independent administration of the estate. If the  
11 distributee is an incapacitated person and has no guardian of the  
12 person, the court may appoint a guardian ad litem to make  
13 application on behalf of the incapacitated person if the probate  
14 court considers such an appointment necessary to protect the  
15 interest of that distributee. If a distributee described in this  
16 section is a minor and has no guardian of the person, a natural  
17 guardian of the minor may sign the application for the order  
18 continuing independent administration on the minor's behalf unless  
19 a conflict of interest exists between the minor and the natural  
20 guardian.

21           (c) Except as otherwise provided by this subsection, if a  
22 trust is created in the decedent's will or if the decedent's will  
23 devises property to a trustee as described by Section [254.001](#), the  
24 person or class of persons entitled to receive property outright  
25 from the trust on the decedent's death and those first eligible to  
26 receive the income from the trust, determined as if the trust were  
27 to be in existence on the date of the filing of the application for

1 an order continuing independent administration, shall, for the  
2 purposes of this section, be considered to be the distributee or  
3 distributees on behalf of the trust, and any other trust or trusts  
4 coming into existence on the termination of the trust, and are  
5 authorized to apply for an order continuing independent  
6 administration on behalf of the trust without the consent or  
7 agreement of the trustee or any other beneficiary of the trust, or  
8 the trustee or any beneficiary of any other trust which may come  
9 into existence on the termination of the trust. If a person  
10 considered to be a distributee under this subsection is an  
11 incapacitated person, the trustee or cotrustee may apply for the  
12 order continuing independent administration or sign the  
13 application on the incapacitated person's behalf if the trustee or  
14 cotrustee is not the person proposed to serve as the independent  
15 administrator [~~executor~~].

16 (h) If a successor independent administrator [~~executor~~] is  
17 appointed under this section, then, unless the probate court shall  
18 waive bond on application for waiver, the successor independent  
19 administrator [~~executor~~] shall be required to enter into bond  
20 payable to and to be approved by the judge and the judge's  
21 successors in a sum that is found by the judge to be adequate under  
22 all circumstances, or a bond with one surety in an amount that is  
23 found by the judge to be adequate under all circumstances, if the  
24 surety is an authorized corporate surety.

25 (i) Absent proof of fraud or collusion on the part of a  
26 judge, the judge may not be held civilly liable for the commission  
27 of misdeeds or the omission of any required act of any person, firm,

1 or corporation designated as a successor independent administrator  
2 [~~executor~~] under this section. Section 351.354 does not apply to an  
3 appointment of a successor independent administrator [~~executor~~]  
4 under this section.

5 SECTION 11. Section 452.006, Estates Code, is amended by  
6 adding Subsection (c) to read as follows:

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

10 SECTION 12. Section 503.002, Estates Code, is amended to  
11 read as follows:

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

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

26 (2) the accuracy of the translation is sworn to before  
27 an officer authorized to administer oaths [~~Notwithstanding Section~~

1 ~~501.002(c), the original signatures required by that section may~~  
2 ~~not be required for a recordation in the deed records in accordance~~  
3 ~~with Section 503.001 or for a purpose described by Section 503.051~~  
4 ~~or 503.052].~~

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

9 (1) existence of the instrument; and

10 (2) title or titles conferred by the instrument.

11 SECTION 13. Section 1021.001, Estates Code, is amended to  
12 read as follows:

13 Sec. 1021.001. MATTERS RELATED TO GUARDIANSHIP PROCEEDING.

14 (a) For purposes of this code, in a county in which there is no  
15 statutory probate court or county court at law exercising original  
16 probate jurisdiction, a matter related to a guardianship proceeding  
17 includes:

18 (1) the granting of letters of guardianship;

19 (2) the settling of an account of a guardian and all  
20 other matters relating to the settlement, partition, or  
21 distribution of a ward's estate;

22 (3) a claim brought by or against a guardianship  
23 estate;

24 (4) an action for trial of title to real property that  
25 is guardianship estate property, including the enforcement of a  
26 lien against the property;

27 (5) an action for trial of the right of property that



1 is guardianship estate property;

2 (6) after a guardianship of the estate of a ward is  
3 required to be settled as provided by Section 1204.001:

4 (A) an action brought by or on behalf of the  
5 former ward against a former guardian of the ward for alleged  
6 misconduct arising from the performance of the person's duties as  
7 guardian;

8 (B) an action calling on the surety of a guardian  
9 or former guardian to perform in place of the guardian or former  
10 guardian, which may include the award of a judgment against the  
11 guardian or former guardian in favor of the surety;

12 (C) an action against a former guardian of the  
13 former ward that is brought by a surety that is called on to perform  
14 in place of the former guardian;

15 (D) a claim for the payment of compensation,  
16 expenses, and court costs, and any other matter authorized under  
17 Chapter 1155; and

18 (E) a matter related to an authorization made or  
19 duty performed by a guardian under Chapter 1204; and

20 (7) the appointment of a trustee for a trust created  
21 under Section 1301.053 or 1301.054, the settling of an account of  
22 the trustee, and all other matters relating to the trust.

23 (a-1) For purposes of this code, in a county in which there  
24 is no statutory probate court, but in which there is a county court  
25 at law exercising original probate jurisdiction, a matter related  
26 to a guardianship proceeding includes:

27 (1) all matters and actions described in Subsection

1 (a);

2 (2) the interpretation and administration of a  
3 testamentary trust in which a ward is an income or remainder  
4 beneficiary; and

5 (3) the interpretation and administration of an inter  
6 vivos trust in which a ward is an income or remainder beneficiary.

7 (b) For purposes of this code, in a county in which there is  
8 a statutory probate court, a matter related to a guardianship  
9 proceeding includes:

10 (1) all matters and actions described in Subsections  
11 ~~[Subsection]~~ (a) and (a-1);

12 (2) a suit, action, or application filed against or on  
13 behalf of a guardianship or a trustee of a trust created under  
14 Section 1301.053 or 1301.054; and

15 (3) a cause of action in which a guardian in a  
16 guardianship pending in the statutory probate court is a party.

17 SECTION 14. Section 1023.006, Estates Code, is amended to  
18 read as follows:

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

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

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

1 SECTION 15. Section 1023.007, Estates Code, is amended to  
2 read as follows:

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

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

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

14 SECTION 16. Section 1051.003(b), Estates Code, is amended  
15 to read as follows:

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

19 SECTION 17. Section 1052.052(b), Estates Code, is amended  
20 to read as follows:

21 (b) Each case file must contain each order, judgment, and  
22 proceeding of the court and any other guardianship filing with the  
23 court, including each:

- 24 (1) application for the granting of guardianship;  
25 (2) citation and notice, whether published or posted,  
26 including the return on the citation or notice;  
27 (3) bond and official oath or declaration;

- 1 (4) inventory, appraisement, and list of claims;
- 2 (5) exhibit and account;
- 3 (6) report of renting;
- 4 (7) application for sale or partition of real estate;
- 5 (8) report of sale;
- 6 (9) application for authority to execute a lease for
- 7 mineral development, or for pooling or unitization of lands,
- 8 royalty, or other interest in minerals, or to lend or invest money;
- 9 (10) report of lending or investing money; and
- 10 (11) report of guardians of the persons.

11 SECTION 18. The heading to Chapter 1054, Estates Code, is  
12 amended to read as follows:

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

15 SECTION 19. The heading to Subchapter E, Chapter 1054,  
16 Estates Code, is amended to read as follows:

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

19 SECTION 20. Section 1054.201, Estates Code, is amended by  
20 amending Subsection (a) and adding Subsection (c) to read as  
21 follows:

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

1 guardianship law and procedure sponsored by the state bar or the  
2 state bar's designee.

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

9 SECTION 21. Section 1101.001(b), Estates Code, is amended  
10 to read as follows:

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

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

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

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

20 (3-a) whether alternatives to guardianship and  
21 available supports and services to avoid guardianship were  
22 considered;

23 (3-b) whether any alternatives to guardianship and  
24 supports and services available to the proposed ward considered are  
25 feasible and would avoid the need for a guardianship;

26 (4) the nature and degree of the alleged incapacity,  
27 the specific areas of protection and assistance requested, and the

1 limitation or termination of rights requested to be included in the  
2 court's order of appointment, including a termination of:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (A) the court involved;

16 (B) the nature of the proceeding; and

17 (C) any final disposition of the proceeding;

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

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

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

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

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

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

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

11 (15) if applicable, that the person whom the applicant  
12 seeks to have appointed as a guardian is a private professional  
13 guardian who is certified under Subchapter C, Chapter 155,  
14 Government Code, and has complied with the requirements of  
15 Subchapter G, Chapter 1104.

16 SECTION 22. Section 1101.153(a), Estates Code, is amended  
17 to read as follows:

18 (a) A court order appointing a guardian must:

19 (1) specify:

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

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

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

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

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



1 to return the appraisal to the court; and

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

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

9 SECTION 23. Section 1103.003, Estates Code, is amended to  
10 read as follows:

11 Sec. 1103.003. EFFECTIVE DATE OF GUARDIANSHIP. If the  
12 application filed under Section 1103.001 is heard before the  
13 proposed ward's 18th birthday, a guardianship created under this  
14 chapter may not take effect and the person appointed guardian may  
15 not take the oath or make the declaration as required under Section  
16 1105.051 or give a bond as required under Section 1105.101 until the  
17 proposed ward's 18th birthday.

18 SECTION 24. Section 1105.001, Estates Code, is amended by  
19 adding Subdivision (1-a) and amending Subdivision (2) to read as  
20 follows:

21 (1-a) "Declaration" means a declaration taken by a  
22 person appointed to serve as a guardian to qualify to serve.

23 (2) "Oath" means an oath [~~required by this chapter to~~  
24 ~~be~~] taken by a person appointed to serve as a guardian to qualify to  
25 serve.

26 SECTION 25. Section 1105.002, Estates Code, is amended to  
27 read as follows:

1           Sec. 1105.002. MANNER OF QUALIFICATION OF GUARDIAN.

2   (a) Except as provided by Subsection (b), a guardian is considered  
3 to have qualified when the guardian has:

4           (1) taken and filed the oath, or made and filed the  
5 declaration, required under Section 1105.051;

6           (2) given the required bond;

7           (3) filed the bond with the clerk; and

8           (4) obtained the judge's approval of the bond.

9   (b) A guardian who is not required to give a bond is  
10 considered to have qualified when the guardian has taken and filed  
11 the [~~required~~] oath, or made and filed the declaration, as required  
12 under Section 1105.051.

13         SECTION 26. Section 1105.003, Estates Code, is amended to  
14 read as follows:

15         Sec. 1105.003. PERIOD FOR TAKING OATH OR MAKING DECLARATION  
16 AND GIVING BOND. (a) Except as provided by Section 1103.003, an  
17 oath may be taken and subscribed or a declaration may be made, and a  
18 bond may be given and approved, at any time before:

19           (1) the 21st day after the date of the order granting  
20 letters of guardianship; or

21           (2) the letters of guardianship are revoked for a  
22 failure to qualify within the period allowed.

23   (b) A guardian of an estate must give a bond before being  
24 issued letters of guardianship unless a bond is not required under  
25 this title.

26         SECTION 27. The heading to Subchapter B, Chapter 1105,  
27 Estates Code, is amended to read as follows:

1 SUBCHAPTER B. OATHS AND DECLARATIONS

2 SECTION 28. Section 1105.051, Estates Code, is amended to  
3 read as follows:

4 Sec. 1105.051. OATH OR DECLARATION OF GUARDIAN. (a) A  
5 guardian shall:

6 (1) take an oath to discharge faithfully the duties of  
7 guardian for the person or estate, or both, of a ward; or

8 (2) make a declaration as prescribed by Subsection  
9 (d).

10 (b) If the Health and Human [~~Department of Aging and~~  
11 ~~Disability~~] Services Commission is appointed guardian, a  
12 commission [~~department~~] representative shall take the oath or make  
13 the declaration required by Subsection (a).

14 (c) An oath taken by a person named as guardian or temporary  
15 guardian, as applicable, must be substantially as follows:

16 I, \_\_\_\_\_ (insert person's name), do solemnly swear that  
17 I will discharge faithfully the duties of guardian of \_\_\_\_\_  
18 (insert "the person," "the estate," or "the person and estate") of  
19 \_\_\_\_\_ (insert ward's name), an incapacitated person,  
20 according to law.

21 (d) A declaration made by a person named as guardian or  
22 temporary guardian, as applicable, must be substantially as  
23 follows:

24 My name is \_\_\_\_\_ (insert person's name), my date of birth is  
25 \_\_\_\_\_ (insert person's date of birth), and my address is  
26 \_\_\_\_\_ (insert person's address, including country). I declare  
27 under penalty of perjury that the information in this declaration

1 is true and correct. I solemnly declare that I will discharge  
2 faithfully the duties of \_\_\_\_\_ (insert "guardian" or  
3 "temporary guardian," as applicable) of \_\_\_\_\_ (insert "the  
4 person," "the estate," or "the person and estate") of \_\_\_\_\_  
5 (insert ward's name), an incapacitated person, according to law.  
6 Signed on \_\_\_\_\_ (insert date of signing).

7 SECTION 29. Section 1105.052, Estates Code, is amended to  
8 read as follows:

9 Sec. 1105.052. ADMINISTRATION OF OATH OR MAKING OF  
10 DECLARATION. The [An] oath prescribed by Section 1105.051 may be  
11 taken before any person authorized to administer oaths under the  
12 laws of this state. The declaration prescribed by Section 1105.051  
13 must be signed by the declarant.

14 SECTION 30. Section 1105.103(f), Estates Code, is amended  
15 to read as follows:

16 (f) If the guardian fails to give the bond required under  
17 Subsection (d) and the judge has not extended the period for giving  
18 the bond, the judge, without citation, shall remove the guardian  
19 and appoint a competent person as guardian, who shall:

20 (1) administer the guardianship according to the  
21 provisions of a will or law;

22 (2) take the oath or make the declaration required of a  
23 guardian under Section 1105.051 before the person enters on the  
24 administration of the guardianship; and

25 (3) give bond in the same manner and in the same amount  
26 provided by this title for the issuance of original letters of  
27 guardianship.

1 SECTION 31. Subchapter A, Chapter 1151, Estates Code, is  
2 amended by adding Section 1151.005 to read as follows:

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

7 (1) a party; or

8 (2) participating as a witness.

9 SECTION 32. Section 1151.351(b), Estates Code, is amended  
10 to read as follows:

11 (b) Unless limited by a court or otherwise restricted by  
12 law, a ward is authorized to the following:

13 (1) to have a copy of the guardianship order and  
14 letters of guardianship and contact information for the probate  
15 court that issued the order and letters;

16 (2) to have a guardianship that encourages the  
17 development or maintenance of maximum self-reliance and  
18 independence in the ward with the eventual goal, if possible, of  
19 self-sufficiency;

20 (3) to be treated with respect, consideration, and  
21 recognition of the ward's dignity and individuality;

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

26 (5) to consideration of the ward's current and  
27 previously stated personal preferences, desires, medical and

1 psychiatric treatment preferences, religious beliefs, living  
2 arrangements, and other preferences and opinions;

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

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

9 (8) to exercise full control of all aspects of life not  
10 specifically granted by the court to the guardian;

11 (9) to control the ward's personal environment based  
12 on the ward's preferences;

13 (10) to complain or raise concerns regarding the  
14 guardian or guardianship to the court, including living  
15 arrangements, retaliation by the guardian, conflicts of interest  
16 between the guardian and service providers, or a violation of any  
17 rights under this section;

18 (11) to receive notice in the ward's native language,  
19 or preferred mode of communication, and in a manner accessible to  
20 the ward, of a court proceeding to continue, modify, or terminate  
21 the guardianship and the opportunity to appear before the court to  
22 express the ward's preferences and concerns regarding whether the  
23 guardianship should be continued, modified, or terminated;

24 (12) to have a court investigator or[7] guardian ad  
25 litem[~~7~~, ~~or attorney ad litem~~] appointed by the court to investigate  
26 a complaint received by the court from the ward or any person about  
27 the guardianship;

1           (13) to participate in social, religious, and  
2 recreational activities, training, employment, education,  
3 habilitation, and rehabilitation of the ward's choice in the most  
4 integrated setting;

5           (14) to self-determination in the substantial  
6 maintenance, disposition, and management of real and personal  
7 property after essential living expenses and health needs are met,  
8 including the right to receive notice and object about the  
9 substantial maintenance, disposition, or management of clothing,  
10 furniture, vehicles, and other personal effects;

11           (15) to personal privacy and confidentiality in  
12 personal matters, subject to state and federal law;

13           (16) to unimpeded, private, and uncensored  
14 communication and visitation with persons of the ward's choice,  
15 except that if the guardian determines that certain communication  
16 or visitation causes substantial harm to the ward:

17                   (A) the guardian may limit, supervise, or  
18 restrict communication or visitation, but only to the extent  
19 necessary to protect the ward from substantial harm; and

20                   (B) the ward may request a hearing to remove any  
21 restrictions on communication or visitation imposed by the guardian  
22 under Paragraph (A);

23           (17) to petition the court and retain counsel of the  
24 ward's choice who holds a certificate required by Subchapter E,  
25 Chapter 1054, to represent the ward's interest for capacity  
26 restoration, modification of the guardianship, the appointment of a  
27 different guardian, or for other appropriate relief under this

1 subchapter, including a transition to a supported decision-making  
2 agreement, except as limited by Section [1054.006](#);

3 (18) to vote in a public election, marry, and retain a  
4 license to operate a motor vehicle, unless restricted by the court;

5 (19) to personal visits from the guardian or the  
6 guardian's designee at least once every three months, but more  
7 often, if necessary, unless the court orders otherwise;

8 (20) to be informed of the name, address, phone  
9 number, and purpose of Disability Rights Texas, an organization  
10 whose mission is to protect the rights of, and advocate for, persons  
11 with disabilities, and to communicate and meet with representatives  
12 of that organization;

13 (21) to be informed of the name, address, phone  
14 number, and purpose of an independent living center, an area agency  
15 on aging, an aging and disability resource center, and the local  
16 mental health and intellectual and developmental disability  
17 center, and to communicate and meet with representatives from these  
18 agencies and organizations;

19 (22) to be informed of the name, address, phone  
20 number, and purpose of the Judicial Branch Certification Commission  
21 and the procedure for filing a complaint against a certified  
22 guardian;

23 (23) to contact the Department of Family and  
24 Protective Services to report abuse, neglect, exploitation, or  
25 violation of personal rights without fear of punishment,  
26 interference, coercion, or retaliation;

27 (24) to have the guardian, on appointment and on



1 annual renewal of the guardianship, explain the rights delineated  
2 in this subsection in the ward's native language, or preferred mode  
3 of communication, and in a manner accessible to the ward; and

4 (25) to make decisions related to sexual assault  
5 crisis services, including consenting to a forensic medical  
6 examination and treatment, authorizing the collection of forensic  
7 evidence, consenting to the release of evidence contained in an  
8 evidence collection kit and disclosure of related confidential  
9 information, and receiving counseling and other support services.

10 SECTION 33. Sections 1153.001(a) and (c), Estates Code, are  
11 amended to read as follows:

12 (a) Within one month after receiving letters of  
13 guardianship, a guardian of an estate shall provide notice  
14 requiring each person who has a claim against the estate to present  
15 the claim within the period prescribed by law. The notice must be:

16 (1) published in a newspaper of general circulation  
17 [~~printed~~] in the county in which the letters were issued; and

18 (2) sent to the comptroller by certified or registered  
19 mail, if the ward remitted or should have remitted taxes  
20 administered by the comptroller.

21 (c) If there is no [~~a~~] newspaper of general circulation [~~is~~  
22 ~~not printed~~] in the county in which the letters of guardianship were  
23 issued, the notice must be posted and the return made and filed as  
24 otherwise required by this title.

25 SECTION 34. Section 1155.054(d), Estates Code, is amended  
26 to read as follows:

27 (d) If the court finds that a party in a guardianship

1 proceeding acted in bad faith or without just cause in prosecuting  
2 or objecting to an application in the proceeding, the court may  
3 order [~~require~~] the party to reimburse the ward's estate for all or  
4 part of the attorney's fees awarded under this section and shall  
5 issue judgment against the party and in favor of the estate for the  
6 amount of attorney's fees ordered [~~required~~] to be reimbursed to  
7 the estate.

8 SECTION 35. Section [1158.105](#)(a), Estates Code, is amended  
9 to read as follows:

10 (a) A successful bid or contract for the sale of estate  
11 personal property shall be reported to the court. The laws  
12 regulating the approval [~~confirmation~~] or disapproval of a sale of  
13 real estate apply to the sale [~~of personal property~~], except that a  
14 conveyance is not required.

15 SECTION 36. The heading to Subchapter [I](#), Chapter [1158](#),  
16 Estates Code, is amended to read as follows:

17 SUBCHAPTER I. SALE OF REAL ESTATE: PUBLIC AUCTION [~~SALE~~]

18 SECTION 37. Section [1158.401](#)(a), Estates Code, is amended  
19 to read as follows:

20 (a) A public sale of real estate of an estate shall be made  
21 at public auction. Except as otherwise provided by Section  
22 [1158.403](#)(c) [~~this title~~], the guardian of the estate shall  
23 advertise a public auction [~~sale~~] of real estate of the estate by a  
24 notice published in the county in which the estate is pending, as  
25 provided by this title for publication of notices or citations. The  
26 notice must [~~include a reference to~~]:

27 (1) include a reference to the order of sale;

1           (2) include the time, place, and required terms of  
2 sale; and

3           (3) briefly describe [~~a brief description of~~] the real  
4 estate to be sold.

5           SECTION 38. Section [1158.402](#), Estates Code, is amended to  
6 read as follows:

7           Sec. 1158.402. COMPLETION [~~METHOD~~] OF AUCTION [~~SALE~~]. A  
8 public auction [~~sale~~] of real estate of an estate shall be completed  
9 on the bid of [~~made at public auction to~~] the highest bidder.

10           SECTION 39. Section [1158.403](#), Estates Code, is amended to  
11 read as follows:

12           Sec. 1158.403. TIME AND PLACE OF AUCTION [~~SALE~~]. (a)  
13 Except as provided by Subsection (c), a public auction [~~sale~~] of  
14 real estate of an estate shall be held [~~made~~] at:

15           (1) the courthouse door in the county in which the real  
16 estate is located, or if the real estate is located in more than one  
17 county, the courthouse door in any county in which the real estate  
18 is located [~~guardianship proceedings are pending~~]; or

19           (2) another place in a [~~that~~] county described by  
20 Subdivision (1) at which auctions [~~sales~~] of real estate are  
21 specifically authorized to be held as designated by the  
22 commissioners court of the county under Section [51.002](#)(a), Property  
23 Code [~~made~~].

24           (b) Except as otherwise provided by this subsection, the  
25 auction [~~The sale~~] must occur between 10 a.m. and 4 p.m. on the  
26 first Tuesday of the month after publication of notice has been  
27 completed. If the first Tuesday of the month occurs on January 1 or

1 July 4, the auction must occur between 10 a.m. and 4 p.m. on the  
2 first Wednesday of the month.

3 (c) If the court considers it advisable, the court may order  
4 the auction [~~sale~~] to be held [~~made~~] in the county in which the  
5 proceedings are pending [~~real estate is located~~], in which event  
6 notice shall be published both in that county and in the county in  
7 which the real estate is located [~~proceedings are pending~~].

8 SECTION 40. Section 1158.404, Estates Code, is amended to  
9 read as follows:

10 Sec. 1158.404. CONTINUANCE OF AUCTION [~~SALE~~]. (a) A public  
11 auction [~~sale~~] of real estate of an estate that is not completed on  
12 the day advertised may be continued from day to day by an oral  
13 public announcement of the continuance made at the conclusion of  
14 the auction [~~sale~~] each day.

15 (b) A continued auction [~~sale~~] must occur within the hours  
16 prescribed by Section 1158.403(b).

17 (c) The continuance of an auction [~~a sale~~] under this  
18 section shall be shown in the report [~~of the sale~~] made to the court  
19 under Section 1158.551.

20 SECTION 41. Section 1158.405, Estates Code, is amended to  
21 read as follows:

22 Sec. 1158.405. FAILURE OF BIDDER TO COMPLY. (a) If a  
23 person who successfully bids on real estate of the guardianship  
24 estate offered [~~for sale~~] at public auction fails to comply with the  
25 terms of the bid [~~sale~~], the property [~~real estate~~] shall be  
26 readvertised and auctioned [~~sold~~] without any further order.

27 (b) The person defaulting on a bid as described by

1 Subsection (a) is liable for payment to the guardian of the estate,  
2 for the estate's benefit, of:

- 3 (1) 10 percent of the amount of the bid; and  
4 (2) the amount of any deficiency in price on the second  
5 auction [~~sale~~].

6 (c) The guardian shall recover the amounts under Subsection  
7 (b) by suit in any court in the county in which the auction [~~sale~~]  
8 was held [~~made~~] that has jurisdiction over the amount claimed.

9 SECTION 42. The heading to Subchapter J, Chapter 1158,  
10 Estates Code, is amended to read as follows:

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

12 SECTION 43. Section 1158.451, Estates Code, is amended to  
13 read as follows:

14 Sec. 1158.451. TERMS [~~MANNER~~] OF SALE. The guardian of the  
15 estate may enter into a contract for the [A] private sale of real  
16 estate of the estate [~~shall be~~] made in the manner the court directs  
17 in the order of sale. Unless the court directs otherwise,  
18 additional advertising, notice, or citation concerning the sale is  
19 not required.

20 SECTION 44. Section 1158.502, Estates Code, is amended to  
21 read as follows:

22 Sec. 1158.502. PROCEDURE. The procedure for the sale of an  
23 easement or right-of-way authorized under Section 1158.501 is the  
24 same as the procedure provided by law for a private sale of real  
25 property of a ward by contract [~~at private sale~~].

26 SECTION 45. The heading to Subchapter L, Chapter 1158,  
27 Estates Code, is amended to read as follows:

1 SUBCHAPTER L. APPROVAL [~~CONFIRMATION~~] OF SALE OF REAL PROPERTY AND  
2 TRANSFER OF TITLE

3 SECTION 46. Section 1158.551, Estates Code, is amended to  
4 read as follows:

5 Sec. 1158.551. REPORT. A successful bid or private  
6 contract for the sale of estate real property shall be reported to  
7 the court ordering the sale not later than the 30th day after the  
8 date the bid [~~sale~~] is made or the property is placed under  
9 contract. The report must:

- 10 (1) be in writing, sworn to, and filed with the clerk;
- 11 (2) include:
  - 12 (A) the date of the order of sale;
  - 13 (B) a description of the property being sold;
  - 14 (C) the time and place of the auction or date the  
15 property is placed under contract [~~sale~~];
  - 16 (D) the purchaser's name;
  - 17 (E) the amount of the successful bid or the  
18 purchase price for [~~which~~] each parcel of property or interest in  
19 the parcel of property auctioned or placed under contract [~~was~~  
20 ~~sold~~];
  - 21 (F) the terms of the sale;
  - 22 (G) whether the proposed sale of the property was  
23 made at public auction or by contract [~~privately~~]; and
  - 24 (H) whether the purchaser is ready to comply with  
25 the order of sale; and
- 26 (3) be noted on the guardianship docket.

27 SECTION 47. Section 1158.552, Estates Code, is amended to

1 read as follows:

2           Sec. 1158.552. ACTION OF COURT ON REPORT [~~OF SALE~~]. After  
3 the expiration of five days from the date a report [~~of sale~~] is  
4 filed under Section 1158.551, the court shall:

5           (1) consider [~~inquire into~~] the manner in which the  
6 auction described in the report was held or the contract described  
7 in the report [~~sale~~] was entered into [~~made~~];

8           (2) consider [~~hear~~] evidence in support of or against  
9 the report; and

10           (3) determine the sufficiency or insufficiency of the  
11 guardian's general bond, if any has been required and given.

12           SECTION 48. Section 1158.553, Estates Code, is amended to  
13 read as follows:

14           Sec. 1158.553. APPROVAL [~~CONFIRMATION~~] OF SALE WHEN BOND  
15 NOT REQUIRED. If the guardian of the estate of a ward is not  
16 required by Subtitle D to give a general bond, the court may approve  
17 [~~confirm~~] the sale of estate real property in the manner provided by  
18 Section 1158.556(a) if the court finds that the sale is  
19 satisfactory and made in accordance with law.

20           SECTION 49. Sections 1158.554(a), (b), and (c), Estates  
21 Code, are amended to read as follows:

22           (a) If the guardian of an estate is required by Subtitle D to  
23 give a general bond, before the court approves [~~confirms~~] any sale  
24 of real estate, the court shall determine whether the bond is  
25 sufficient to protect the estate after the sale proceeds are  
26 received.

27           (b) If the court finds that the general bond is sufficient,

1 the court may approve [~~confirm~~] the sale as provided by Section  
2 1158.556(a).

3 (c) If the court finds that the general bond is  
4 insufficient, the court may not approve [~~confirm~~] the sale until  
5 the general bond is increased to the amount required by the court,  
6 or an additional bond is given, and approved by the court.

7 SECTION 50. Section 1158.556, Estates Code, is amended to  
8 read as follows:

9 Sec. 1158.556. APPROVAL [~~CONFIRMATION~~] OR DISAPPROVAL  
10 ORDER. (a) If the court is satisfied that the proposed sale of real  
11 property [~~a sale~~] reported under Section 1158.551 is [~~was~~] for a  
12 fair price, [~~was~~] properly made, and [~~was~~] in conformity with law,  
13 and the court has approved any increased or additional bond that the  
14 court found necessary to protect the estate, the court shall enter  
15 an order:

- 16 (1) approving [~~confirming~~] the sale;
- 17 (2) showing conformity with [~~the provisions of~~] this  
18 chapter [~~relating to the sale~~];
- 19 (3) detailing the terms of the sale; and
- 20 (4) authorizing the guardian of the estate to convey  
21 the property on the purchaser's compliance with the terms of the  
22 sale.

23 (b) If the court is not satisfied that the proposed sale of  
24 real property is [~~was~~] for a fair price, [~~was~~] properly made, and  
25 [~~was~~] in conformity with law, the court shall enter [~~issue~~] an order  
26 setting aside the bid or contract [~~sale~~] and ordering a new sale to  
27 be made, if necessary.



1 (c) The court's action in approving [~~confirming~~] or  
2 disapproving a report under Section 1158.551 [~~of a sale~~] has the  
3 effect of a final judgment. Any person interested in the  
4 guardianship estate or in the sale is entitled to have an order  
5 entered under this section reviewed as in other final judgments in  
6 probate proceedings.

7 SECTION 51. Section 1158.557, Estates Code, is amended to  
8 read as follows:

9 Sec. 1158.557. DEED. Real estate of an estate that is sold  
10 shall be conveyed by a proper deed that refers to and identifies the  
11 court order approving [~~confirming~~] the sale. The deed:

12 (1) vests in the purchaser all right and title of the  
13 estate to, and all interest of the estate in, the property; and

14 (2) is prima facie evidence that the sale has met all  
15 applicable requirements of the law.

16 SECTION 52. Section 1158.558(a), Estates Code, is amended  
17 to read as follows:

18 (a) After the court has approved [~~confirmed~~] a sale and the  
19 [~~one~~] purchaser has complied with the terms of the sale, the  
20 guardian of the estate shall promptly execute and deliver to the  
21 purchaser a proper deed conveying the property.

22 SECTION 53. Section 1163.005(a), Estates Code, is amended  
23 to read as follows:

24 (a) The guardian of the estate shall attach to an account  
25 the guardian's affidavit stating:

26 (1) that the account contains a correct and complete  
27 statement of the matters to which the account relates;

1           (2) that the guardian has paid the bond premium for the  
2 next accounting period;

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

5           (4) that the guardian has paid all taxes the ward owed  
6 during the accounting period, the amount of the taxes, the date the  
7 guardian paid the taxes, and the name of the governmental entity to  
8 which the guardian paid the taxes; and

9           (5) if the guardian is a private professional  
10 guardian, a guardianship program, or the Health and Human Services  
11 Commission [~~Department of Aging and Disability Services~~], whether  
12 the guardian or an individual certified under Subchapter C, Chapter  
13 155 [~~111~~], Government Code, who is providing guardianship services  
14 to the ward and who is swearing to the account on the guardian's  
15 behalf, is or has been the subject of an investigation conducted by  
16 the Judicial Branch [~~Guardianship~~] Certification Commission  
17 [~~Board~~] during the accounting period.

18           SECTION 54. Section 1163.101(c), Estates Code, is amended  
19 to read as follows:

20           (c) The guardian of the person shall file a sworn affidavit  
21 that contains:

22           (1) the guardian's current name, address, and  
23 telephone number;

24           (2) the ward's date of birth and current name, address,  
25 telephone number, and age;

26           (3) a description of the type of home in which the ward  
27 resides, which shall be described as:

- 1 (A) the ward's own home;
- 2 (B) a nursing home;
- 3 (C) a guardian's home;
- 4 (D) a foster home;
- 5 (E) a boarding home;
- 6 (F) a relative's home, in which case the
- 7 description must specify the relative's relationship to the ward;
- 8 (G) a hospital or medical facility; or
- 9 (H) another type of residence;
- 10 (4) statements indicating:
  - 11 (A) the length of time the ward has resided in the
  - 12 present home;
  - 13 (B) the reason for a change in the ward's
  - 14 residence, if a change in the ward's residence has occurred in the
  - 15 past year;
  - 16 (C) the date the guardian most recently saw the
  - 17 ward;
  - 18 (D) how frequently the guardian has seen the ward
  - 19 in the past year;
  - 20 (E) whether the guardian has possession or
  - 21 control of the ward's estate;
  - 22 (F) whether the ward's mental health has
  - 23 improved, deteriorated, or remained unchanged during the past year,
  - 24 including a description of the change if a change has occurred;
  - 25 (G) whether the ward's physical health has
  - 26 improved, deteriorated, or remained unchanged during the past year,
  - 27 including a description of the change if a change has occurred;

1                   (H) whether the ward has regular medical care;  
2 and

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

6                               (i) a physician;

7                               (ii) a psychiatrist, psychologist, or other  
8 mental health care provider;

9                               (iii) a dentist;

10                              (iv) a social or other caseworker; or

11                              (v) any other individual who provided  
12 treatment;

13                   (5) a description of the ward's activities during the  
14 past year, including recreational, educational, social, and  
15 occupational activities, or a statement that no activities were  
16 available or that the ward was unable or refused to participate in  
17 activities;

18                   (6) the guardian's evaluation of:

19                               (A) the ward's living arrangements as excellent,  
20 average, or below average, including an explanation if the  
21 conditions are below average;

22                               (B) whether the ward is content or unhappy with  
23 the ward's living arrangements; and

24                               (C) unmet needs of the ward;

25                   (7) a statement indicating whether the guardian's  
26 power should be increased, decreased, or unaltered, including an  
27 explanation if a change is recommended;

1 (8) a statement indicating that the guardian has paid  
2 the bond premium for the next reporting period;

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

12 (10) any additional information the guardian desires  
13 to share with the court regarding the ward, including:

14 (A) whether the guardian has filed for emergency  
15 detention of the ward under Subchapter A, Chapter 573, Health and  
16 Safety Code; and

17 (B) if applicable, the number of times the  
18 guardian has filed for emergency detention and the dates of the  
19 applications for emergency detention.

20 SECTION 55. Section 1251.005, Estates Code, is amended to  
21 read as follows:

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

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

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

27 (B) [~~(2)~~] ~~the proposed ward's appointed~~

1 ~~attorney, and~~

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

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

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

8           (1) the rights of the parties; and

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

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

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

21           SECTION 56. Sections 1251.101(a), (b), and (d), Estates  
22 Code, are amended to read as follows:

23           (a) When the temporary guardian files the oath or  
24 declaration prescribed by Section 1105.051 and the bond required  
25 under this title, the court order appointing the temporary guardian  
26 takes effect without the necessity for issuance of letters of  
27 guardianship.

1 (b) The clerk shall note compliance with the oath or  
2 declaration and bond requirements by the appointed temporary  
3 guardian on a certificate attached to the order.

4 (d) The clerk may not issue certified copies of the order  
5 until the oath or declaration and bond requirements are satisfied.

6 SECTION 57. The heading to Section 1251.153, Estates Code,  
7 is amended to read as follows:

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

10 SECTION 58. Section 1251.153, Estates Code, is amended by  
11 adding Subsection (a-1) and amending Subsection (b) to read as  
12 follows:

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

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

20 (A) the ward was found by the court to have full  
21 capacity, or sufficient capacity with supports and services, to  
22 care for himself or herself;

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

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

27 (2) if the ward is deceased, includes the date and

1 place of death, if known, in the form and manner of the report  
2 required to be filed by a guardian of the person under Section  
3 1163.103.

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

7 (1) the temporary guardian shall be discharged; and

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

10 SECTION 59. Section 1253.001, Estates Code, is amended to  
11 read as follows:

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

18 SECTION 60. Subchapter B, Chapter 1301, Estates Code, is  
19 amended by adding Section 1301.0511 to read as follows:

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

27 (b) It is not necessary to serve a citation on a person who



1 files an application for the creation of a management trust under  
2 this subchapter or for that person to waive the issuance and  
3 personal service of citation.

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

9 (d) Notice under this section is not required if a  
10 proceeding for the appointment of a guardian is pending for the  
11 person for whom an application for creation of a management trust is  
12 filed.

13 SECTION 61. Section 1301.101(a), Estates Code, is amended  
14 to read as follows:

15 (a) Except as provided by Subsection (c), a management trust  
16 created for a ward or incapacitated person must provide that:

17 (1) the ward or incapacitated person is the sole  
18 beneficiary of the trust;

19 (2) the trustee may disburse an amount of the trust's  
20 principal or income as the trustee determines is necessary to spend  
21 for the health, education, maintenance, or support of the person  
22 for whom the trust is created;

23 (3) the trust income that the trustee does not  
24 disburse under Subdivision (2) must be added to the trust  
25 principal;

26 (4) a trustee that is a corporate fiduciary serves  
27 without giving a bond; [~~and~~]

1           (5) subject to the court's approval and Subsection  
2 (b), a trustee is entitled to receive reasonable compensation for  
3 services the trustee provides to the person for whom the trust is  
4 created as the person's trustee; and

5           (6) the trust terminates:

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

8                   (i) on the earlier of:

9                           (a) the person's death; or

10                          (b) the person's 18th birthday; or

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

13           (B) if the person for whom the trust is created is  
14 a minor and is also incapacitated for a reason other than being a  
15 minor:

16                   (i) on the person's death; or

17                   (ii) when the person regains capacity; or

18           (C) if the person for whom the trust is created is  
19 not a minor:

20                   (i) according to the terms of the trust;

21                   (ii) on the date the court determines that  
22 continuing the trust is no longer in the person's best interests,  
23 subject to Section 1301.202(c); or

24                   (iii) on the person's death.

25           SECTION 62. Section 1301.154(b), Estates Code, is amended  
26 to read as follows:

27           (b) The trustee of a management trust created for a ward

1 shall provide a copy of the annual account to each ~~[the]~~ guardian of  
2 the ward ~~[ward's estate or person]~~.

3 SECTION 63. Section 1301.203, Estates Code, is amended by  
4 amending Subsection (a) and adding Subsection (a-1) to read as  
5 follows:

6 (a) Except as provided by Subsection (a-1), if ~~[if]~~ the  
7 person for whom a management trust is created is a minor, the trust  
8 terminates on:

9 (1) the earlier of:

10 (A) the person's death; or

11 (B) the person's 18th birthday; or

12 (2) the date provided by court order, which may not be  
13 later than the person's 25th birthday.

14 (a-1) If the person for whom a management trust is created  
15 is a minor and is also incapacitated for a reason other than being a  
16 minor, the trust terminates:

17 (1) on the person's death; or

18 (2) when the person regains capacity.

19 SECTION 64. Sections 1355.002(b), (c), (d), (e), and (f),  
20 Estates Code, are amended to read as follows:

21 (b) This section applies only to a nonresident creditor who  
22 is:

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

25 (2) [7] a nonresident person who is adjudged by a  
26 foreign court [of competent jurisdiction] to be incapacitated and  
27 has a nonresident guardian of the estate appointed by that

1 court;~~[7]~~ or

2           (3) the nonresident former ward of a guardianship  
3 terminated under Chapter 1204 who has no legal guardian qualified  
4 in this state.

5           (c) A debtor in this state who owes money to a nonresident  
6 creditor to whom this section applies may pay the money:

7                 (1) to the creditor's guardian of the estate qualified  
8 in the domiciliary jurisdiction; or

9                 (2) to the county clerk of:

10                         (A) any county in this state in which real  
11 property owned by the creditor is located; or

12                         (B) if the creditor is not known to own real  
13 property in this state, the county in which the debtor resides.

14           (d) A payment made under this section is for the nonresident  
15 creditor's account and for the nonresident creditor's use and  
16 benefit.

17           (e) A receipt for payment signed by the county clerk is  
18 binding on the nonresident creditor as of the date and to the extent  
19 of payment if the receipt states:

20                 (1) the creditor's name; and

21                 (2) the creditor's post office address, if the address  
22 is known.

23           (f) A county clerk who receives a payment under Subsection  
24 (c) for a nonresident creditor shall handle the money in the same  
25 manner as provided for a payment to the account of a resident  
26 creditor under Sections 1355.001, 1355.051, 1355.052, 1355.102,  
27 1355.103, and 1355.104. Those sections apply to the handling and

1 disposition of money or any increase, dividend, or income paid to  
2 the clerk for the use, benefit, and account of the nonresident  
3 creditor to whom this section applies.

4 SECTION 65. Section 1355.105, Estates Code, is amended to  
5 read as follows:

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

12 (1) the creditor, after termination of the creditor's  
13 disability;

14 (2) a subsequent personal representative of the  
15 creditor; ~~[or]~~

16 (3) the creditor's heirs; or

17 (4) a nonresident guardian of the estate appointed by  
18 a foreign court for a creditor who is:

19 (A) a nonresident minor; or

20 (B) a nonresident person who is adjudged to be  
21 incapacitated.

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

25 (b-1) A court may require a nonresident guardian of the  
26 estate of a creditor who is a nonresident minor or nonresident  
27 incapacitated person as described by Subsection (a)(4) to provide

1 proof that the nonresident guardian of the estate gave an adequate  
2 bond in the foreign jurisdiction if the court determines that it is  
3 in the nonresident minor's or nonresident incapacitated person's  
4 best interest.

5 (c) The order presented under Subsection (a) must direct the  
6 court clerk to deliver the money to:

7 (1) the creditor;

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

9 (3) [~~r or~~] the creditor's heirs named in the order; or

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

13 (d) Before the court may issue an order under this section,  
14 the person's identity and credentials must be proved to the court's  
15 satisfaction. For purposes of this subsection, a nonresident  
16 guardian of the estate described by Subsection (c)(4) must present  
17 to the court exemplified copies of the order of a foreign court  
18 appointing the guardian and current letters of guardianship issued  
19 in the foreign jurisdiction.

20 SECTION 66. Section 25.0006, Government Code, is amended by  
21 amending Subsection (a) and adding Subsection (a-5) to read as  
22 follows:

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

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

7       SECTION 67. Section 25.00231, Government Code, is amended  
8 by adding Subsection (f) to read as follows:

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

16       SECTION 68. Section 25.0027, Government Code, is amended to  
17 read as follows:

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

1 to district courts.

2 SECTION 69. Section 74.141, Government Code, is amended to  
3 read as follows:

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

14 SECTION 70. Section 81.114, Government Code, is amended by  
15 amending Subsection (a) and adding Subsection (e) to read as  
16 follows:

17 (a) The state bar shall provide a course of instruction for  
18 attorneys who represent any person's interests ~~[parties]~~ in  
19 guardianship cases or who serve as court-appointed guardians.

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

23 SECTION 71. Section 155.205(b), Government Code, is amended  
24 to read as follows:

25 (b) The commission shall obtain:

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



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

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

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

9           (A) the liquid assets of the estate of a ward are  
10 \$50,000 or less; and

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

13           SECTION 72. (a) Except as otherwise provided by this Act,  
14 the changes in law made by this Act apply to:

15           (1) a guardianship created before, on, or after the  
16 effective date of this Act; and

17           (2) an application for a guardianship pending on, or  
18 filed on or after, the effective date of this Act.

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

25           (c) Section 452.006(c), Estates Code, as added by this Act,  
26 applies only to a temporary administrator appointed on or after the  
27 effective date of this Act. A temporary administrator appointed

1 before the effective date of this Act is governed by the law in  
2 effect on the date the administrator was appointed, and the former  
3 law is continued in effect for that purpose.

4 (d) Section 503.002, Estates Code, as amended by this Act,  
5 applies only to a copy of a testamentary instrument or other  
6 document filed for recording on or after the effective date of this  
7 Act. A copy of a testamentary instrument or other document filed  
8 before the effective date of this Act is governed by the law in  
9 effect on the date the instrument or document was filed, and the  
10 former law is continued in effect for that purpose.

11 (e) The changes in law made by this Act to Section 1021.001,  
12 Estates Code, apply only to an action filed on or after the  
13 effective date of this Act. An action filed before the effective  
14 date of this Act is governed by the law in effect on the date the  
15 action was filed, and the former law is continued in effect for that  
16 purpose.

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

25 (g) Sections 1054.201 and 1101.153, Estates Code, as  
26 amended by this Act, and Section 155.205, Government Code, as  
27 amended by this Act, apply only to a guardianship proceeding

1 commenced on or after the effective date of this Act. A  
2 guardianship proceeding commenced before the effective date of this  
3 Act is governed by the law applicable to the proceeding immediately  
4 before the effective date of this Act, and the former law is  
5 continued in effect for that purpose.

6 (h) The changes in law made by this Act to Section 1251.101,  
7 Estates Code, and Chapter 1105, Estates Code, apply only to the  
8 qualification of a guardian that occurs on or after the effective  
9 date of this Act. The qualification of a guardian that occurs  
10 before the effective date of this Act is governed by the law in  
11 effect on the date the guardian qualifies to serve, and the former  
12 law is continued in effect for that purpose.

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

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

1           (k) The changes in law made by this Act to Section 1355.105,  
2 Estates Code, apply only to an application for an order for the  
3 delivery of money that is filed on or after the effective date of  
4 this Act. An application for an order for the delivery of money  
5 that is filed before the effective date of this Act is governed by  
6 the law in effect on the date the application was filed, and the  
7 former law is continued in effect for that purpose.

8           (l) The changes in law made by this Act to Sections 25.0006  
9 and 25.00231, Government Code, apply only to an insurance policy  
10 delivered, issued for delivery, or renewed on or after January 1,  
11 2022. An insurance policy delivered, issued for delivery, or  
12 renewed before January 1, 2022, is governed by the law as it existed  
13 immediately before the effective date of this Act, and that law is  
14 continued in effect for that purpose.

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

21           SECTION 73. This Act takes effect September 1, 2021.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 626 passed the Senate on March 25, 2021, by the following vote: Yeas 30, Nays 0; May 25, 2021, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 27, 2021, House granted request of the Senate; May 29, 2021, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 626 passed the House, with amendments, on May 20, 2021, by the following vote: Yeas 146, Nays 0, one present not voting; May 27, 2021, House granted request of the Senate for appointment of Conference Committee; May 30, 2021, House adopted Conference Committee Report by the following vote: Yeas 139, Nays 1, one present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor