

1-1 By: Zaffirini S.B. No. 1624  
 1-2 (In the Senate - Filed March 6, 2023; March 16, 2023, read  
 1-3 first time and referred to Committee on Jurisprudence;  
 1-4 April 6, 2023, rereferred to Committee on State Affairs;  
 1-5 April 26, 2023, reported adversely, with favorable Committee  
 1-6 Substitute by the following vote: Yeas 10, Nays 0; April 26, 2023,  
 1-7 sent to printer.)

1-8 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-9				
1-10	X			
1-11	X			
1-12	X			
1-13			X	
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			
1-19	X			
1-20	X			

1-21 COMMITTEE SUBSTITUTE FOR S.B. No. 1624 By: Hughes

1-22 A BILL TO BE ENTITLED  
 1-23 AN ACT

1-24 relating to guardianships, alternatives to guardianship, and  
 1-25 supports and services for incapacitated persons.

1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-27 SECTION 1. Section 1054.001, Estates Code, is amended to  
 1-28 read as follows:

1-29 Sec. 1054.001. APPOINTMENT OF ATTORNEY AD LITEM IN  
 1-30 PROCEEDING FOR APPOINTMENT OF GUARDIAN. In a proceeding under this  
 1-31 title for the appointment of a guardian, the court shall appoint an  
 1-32 attorney ad litem to represent the proposed ward's interests,  
 1-33 including the proposed ward's expressed wishes.

1-34 SECTION 2. Section 1054.003, Estates Code, is amended to  
 1-35 read as follows:

1-36 Sec. 1054.003. ACCESS TO RECORDS. An attorney ad litem  
 1-37 appointed under Section 1054.001 or an attorney retained by a ward  
 1-38 or proposed ward under Section 1054.006 or 1202.103 shall be  
 1-39 provided copies of all of the current records in the guardianship  
 1-40 case. The attorney ad litem or retained attorney may have access to  
 1-41 all of the proposed ward's relevant medical, psychological, and  
 1-42 intellectual testing records.

1-43 SECTION 3. Section 1054.006, Estates Code, is amended to  
 1-44 read as follows:

1-45 Sec. 1054.006. REPRESENTATION OF WARD OR PROPOSED WARD BY  
 1-46 ATTORNEY. (a) A ward or proposed ward [~~The following persons~~] may  
 1-47 at any time retain an attorney who holds a certificate required by  
 1-48 Subchapter E to represent the ward's or proposed ward's [~~person's~~]  
 1-49 interests, including the ward's or proposed ward's expressed  
 1-50 wishes, in a guardianship proceeding, including a proceeding  
 1-51 involving the complete restoration of the ward's capacity or  
 1-52 modification of the ward's guardianship, instead of having those  
 1-53 interests represented by an attorney ad litem appointed under  
 1-54 Section 1054.001, Section 1202.101, or another provision of this  
 1-55 title[+]

1-56 [~~(1) a ward who retains the power to enter into a~~  
 1-57 ~~contract under the terms of the guardianship, subject to Section~~  
 1-58 ~~1202.103, and~~

1-59 [~~(2) a proposed ward for purposes of a proceeding for~~  
 1-60 ~~the appointment of a guardian as long as the proposed ward has~~

2-1 ~~capacity to contract].~~

2-2 (b) Subject to Subsection (c), if a ward or proposed ward  
 2-3 has retained an attorney under Subsection (a), [IF] the court shall  
 2-4 [finds that the ward or the proposed ward has capacity to contract,  
 2-5 the court may] remove an attorney ad litem appointed under Section  
 2-6 1054.001, Section 1202.101, or any other provision of this title  
 2-7 that requires the court to appoint an attorney ad litem to represent  
 2-8 the interests of a ward or proposed ward and appoint a ward or a  
 2-9 proposed ward's retained counsel.

2-10 (c) On the motion of a party to a guardianship proceeding,  
 2-11 the court may hold a hearing on the ward's or proposed ward's  
 2-12 capacity to retain an attorney under Subsection (a). The burden of  
 2-13 proof is on the party motioning the court. If the court finds by a  
 2-14 preponderance of evidence that the ward or proposed ward does not  
 2-15 understand the guardianship proceeding or the purpose for which the  
 2-16 attorney was retained, the court may appoint an attorney ad litem  
 2-17 under Section 1054.001, Section 1202.101, or another provision of  
 2-18 this title.

2-19 (d) An attorney retained by a ward or proposed ward under  
 2-20 this section must represent the ward's or proposed ward's  
 2-21 interests, including the ward's or proposed ward's expressed  
 2-22 wishes.

2-23 SECTION 4. Section 1054.007, Estates Code, is amended by  
 2-24 adding Subsection (c) to read as follows:

2-25 (c) An attorney ad litem appointed for a ward or proposed  
 2-26 ward under this title shall represent the ward's or proposed ward's  
 2-27 interests, including the ward's or proposed ward's expressed  
 2-28 wishes.

2-29 SECTION 5. Section 1054.051, Estates Code, is amended to  
 2-30 read as follows:

2-31 Sec. 1054.051. APPOINTMENT OF GUARDIAN AD LITEM IN  
 2-32 GUARDIANSHIP PROCEEDING. (a) Subject to Subsection (b), the [The]  
 2-33 judge may appoint a guardian ad litem to represent the interests of  
 2-34 an incapacitated person in a guardianship proceeding.

2-35 (b) A person appointed as a guardian ad litem may not be:

2-36 (1) an interested person, as defined by Section  
 2-37 1002.018(1); or

2-38 (2) an attorney ad litem appointed for the  
 2-39 guardianship proceeding except as provided by Section 1054.052,  
 2-40 1202.101, or 1203.051.

2-41 SECTION 6. Subchapter D, Chapter 1054, Estates Code, is  
 2-42 amended by adding Section 1054.157 to read as follows:

2-43 Sec. 1054.157. REQUIRED TRAINING. At least once every two  
 2-44 years, a court investigator and a court visitor shall complete two  
 2-45 hours of training, including one hour of training on alternatives  
 2-46 to guardianship and supports and services available to a proposed  
 2-47 ward in accordance with Section 22.0133, Government Code.

2-48 SECTION 7. Section 1151.351(b), Estates Code, is amended to  
 2-49 read as follows:

2-50 (b) Unless limited by a court or otherwise restricted by  
 2-51 law, a ward is authorized to the following:

2-52 (1) to have a copy of the guardianship order and  
 2-53 letters of guardianship and contact information for the probate  
 2-54 court that issued the order and letters;

2-55 (2) to have a guardianship that encourages the  
 2-56 development or maintenance of maximum self-reliance and  
 2-57 independence in the ward with the eventual goal, if possible, of  
 2-58 self-sufficiency;

2-59 (3) to be treated with respect, consideration, and  
 2-60 recognition of the ward's dignity and individuality;

2-61 (4) to reside and receive support services in the most  
 2-62 integrated setting, including home-based or other community-based  
 2-63 settings, as required by Title II of the Americans with  
 2-64 Disabilities Act (42 U.S.C. Section 12131 et seq.);

2-65 (5) to consideration of the ward's current and  
 2-66 previously stated personal preferences, desires, medical and  
 2-67 psychiatric treatment preferences, religious beliefs, living  
 2-68 arrangements, and other preferences and opinions;

2-69 (6) to financial self-determination for all public

3-1 benefits after essential living expenses and health needs are met  
 3-2 and to have access to a monthly personal allowance;  
 3-3 (7) to receive timely and appropriate health care and  
 3-4 medical treatment that does not violate the ward's rights granted  
 3-5 by the constitution and laws of this state and the United States;  
 3-6 (8) to exercise full control of all aspects of life not  
 3-7 specifically granted by the court to the guardian;  
 3-8 (9) to control the ward's personal environment based  
 3-9 on the ward's preferences;  
 3-10 (10) to complain or raise concerns regarding the  
 3-11 guardian or guardianship to the court, including living  
 3-12 arrangements, retaliation by the guardian, conflicts of interest  
 3-13 between the guardian and service providers, or a violation of any  
 3-14 rights under this section;  
 3-15 (11) to receive notice in the ward's native language,  
 3-16 or preferred mode of communication, and in a manner accessible to  
 3-17 the ward, of a court proceeding to continue, modify, or terminate  
 3-18 the guardianship and the opportunity to appear before the court to  
 3-19 express the ward's preferences and concerns regarding whether the  
 3-20 guardianship should be continued, modified, or terminated;  
 3-21 (12) to have a court investigator or guardian ad litem  
 3-22 appointed by the court to investigate a complaint received by the  
 3-23 court from the ward or any person about the guardianship;  
 3-24 (13) to participate in social, religious, and  
 3-25 recreational activities, training, employment, education,  
 3-26 habilitation, and rehabilitation of the ward's choice in the most  
 3-27 integrated setting;  
 3-28 (14) to self-determination in the substantial  
 3-29 maintenance, disposition, and management of real and personal  
 3-30 property after essential living expenses and health needs are met,  
 3-31 including the right to receive notice and object about the  
 3-32 substantial maintenance, disposition, or management of clothing,  
 3-33 furniture, vehicles, and other personal effects;  
 3-34 (15) to personal privacy and confidentiality in  
 3-35 personal matters, subject to state and federal law;  
 3-36 (16) to unimpeded, private, and uncensored  
 3-37 communication and visitation with persons of the ward's choice,  
 3-38 except that if the guardian determines that certain communication  
 3-39 or visitation causes substantial harm to the ward:  
 3-40 (A) the guardian may limit, supervise, or  
 3-41 restrict communication or visitation, but only to the extent  
 3-42 necessary to protect the ward from substantial harm; and  
 3-43 (B) the ward may request a hearing to remove any  
 3-44 restrictions on communication or visitation imposed by the guardian  
 3-45 under Paragraph (A);  
 3-46 (17) to petition the court and retain counsel of the  
 3-47 ward's choice who holds a certificate required by Subchapter E,  
 3-48 Chapter 1054, to represent the ward's interest for capacity  
 3-49 restoration, modification of the guardianship, the appointment of a  
 3-50 different guardian, or for other appropriate relief under this  
 3-51 subchapter, including a transition to a supported decision-making  
 3-52 agreement, except as limited by Section 1054.006;  
 3-53 (18) to vote in a public election, marry, and retain a  
 3-54 license to operate a motor vehicle, unless restricted by the court;  
 3-55 (19) to personal visits from the guardian or the  
 3-56 guardian's designee at least once every three months, but more  
 3-57 often, if necessary, unless the court orders otherwise;  
 3-58 (20) to be informed of the name, address, phone  
 3-59 number, and purpose of Disability Rights Texas, an organization  
 3-60 whose mission is to protect the rights of, and advocate for, persons  
 3-61 with disabilities, and to communicate and meet with representatives  
 3-62 of that organization;  
 3-63 (21) to be informed of the name, address, phone  
 3-64 number, and purpose of an independent living center, an area agency  
 3-65 on aging, an aging and disability resource center, and the local  
 3-66 mental health and intellectual and developmental disability  
 3-67 center, and to communicate and meet with representatives from these  
 3-68 agencies and organizations;  
 3-69 (22) to be informed of the name, address, phone

4-1 number, and purpose of the Judicial Branch Certification Commission  
4-2 and the procedure for filing a complaint against a certified  
4-3 guardian;

4-4 (23) to contact the Department of Family and  
4-5 Protective Services to report abuse, neglect, exploitation, or  
4-6 violation of personal rights without fear of punishment,  
4-7 interference, coercion, or retaliation;

4-8 (24) to have the guardian, on appointment and on  
4-9 annual renewal of the guardianship, explain the rights delineated  
4-10 in this subsection in the ward's native language, or preferred mode  
4-11 of communication, and in a manner accessible to the ward; ~~and~~

4-12 (25) to make decisions related to sexual assault  
4-13 crisis services, including consenting to a forensic medical  
4-14 examination and treatment, authorizing the collection of forensic  
4-15 evidence, consenting to the release of evidence contained in an  
4-16 evidence collection kit and disclosure of related confidential  
4-17 information, and receiving counseling and other support services;  
4-18 and

4-19 (26) to have private communications with the ward's  
4-20 physicians or other medical professionals, unless the court, after  
4-21 a hearing requested by the ward's guardian, orders the private  
4-22 communications to be limited due to:

4-23 (A) the risk of substantial harm to the ward; or

4-24 (B) the communications being unduly burdensome  
4-25 to the physician or medical professional.

4-26 SECTION 8. Section 1163.101, Estates Code, is amended by  
4-27 amending Subsection (c) and adding Subsection (d) to read as  
4-28 follows:

4-29 (c) The guardian of the person shall file a sworn affidavit  
4-30 that contains:

4-31 (1) the guardian's current name, address, and  
4-32 telephone number;

4-33 (2) the ward's date of birth and current name, address,  
4-34 telephone number, and age;

4-35 (3) a description of the type of home in which the ward  
4-36 resides, which shall be described as:

4-37 (A) the ward's own home;

4-38 (B) a nursing home;

4-39 (C) a guardian's home;

4-40 (D) a foster home;

4-41 (E) a boarding home;

4-42 (F) a relative's home, in which case the  
4-43 description must specify the relative's relationship to the ward;

4-44 (G) a hospital or medical facility; or

4-45 (H) another type of residence;

4-46 (4) statements indicating:

4-47 (A) the length of time the ward has resided in the  
4-48 present home;

4-49 (B) the reason for a change in the ward's  
4-50 residence, if a change in the ward's residence has occurred in the  
4-51 past year;

4-52 (C) the date the guardian most recently saw the  
4-53 ward;

4-54 (D) how frequently the guardian has seen the ward  
4-55 in the past year;

4-56 (E) whether the guardian has possession or  
4-57 control of the ward's estate;

4-58 (F) whether the ward's mental health has  
4-59 improved, deteriorated, or remained unchanged during the past year,  
4-60 including a description of the change if a change has occurred;

4-61 (G) whether the ward's physical health has  
4-62 improved, deteriorated, or remained unchanged during the past year,  
4-63 including a description of the change if a change has occurred;

4-64 (H) whether the ward has regular medical care;

4-65 ~~and~~

4-66 (I) the ward's treatment or evaluation by any of  
4-67 the following persons during the past year, including the person's  
4-68 name and a description of the treatment:

4-69 (i) a physician;

5-1 (ii) a psychiatrist, psychologist, or other  
5-2 mental health care provider;  
5-3 (iii) a dentist;  
5-4 (iv) a social or other caseworker; or  
5-5 (v) any other individual who provided  
5-6 treatment; and  
5-7 (J) supports and services the ward has received  
5-8 or is currently receiving, as described by Subsection (d);  
5-9 (5) a description of the ward's activities during the  
5-10 past year, including recreational, educational, social, and  
5-11 occupational activities, or a statement that no activities were  
5-12 available or that the ward was unable or refused to participate in  
5-13 activities;  
5-14 (6) the guardian's evaluation of:  
5-15 (A) the ward's living arrangements as excellent,  
5-16 average, or below average, including an explanation if the  
5-17 conditions are below average;  
5-18 (B) whether the ward is content or unhappy with  
5-19 the ward's living arrangements; and  
5-20 (C) unmet needs of the ward;  
5-21 (7) a statement indicating whether the guardian's  
5-22 power should be increased, decreased, or unaltered, including an  
5-23 explanation if a change is recommended;  
5-24 (8) a statement indicating that the guardian has paid  
5-25 the bond premium for the next reporting period;  
5-26 (9) if the guardian is a private professional  
5-27 guardian, a guardianship program, or the Health and Human Services  
5-28 Commission, whether the guardian or an individual certified under  
5-29 Subchapter C, Chapter 155, Government Code, who is providing  
5-30 guardianship services to the ward and who is filing the affidavit on  
5-31 the guardian's behalf, is or has been the subject of an  
5-32 investigation conducted by the Judicial Branch Certification  
5-33 Commission during the preceding year; and  
5-34 (10) any additional information the guardian desires  
5-35 to share with the court regarding the ward, including:  
5-36 (A) whether the guardian has filed for emergency  
5-37 detention of the ward under Subchapter A, Chapter 573, Health and  
5-38 Safety Code; and  
5-39 (B) if applicable, the number of times the  
5-40 guardian has filed for emergency detention and the dates of the  
5-41 applications for emergency detention.  
5-42 (d) The statements in the sworn affidavit regarding the  
5-43 ward's supports and services under Subsection (c)(4)(J) must  
5-44 include:  
5-45 (1) information regarding actions the guardian is  
5-46 taking to encourage the development of the ward's maximum  
5-47 self-reliance and independence;  
5-48 (2) a list of all the supports and services the ward is  
5-49 currently receiving, including whether the ward:  
5-50 (A) has a representative payee;  
5-51 (B) receives services from a local mental health  
5-52 authority or local intellectual and developmental disability  
5-53 authority;  
5-54 (C) receives any supports and services under  
5-55 Medicaid, including under a Medicaid waiver program authorized  
5-56 under Section 1915(c) of the federal Social Security Act (42 U.S.C.  
5-57 Section 1396n); and  
5-58 (D) receives any supports and services  
5-59 informally;  
5-60 (3) where the ward receives the supports and services  
5-61 described by Subdivision (2);  
5-62 (4) who provides the supports and services described  
5-63 by Subdivision (2);  
5-64 (5) a list of the supports and services the ward  
5-65 previously received or attempted to receive and why the support or  
5-66 service was discontinued or not received; and  
5-67 (6) the guardian's opinion on whether the ward has the  
5-68 capacity or sufficient capacity with supports and services for  
5-69 complete restoration of the ward's capacity or modification of the

6-1 guardianship under Chapter 1202 or the reasons why the ward does not  
6-2 have the capacity or sufficient capacity with supports and services  
6-3 for complete restoration of the ward's capacity or modification of  
6-4 the guardianship under Chapter 1202.

6-5 SECTION 9. Section 1201.052, Estates Code, is amended to  
6-6 read as follows:

6-7 Sec. 1201.052. ANNUAL DETERMINATION; HEARING. (a) To  
6-8 determine whether a guardianship should be continued, modified, or  
6-9 terminated, the court in which the guardianship proceeding is  
6-10 pending:

6-11 (1) shall review annually each guardianship in which  
6-12 the application to create the guardianship was filed after  
6-13 September 1, 1993; and

6-14 (2) may review annually any other guardianship.

6-15 (b) A court in which the guardianship proceeding is pending  
6-16 may conduct a hearing under this section.

6-17 SECTION 10. Section 1201.053, Estates Code, is amended to  
6-18 read as follows:

6-19 Sec. 1201.053. METHOD OF DETERMINATION. (a) In reviewing a  
6-20 guardianship under Section 1201.052, a statutory probate court  
6-21 shall review any [may]:

6-22 (1) ~~[review any]~~ report prepared by:

6-23 (A) a court investigator under Section 1054.153  
6-24 or 1202.054;

6-25 (B) a guardian ad litem under Section 1202.054;  
6-26 or

6-27 (C) a court visitor under Section 1054.104;

6-28 (2) ~~[conduct a hearing, or~~

6-29 ~~[(3) review an]~~ annual account prepared under  
6-30 Subchapter A, Chapter 1163; and

6-31 (3) ~~[, or a]~~ report prepared under Subchapter C,  
6-32 Chapter 1163.

6-33 (a-1) Unless a court orders that a report be completed more  
6-34 frequently, if a report described by Subsection (a)(1) is required  
6-35 under Section 1054.153 or 1054.104, the court investigator or court  
6-36 visitor, as appropriate, shall prepare an additional report  
6-37 described by Subsection (a)(1) every three years beginning on the  
6-38 date the original letters of guardianship are issued.

6-39 (a-2) Before preparing an additional report under  
6-40 Subsection (a-1), the court investigator or court visitor, as  
6-41 appropriate, shall:

6-42 (1) meet with the ward in person, using necessary and  
6-43 appropriate communication supports;

6-44 (2) present the bill of rights for wards under Section  
6-45 1151.351 to the ward in the ward's preferred language and manner of  
6-46 communication;

6-47 (3) document the ward's statement of guardianship, as  
6-48 described by Subsection (a-3); and

6-49 (4) document the supports and services currently  
6-50 available to the ward and whether the guardian's rights and powers  
6-51 can be limited because a less restrictive alternative to  
6-52 guardianship is appropriate.

6-53 (a-3) The ward's statement of guardianship:

6-54 (1) must include:

6-55 (A) whether the ward desires a full restoration  
6-56 of the ward's capacity or modification of the ward's guardianship;  
6-57 and

6-58 (B) any other information the ward wishes to  
6-59 share with the court; and

6-60 (2) may be in the form of:

6-61 (A) a written statement made by the ward and  
6-62 filed with the court by the court investigator or court visitor  
6-63 preparing the report;

6-64 (B) a verbal statement made to the court  
6-65 investigator or court visitor, as applicable, that is documented in  
6-66 writing and filed with the court by the person receiving the  
6-67 statement; or

6-68 (C) a verbal or written statement made by the  
6-69 ward during a hearing either in person or remotely through other

7-1 means.

7-2 (b) A court that is not a statutory probate court:

7-3 (1) shall review:

7-4 (A) any account prepared under Subchapter A,  
7-5 Chapter 1163; and

7-6 (B) any report prepared under Subchapter C,  
7-7 Chapter 1163 or Subsection (a-1); and

7-8 (2) may use any other method to review a guardianship  
7-9 under Section 1201.052 that is determined appropriate by the court  
7-10 according to the court's caseload and available resources.

7-11 SECTION 11. Section 1202.101, Estates Code, is amended to  
7-12 read as follows:

7-13 Sec. 1202.101. APPOINTMENT OF ATTORNEY AD LITEM. (a)  
7-14 Unless the ward retains an attorney under Section 1202.103, the  
7-15 [The] court shall appoint an attorney ad litem to represent a ward  
7-16 in a proceeding for the complete restoration of the ward's capacity  
7-17 or for the modification of the ward's guardianship. Unless  
7-18 otherwise provided by the court, the attorney ad litem shall  
7-19 represent the ward only for purposes of the restoration or  
7-20 modification proceeding. The attorney ad litem shall represent the  
7-21 ward's interests, including the ward's expressed wishes.

7-22 (b) The attorney ad litem has an attorney-client  
7-23 relationship with the ward the attorney ad litem is appointed to  
7-24 represent under this section.

7-25 SECTION 12. Section 1202.152, Estates Code, is amended by  
7-26 amending Subsections (a) and (c) and adding Subsections (a-1),  
7-27 (a-2), and (a-3) to read as follows:

7-28 (a) Subject to Section 1202.1521, the applicant must  
7-29 present to the court and the [The] court shall consider a written  
7-30 letter or certificate as evidence of capacity, or sufficient  
7-31 capacity with supports and services, at a hearing under Section  
7-32 1202.151 from:

7-33 (1) a physician licensed in this state, if the ward's  
7-34 incapacity resulted from a physical condition or mental condition;  
7-35 or

7-36 (2) a psychologist licensed in this state or certified  
7-37 by the Health and Human Services Commission to perform the  
7-38 examination, in accordance with rules adopted by the executive  
7-39 commissioner of the commission governing examinations of that kind,  
7-40 if the ward's incapacity resulted from a mental condition.

7-41 (a-1) The physician or psychologist who provides the letter  
7-42 or certificate under Subsection (a) must:

7-43 (1) have experience examining individuals with the  
7-44 physical or mental condition resulting in the ward's incapacity; or

7-45 (2) have an established patient-provider relationship  
7-46 with the ward.

7-47 (a-2) The letter or certificate required by Subsection (a)  
7-48 must be:

7-49 (1) signed by the physician or psychologist; and

7-50 (2) dated:

7-51 (A) not earlier than the 120th day before the  
7-52 date the application was filed; or

7-53 (B) after the date the application was filed but  
7-54 before the date of the hearing.

7-55 (a-3) The court may consider the following evidence of  
7-56 capacity, or sufficient capacity with supports and services, at a  
7-57 hearing under Section 1202.151:

7-58 (1) a statement from a representative of the local  
7-59 mental health authority or the local intellectual and developmental  
7-60 disability authority listing services received by the ward and the  
7-61 effectiveness of those services;

7-62 (2) medical records;

7-63 (3) affidavits of treating professionals regarding  
7-64 the effectiveness of supports and services the ward is receiving;

7-65 (4) documentation from a health care provider  
7-66 providing supports or services to the ward under Medicaid,  
7-67 including a Medicaid waiver program authorized under Section  
7-68 1915(c) of the federal Social Security Act (42 U.S.C. Section  
7-69 1396n);

8-1 (5) an affidavit of the ward's employer or day  
8-2 habilitation program manager regarding the ward's ability to  
8-3 perform the necessary tasks;

8-4 (6) documentation from the United States Social  
8-5 Security Administration identifying the ward's representative  
8-6 payee; or

8-7 (7) any other evidence demonstrating the ward's  
8-8 capacity [~~may not grant an order completely restoring a ward's~~  
8-9 ~~capacity or modifying a ward's guardianship under an application~~  
8-10 ~~filed under Section 1202.051 unless the applicant presents to the~~  
8-11 ~~court a written letter or certificate from a physician licensed in~~  
8-12 ~~this state that is dated:~~

8-13 ~~[(1) not earlier than the 120th day before the date the~~  
8-14 ~~application was filed; or~~

8-15 ~~[(2) after the date the application was filed but~~  
8-16 ~~before the date of the hearing].~~

8-17 (c) If the court determines it is necessary, the court shall  
8-18 [~~may~~] appoint a physician or psychologist to complete an  
8-19 examination of the ward. The physician or psychologist must be  
8-20 chosen by the ward, provided, however, that if the ward makes no  
8-21 choice, the ward's physician or psychologist of choice is not  
8-22 available, or additional information is needed or required after an  
8-23 examination by the ward's physician or psychologist of choice, the  
8-24 court may appoint the necessary physicians or psychologists to  
8-25 examine the ward. A physician appointed by the court must examine  
8-26 the ward in the same manner and to the same extent as a ward is  
8-27 examined by a physician under Section 1101.103 or 1101.104.

8-28 SECTION 13. Subchapter D, Chapter 1202, Estates Code, is  
8-29 amended by adding Section 1202.1521 to read as follows:

8-30 Sec. 1202.1521. PHYSICIAN'S LETTER OR CERTIFICATE:  
8-31 REQUIREMENT IF ALLEGED INCAPACITY BASED ON INTELLECTUAL  
8-32 DISABILITY. If an intellectual disability is the basis of a ward's  
8-33 alleged incapacity, the written letter or certificate presented  
8-34 under Section 1202.152(a), instead of containing the information  
8-35 required by Section 1202.152(b), must:

8-36 (1) state, in the physician's or psychologist's  
8-37 opinion, whether the ward has the capacity, or sufficient capacity  
8-38 with supports and services, to do any of the activities listed in  
8-39 Section 1202.152(b)(1);

8-40 (2) state how or in what manner the ward's ability to  
8-41 make or communicate reasonable decisions concerning himself or  
8-42 herself is affected by the ward's mental capacity; and

8-43 (3) include any other information required by the  
8-44 court.

8-45 SECTION 14. Subchapter A, Chapter 22, Government Code, is  
8-46 amended by adding Section 22.0133 to read as follows:

8-47 Sec. 22.0133. JUDICIAL, COURT INVESTIGATOR, AND COURT  
8-48 VISITOR TRAINING RELATED TO GUARDIANSHIPS. The supreme court, in  
8-49 consultation with the Judicial Branch Certification Commission,  
8-50 shall ensure that at least one hour of training related to  
8-51 alternatives to guardianships and supports and services that are  
8-52 available to a proposed ward is provided to each judge with  
8-53 jurisdiction to hear a guardianship proceeding, each court  
8-54 investigator appointed under Section 1054.156, Estates Code, and  
8-55 each court visitor appointed under Section 1054.103, Estates Code,  
8-56 at least once every two years.

8-57 SECTION 15. Sections 1202.054(b-1) and (d), Estates Code,  
8-58 are repealed.

8-59 SECTION 16. (a) Except as otherwise provided by this  
8-60 section, the changes in law made by this Act apply to:

8-61 (1) a guardianship proceeding created before, on, or  
8-62 after the effective date of this Act; and

8-63 (2) an application for a guardianship pending on, or  
8-64 filed on or after, the effective date of this Act.

8-65 (b) The changes in law made by this Act to Section 1202.152,  
8-66 Estates Code, apply only to a proceeding for the complete  
8-67 restoration of capacity or modification of a guardianship commenced  
8-68 on or after the effective date of this Act. A proceeding described  
8-69 by this section commenced before the effective date of this Act is



9-1 governed by the law in effect on the date the proceeding was  
9-2 commenced, and the former law is continued in effect for that  
9-3 purpose.

9-4 SECTION 17. (a) Not later than December 1, 2023, the Texas  
9-5 Supreme Court shall adopt the rules necessary to provide the  
9-6 training required under Section 22.0133, Government Code, as added  
9-7 by this Act.

9-8 (b) Notwithstanding Section 22.0133, Government Code, as  
9-9 added by this Act, a judge who is in office on the effective date of  
9-10 this Act or a court investigator or court visitor described by  
9-11 Section 22.0133, Government Code, as added by this Act, who is  
9-12 appointed on or before the effective date of this Act must complete  
9-13 the training required by Section 22.0133, Government Code, as added  
9-14 by this Act, not later than December 1, 2025.

9-15 SECTION 18. This Act takes effect September 1, 2023.

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