

By: _____.

_____ B. No. _____

A BILL TO BE ENTITLED

1 AN ACT

2 relating to guardianships.

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

4 SECTION 1. Section 1021.001, Estates Code, is amended to
5 read as follows:

6 Sec. 1021.001. MATTERS RELATED TO GUARDIANSHIP PROCEEDING.

7 (a) For purposes of this code, in a county in which there is no
8 statutory probate court or county court at law exercising original
9 probate jurisdiction, a matter related to a guardianship
10 proceeding includes:

11 (1) the granting of letters of guardianship;

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

15 (3) a claim brought by or against a guardianship
16 estate;

17 (4) an action for trial of title to real property that
18 is guardianship estate property, including the enforcement of a

1 lien against the property;

2 (5) an action for trial of the right of property that
3 is guardianship estate property;

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

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

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

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

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

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

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

24 (a-1) For purposes of this code, in a county in which there

1 is no statutory probate court, but in which there is a county court
2 at law exercising original probate jurisdiction, a matter related
3 to a guardianship proceeding includes:

4 (1) all matters and actions described in Subsection
5 (a);

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

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

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

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

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

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

21 SECTION 2. Section 1052.052, Texas Estates Code, is amended
22 to read as follows:

23 (a) The county clerk shall maintain a case file for each
24 person's filed guardianship proceedings.

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

4 (1) application for the granting of guardianship;

5 (2) citation and notice, whether published or posted,
6 including the return on the citation or notice;

7 (3) bond and official oath or declaration;

8 (4) inventory, appraisalment, and list of claims;

9 (5) exhibit and account;

10 (6) report of renting;

11 (7) application for sale or partition of real estate;

12 (8) report of sale;

13 (9) application for authority to execute a lease for mineral
14 development, or for pooling or unitization of lands, royalty, or
15 other interest in minerals, or to lend or invest money;

16 (10) report of lending or investing money; and

17 (11) report of guardians of the persons.

18 SECTION 3. Section 1103.003, Texas Estates Code, is
19 amended to read as follows:

20 If the application filed under Section 1103.003 is heard
21 before the proposed ward's 18th birthday, a guardianship created
22 under this chapter may not take effect and the person appointed
23 guardian may not take the oath as required under Section 1105.051
24 or make and file the declaration prescribed by Section 1105.051,

1 until the proposed ward's 18th birthday.

2 SECTION 4. Section 1105.001, Texas Estates Code, is amended
3 to read as follows:

4 In this chapter:

5 (1) "Bond" means a bond required by this chapter to be given
6 by a person appointed to serve as a guardian.

7 (2) "Oath" means an oath required by this chapter to that
8 may be taken by a person appointed to serve as a guardian
9 in lieu of making a declaration in order to qualify to
10 serve as a guardian.

11 (3) "Declaration" means the declaration that may be
12 taken by a person appointed to serve as a guardian in lieu of
13 taking an oath in order to qualify to serve as a guardian.

14 SECTION 5. Section 1105.002, Texas Estates Code, is amended
15 to read as follows:

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

18 (1) taken and filed the oath required under Section
19 1105.051 or made and filed the declaration prescribed
20 by Section 1105.051;

21 (2) given the required bond;

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

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

24 (b) A guardian who is not required to give a bond is

1 considered to have qualified when the guardian has taken
2 and filed the required oath the oath required under Section
3 1105.051 or made and filed the declaration prescribed by
4 Section 1105.051.

5 SECTION 6. Section 1105.003, Texas Estates Code, is amended
6 to read as follows:

7 Section 1105.003. Period for Taking Oath or Making
8 Declaration and Giving Bond.

9 (a) Except as provided by Section 1103.003, an oath may be
10 taken or a declaration may be made at any time before:

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

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

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

18 SECTION 7. Section 1105.051, Texas Estates Code, is amended
19 to read as follows:

20 Section 1105.051. Oath or Declaration of Guardian.

21 (a) A guardian shall take an oath to discharge
22 faithfully the duties of guardian for the person or estate, or
23 both, of a ward); or

24 (b) Shall make a declaration as prescribed in subsection

1 (c).

2 (c) An oath taken by a person named as guardian shall be in
3 substantially the following form:

4 I, (insert name of guardian) do solemnly swear that
5 I will discharge faithfully the duties of guardian of
6 (insert "the person" OR "the estate" OR "the person and estate")
7 of (insert name of ward), an incapacitated person,
8 according to law.

9 (d) A declaration made by a person named as a guardian shall
10 be in substantially the following form:

11 My name is (insert name of guardian as it appears on
12 the order appointing the person appointed as guardian), my date of
13 birth is (insert date of birth of guardian), and my
14 address is (insert Street, City, State, Zip Code, and
15 Country of guardian). I declare under penalty of perjury that
16 the information in this declaration is true and correct, and I
17 solemnly declare that I will discharge faithfully the duties of
18 guardian of (insert "the person" OR "the estate" OR
19 "the person and estate") of (insert name of ward), an
20 incapacitated person, according to law. Signed on (insert
21 date of signing).

22 SECTION 8. Section 1105.052, Texas Estates Code, is amended
23 to read as follows:

24 Section 1105.052. Administration of Oath or Making

1 Declaration.

2 An oath prescribed in Section 1105.051 may be taken before
3 any person authorized to administer oaths under the laws of this
4 state. A declaration made as prescribed in Section 1105.051 shall
5 be signed by the guardian making the declaration.

6 SECTION 9. Section 1105.103, Texas Estates Code, is amended
7 to read as follows:

8 (a) This section applies only to an individual guardian of
9 the estate from whom a bond was not required.

10 (b) A person who has a debt, claim, or demand against the
11 guardianship, with respect to the justice of which an oath has
12 been made by the person, the person's agent or attorney, or another
13 person interested in the guardianship, in person or as the
14 representative of another person, may file a written complaint
15 under oath in the court in which the guardian was appointed.

16 (c) After a complaint is filed under Subsection (b), the
17 court shall cite the guardian to appear and show cause why the
18 guardian should not be required to give a bond.

19 (d) On hearing a complaint filed under Subsection (b), if it
20 appears to the court that the guardian is wasting, mismanaging, or
21 misapplying the guardianship estate and that a creditor may
22 probably lose the creditor's debt, or that a person's interest in
23 the guardianship may be diminished or lost, the court shall enter
24 an order requiring the guardian to give a bond not later than the

1 10th day after the date of the order.

2 (e) A bond required under Subsection (d) must be:

3 (1) in an amount sufficient to protect the guardianship and
4 the guardianship's creditors;

5 (2) approved by and payable to the judge; and

6 (3) conditioned that the guardian:

7 (A) will well and truly administer the guardianship; and

8 (B) will not waste, mismanage, or misapply the guardianship
9 estate.

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

14 (1) administer the guardianship according to the
15 provisions of a will or law;

16 (2) take the oath required under, or make a
17 declaration as prescribed in, Section 1105.051 before the person
18 enters on the administration of the guardianship;

19 and

20 (3) Give bond in the same manner and in the same amount
21 provided by this title for the issuance of original
22 letters of guardianship.

23 SECTION 10. Section 1251.101, Texas Estates Code, is amended
24 to read as follows:

1 Section 1251.101. Authority of Temporary Guardian.

2 (a) When the temporary guardian files the oath prescribed in
3 Section 1251.101(a) (i) or the declaration as prescribed in Section
4 1251.101(a) (ii), and bond required under this title, the court
5 order appointing the temporary guardian takes effect without the
6 necessity for issuance of letters of guardianship.

7 (i) An oath taken by a person appointed as temporary guardian
8 shall be in substantially the following form:

9 I, _____ (insert name of guardian) do solemnly swear that
10 I will discharge faithfully the duties of temporary guardian of
11 _____ (insert "the person" OR "the estate" OR "the person and
12 estate") of _____ (insert name of ward), an incapacitated
13 person, according to law.

14 (ii) A declaration made by a person appointed as temporary
15 guardian shall be in substantially the following form:

16 My name is _____ (insert name of temporary guardian as it
17 appears on the order appointing the person appointed as temporary
18 guardian), my date of birth is _____ (insert date of birth of
19 guardian), and my address is _____ (insert Street, City, State,
20 Zip Code, and Country of guardian). I declare under penalty of
21 perjury that the information in this declaration is true and
22 correct, and I solemnly declare that I will discharge faithfully
23 the duties of temporary guardian of _____ (insert "the
24 person" OR "the estate" OR "the person and estate") of _____

1 (insert name of ward), an incapacitated person, according to law.

2 Signed on (insert date of signing).

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

6 (c) The order appointing the temporary guardian is evidence
7 of the temporary guardian's authority to act within the scope of
8 the powers and duties stated in the order.

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

11 SECTION 11. Section 1151.351(b), Estates Code, is amended
12 to read as follows:

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

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

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

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

24 (4) to reside and receive support services in the most

1 integrated setting, including home-based or other community-based
2 settings, as required by Title II of the Americans with
3 Disabilities Act (42 U.S.C. Section 12131 et seq.);

4 (5) to consideration of the ward's current and
5 previously stated personal preferences, desires, medical and
6 psychiatric treatment preferences, religious beliefs, living
7 arrangements, and other preferences and opinions;

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

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

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

16 (9) to control the ward's personal environment based on
17 the ward's preferences;

18 (10) to complain or raise concerns regarding the
19 guardian or guardianship to the court, including living
20 arrangements, retaliation by the guardian, conflicts of interest
21 between the guardian and service providers, or a violation of any
22 rights under this section;

23 (11) to receive notice in the ward's native language,
24 or preferred mode of communication, and in a manner accessible to

1 the ward, of a court proceeding to continue, modify, or terminate
2 the guardianship and the opportunity to appear before the court to
3 express the ward's preferences and concerns regarding whether the
4 guardianship should be continued, modified, or terminated;

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

9 (13) to participate in social, religious, and
10 recreational activities, training, employment, education,
11 habilitation, and rehabilitation of the ward's choice in the most
12 integrated setting;

13 (14) to self-determination in the substantial
14 maintenance, disposition, and management of real and personal
15 property after essential living expenses and health needs are met,
16 including the right to receive notice and object about the
17 substantial maintenance, disposition, or management of clothing,
18 furniture, vehicles, and other personal effects;

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

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

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

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

7 (17) to petition the court and retain counsel of the
8 ward's choice who holds a certificate required by Subchapter E,
9 Chapter 1054, to represent the ward's interest for capacity
10 restoration, modification of the guardianship, the appointment of
11 a different guardian, or for other appropriate relief under this
12 subchapter, including a transition to a supported decision-making
13 agreement, except as limited by Section 1054.006;

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

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

19 (20) to be informed of the name, address, phone number,
20 and purpose of Disability Rights Texas, an organization whose
21 mission is to protect the rights of, and advocate for, persons
22 with disabilities, and to communicate and meet with
23 representatives of that organization;

24 (21) to be informed of the name, address, phone number,

1 and purpose of an independent living center, an area agency on
2 aging, an aging and disability resource center, and the local
3 mental health and intellectual and developmental disability
4 center, and to communicate and meet with representatives from these
5 agencies and organizations;

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

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

13 (24) to have the guardian, on appointment and on annual
14 renewal of the guardianship, explain the rights delineated in this
15 subsection in the ward's native language, or preferred mode of
16 communication, and in a manner accessible to the ward.

17 SECTION 12. Sections 1153.001(a) and (c), Estates Code, are
18 amended to read as follows:

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

24 (1) published in a newspaper of general circulation

1 [~~printed~~] in the county in which the letters were issued; and

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

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

9 SECTION 13. Section 1155.054(d), Estates Code, is amended
10 to read as follows:

11 (d) If the court finds that a party in a guardianship
12 proceeding acted in bad faith or without just cause in prosecuting
13 or objecting to an application in the proceeding, the court may
14 order [~~require~~] the party to reimburse the ward's estate for all
15 or part of the attorney's fees awarded under this section and shall
16 issue judgment against the party and in favor of the estate for
17 the amount of attorney's fees ordered [~~required~~] to be reimbursed
18 to the estate.

19 SECTION 14. Section 1158.105 (a), Estates Code, is amended
20 to read as follows:

21 (a) A successful bid or contract for the sale of estate
22 personal property shall be reported to the court. The laws
23 regulating the approval or disapproval of a sale of real estate
24 apply to the sale, except that a conveyance is not required.

1 SECTION 15. Section 1158.401(a), Estates Code, is amended to
2 read as follows:

3 (a) Except as otherwise provided by Section 1158.403(c), the
4 guardian of an estate shall advertise a public auction [~~sale~~] of
5 real estate of the estate by a notice published in the county in
6 which the estate is pending, as provided by this title for
7 publication of notices or citations. The notice must:

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

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

10 and

11 (3) briefly describe the real estate to be sold.

12 SECTION 16. Section 1158.402, Estates Code, is amended to
13 read as follows:

14 Sec. 1158.402. METHOD OF AUCTION [~~SALE~~]. A public auction
15 [~~sale~~] of real estate of an estate shall be completed upon the bid
16 of [~~made at public auction to~~] the highest bidder.

17 SECTION 17. Section 1158.403, Estates Code, is amended to
18 read as follows:

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

22 (1) the courthouse door in the county in which the real
23 estate is located, or if the real estate is located in more than

1 one county, in any county in which the real estate is located
2 ~~[guardianship proceedings are pending];~~ or

3 (2) such other ~~[another]~~ place in that county at which
4 auctions ~~[sales]~~ of real estate are specifically authorized to be
5 made as designated by the commissioners court of that county
6 pursuant to Section 51.002(a), Property Code.

7 (b) The auction ~~[sale]~~ must occur between 10 a.m. and 4 p.m.
8 on the first Tuesday of the month after publication of notice has
9 been completed. If the first Tuesday of the month occurs on
10 January 1 or July 4, the auction must occur between 10 a.m. and 4
11 p.m. on the first Wednesday of the month.

12 (c) If the court considers it advisable, the court may order
13 the auction ~~[sale]~~ to be made in the county in which the
14 proceedings are pending ~~[real estate is located]~~, in which event
15 notice shall be published both in that county and in the county in
16 which the real estate is located ~~[proceedings are pending]~~.

17 SECTION 18. Section 1158.404, Estates Code, is amended to
18 read as follows:

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

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

3 (c) The continuance of an auction [~~sale~~] under this section
4 shall be shown in the report [~~of the sale~~] made to the court under
5 Section 1158.551.

6 SECTION 19. Section 1158.405, Estates Code, is amended to
7 read as follows:

8 (a) If a person who bids on real estate of the guardianship
9 estate offered [~~for sale~~] at public auction [~~and~~] fails to comply
10 with the terms of the bid [~~sale~~], the property shall be
11 readvertised and auctioned [~~sold~~] without any further order.

12 (b) The person defaulting on a bid as described by Subsection
13 (a) is liable for payment to the guardian of the estate, for the
14 estate's benefit, of:

15 (1) 10 percent of the amount of the bid; and

16 (2) the amount of any deficiency in price on the second
17 auction [~~sale~~].

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

21 SECTION 20. The heading of Subchapter J, Chapter 356, Estates
22 Code, is amended to read as follows:

23 SUBCHAPTER J. SALE OF REAL ESTATE: PRIVATE CONTRACT [~~SALE~~]

1 SECTION 21. Section 1158.451, Estates Code, is amended to
2 read as follows:

3 Sec. 1158.451. TERMS OF CONTRACT [~~MANNER OF SALE~~]. The
4 guardian of the estate may enter into a contract for the [A]private
5 sale of real estate of the estate [shall be] made in the manner
6 the court directs in the order of sale. Unless the court directs
7 otherwise, additional advertising, notice, or citation concerning
8 the sale is not required.

9 SECTION 22. Section 1158.502, Estates Code, is amended to
10 read as follows:

11 Sec. 1158.502. PROCEDURE. The procedure for the sale of an
12 easement or right-of-way authorized under Section 1158.501 is the
13 same as the procedure provided by law for a sale of real property
14 of a ward by [at] private contract [sale].

15 SECTION 23. Section 1158.551, Estates Code, is amended to
16 read as follows:

17 Sec. 1158.551. REPORT. A successful bid or private contract
18 for the sale of estate real property shall be reported to the court
19 ordering the sale not later than the 30th day after the date the
20 bid or contract [sale] is made. The report must:

- 21 (1) be sworn to, in writing, and filed with the clerk;
22 (2) include:
23 (A) the date of the order of sale;
24 (B) a description of the property being sold;

1 (C) the time and place of the auction or date of
2 the private contract [~~sale~~];

3 (D) the purchaser's name;

4 (E) the amount of the successful bid or the
5 purchase price for [~~which~~] each parcel of property or interest in
6 property auctioned or placed under contract [~~was sold~~];

7 (F) the terms of the sale;

8 (G) whether the proposed disposition of the
9 property [~~sale~~] was made at public auction or by private contract
10 [~~privately~~]; and

11 (H) whether the purchaser is ready to comply with
12 the order of sale; and

13 (3) be noted on the guardianship docket.

14 SECTION 24. Section 1158.552, Estates Code, is amended to
15 read as follows:

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

19 (1) consider [~~inquire into~~] the manner in which the
20 auction or private contract described in the report [~~sale~~] was
21 made;

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

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

3 SECTION 25. Section 1158.556, Estates Code, is amended to
4 read as follows:

5 (a) If the court is satisfied that the proposed disposition
6 of property [~~a sale reported~~] under Section 1158.551 is [~~was~~] for
7 a fair price, [~~was~~] properly made, and [~~was~~] in conformity with
8 law, and the court has approved any increased or additional bond
9 that the court found necessary to protect the estate, the court
10 shall enter an order:

11 (1) approving [~~confirming~~] the sale;

12 (2) showing conformity with this chapter, relating to
13 the sale;

14 (3) detailing the terms of the sale; and

15 (4) authorizing the guardian of the estate to convey
16 the property on the purchaser's compliance with the terms of the
17 sale.

18 (b) If the court is not satisfied that the proposed
19 disposition of property is [~~sale was~~] for a fair price, [~~was~~]
20 properly made, and in conformity with law, the court shall enter
21 an order setting aside the bid or private contract [~~sale~~] and
22 ordering a new sale to be made, if necessary.

23 (c) The court's action in approving [~~confirming~~] or
24 disapproving a report under Section 1158.551 [~~of a sale~~] has the

1 effect of a final judgment. Any person interested in the
2 guardianship estate or in the sale is entitled to have an order
3 entered under this section reviewed as in other final judgments in
4 probate proceedings.

5 SECTION 26. Section 1158.557, Estates Code, is amended to
6 read as follows:

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

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

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

14 SECTION 27. Section 1158.558(a), Estates Code, is amended to
15 read as follows:

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

20 SECTION 28. Section 1163.005(a), Estates Code, is amended to
21 read as follows:

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

24 (1) that the account contains a correct and complete

1 statement of the matters to which the account relates;

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

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

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

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

19 SECTION 29. Section 1163.101(c), Estates Code, is amended to
20 read as follows:

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

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

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

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

5 (A) the ward's own home;

6 (B) a nursing home;

7 (C) a guardian's home;

8 (D) a foster home;

9 (E) a boarding home;

10 (F) a relative's home, in which case the
11 description must specify the relative's relationship to the ward;

12 (G) a hospital or medical facility; or

13 (H) another type of residence;

14 (4) statements indicating:

15 (A) the length of time the ward has resided in the
16 present home;

17 (B) the reason for a change in the ward's
18 residence, if a change in the ward's residence has occurred in the
19 past year;

20 (C) the date the guardian most recently saw the
21 ward;

22 (D) how frequently the guardian has seen the ward
23 in the past year;

24 (E) whether the guardian has possession or control

1 of the ward's estate;

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

5 (G) whether the ward's physical health has
6 improved, deteriorated, or remained unchanged during the past
7 year, including a description of the change if a change has
8 occurred;

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

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

13 (i) a physician;

14 (ii) a psychiatrist, psychologist, or other
15 mental health care provider;

16 (iii) a dentist;

17 (iv) a social or other caseworker; or

18 (v) any other individual who provided
19 treatment;

20 (5) a description of the ward's activities during the
21 past year, including recreational, educational, social, and
22 occupational activities, or a statement that no activities were
23 available or that the ward was unable or refused to participate in
24 activities;

1 (6) the guardian's evaluation of:

2 (A) the ward's living arrangements as excellent,
3 average, or below average, including an explanation if the
4 conditions are below average;

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

7 (C) unmet needs of the ward;

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

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

13 (9) if the guardian is a private professional guardian,
14 a guardianship program, Health and Human Services Commission
15 [~~Department of Aging and Disability Services~~], whether the
16 guardian or an individual certified under Subchapter C, Chapter
17 155, Government Code, who is providing guardianship services to
18 the ward and who is filing the affidavit on the guardian's behalf,
19 is or has been the subject of an investigation conducted by the
20 Judicial Branch [~~Guardianship~~] Certification Commission [~~Board~~]
21 during the preceding year; and

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

24 (A) whether the guardian has filed for emergency

1 detention of the ward under Subchapter A, Chapter 573, Health and
2 Safety Code; and

3 (B) if applicable, the number of times the
4 guardian has filed for emergency detention and the dates of the
5 applications for emergency detention.

6 SECTION 30. Subchapter B, Chapter 1301, Estates Code, is
7 amended by adding Section 1301.0511 to read as follows:

8 Sec. 1301.0511. NOTICE REQUIRED FOR APPLICATION FOR CREATION
9 OF TRUST; CITATION OF APPLICANT NOT REQUIRED. (a) On the filing
10 of an application for creation of a management trust and except as
11 provided by Subsection (d), notice shall be issued and served in
12 the manner provided by Subchapter C, Chapter 1051, for the issuance
13 and service of notice on the filing of an application for
14 guardianship.

15 (b) It is not necessary to serve a citation on a person who
16 files an application for the creation of a management trust under
17 this subchapter or for that person to waive the issuance and
18 personal service of citation.

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

24 (d) Notice under this section is not required if a proceeding

1 for the appointment of a guardian is pending for the person for
2 whom an application for creation of a management trust is filed.

3 SECTION 31. Section 1301.101(a), Estates Code, is amended to
4 read as follows:

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

7 (1) the ward or incapacitated person is the sole
8 beneficiary of the trust;

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

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

15 (4) a trustee that is a corporate fiduciary serves
16 without giving a bond; ~~and~~

17 (5) subject to the court's approval and Subsection (b),
18 a trustee is entitled to receive reasonable compensation for
19 services the trustee provides to the person for whom the trust is
20 created as the person's trustee; and [-]

21 (6) the trust terminates:

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

24 (i) on the earlier of:

1 (a) the person's death; or
2 (b) the person's 18th birthday; or
3 (ii) on the date provided by court order,
4 which may not be later than the person's 25th birthday;

5 (B) if the person for whom the trust is created is
6 a minor and is also incapacitated for a reason other than being a
7 minor:

8 (i) on the person's death; or
9 (ii) when the person regains capacity; or
10 (C) if the person for whom the trust is created is

11 not a minor:

12 (i) according to the terms of the trust;
13 (ii) on the date the court determines that
14 continuing the trust is no longer in the person's best interests,
15 subject to Section 1301.202(c); or

16 (iii) on the person's death.

17 SECTION 32. Section 1301.154(b), Estates Code, is amended to
18 read as follows:

19 (b) The trustee of a management trust created for a ward
20 shall provide a copy of the annual account to each ~~the~~ guardian
21 of the ward ~~[ward's estate or person]~~.

22 SECTION 33. Section 1301.203, Estates Code, is amended by
23 amending Subsection (a) and adding Subsection (a-1) to read as
24 follows:

1 (a) Except as provided by Subsection (a-1), if ~~if~~ the
2 person for whom a management trust is created is a minor, the trust
3 terminates on:

4 (1) the earlier of:

5 (A) the person's death; or

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

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

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

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

13 (2) when the person regains capacity.

14 SECTION 34. Sections 1355.002(b), (c), (d), (e), and (f),
15 Estates Code, are amended to read as follows:

16 (b) This section applies only to a nonresident creditor who
17 is:

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

20 (2) ~~if~~ a nonresident person who is adjudged by a
21 foreign court ~~[of competent jurisdiction]~~ to be incapacitated and
22 has a nonresident guardian of the estate appointed by that
23 court; ~~if~~ or

24 (3) the nonresident former ward of a guardianship

1 terminated under Chapter 1204 who has no legal guardian qualified
2 in this state.

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

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

7 (2) to the county clerk of:

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

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

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

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

18 (1) the creditor's name; and

19 (2) the creditor's post office address, if the address
20 is known.

21 (f) A county clerk who receives a payment under Subsection
22 (c) for a nonresident creditor shall handle the money in the same
23 manner as provided for a payment to the account of a resident
24 creditor under Sections 1355.001, 1355.051, 1355.052, 1355.102,

1 1355.103, and 1355.104. Those sections apply to the handling and
2 disposition of money or any increase, dividend, or income paid to
3 the clerk for the use, benefit, and account of the nonresident
4 creditor to whom this section applies.

5 SECTION 35. Section 1355.105, Estates Code, is amended to
6 read as follows:

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

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

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

17 (3) the creditor's heirs; or

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

20 (A) a nonresident minor; or

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

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

1 bond for that purpose.

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

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

11 (1) the creditor;

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

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

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

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

24 SECTION 36. This Act takes effect September 1, 2021.