ESTATES CODE

TITLE 3. GUARDIANSHIP AND RELATED PROCEDURES

SUBTITLE E. ADMINISTRATION OF GUARDIANSHIP

CHAPTER 1163. ANNUAL ACCOUNT AND OTHER EXHIBITS AND REPORTS

SUBCHAPTER A. ANNUAL ACCOUNT AND OTHER EXHIBITS BY GUARDIAN OF THE ESTATE

Sec. 1163.001. INITIAL ANNUAL ACCOUNT OF ESTATE. (a) Not later than the 60th day after the first anniversary of the date the guardian of the estate of a ward qualifies, unless the court extends that period, the guardian shall file with the court an account consisting of a written exhibit made under oath that:

(1) lists all claims against the estate presented to the guardian during the period covered by the account; and

(2) specifies:

(A) which claims have been:

(i) allowed by the guardian;

(ii) paid by the guardian; or

(iii) rejected by the guardian and the date the claims were rejected; and

(B) which claims have been the subject of a lawsuit and the status of that lawsuit.

(b) The account must:

(1) show all property that has come to the guardian's knowledge or into the guardian's possession that was not previously listed or inventoried as the ward's property;

(2) show any change in the ward's property that was not previously reported;

(3) provide a complete account of receipts and disbursements for the period covered by the account, including the source and nature of the receipts and disbursements, with separate listings for principal and income receipts;

(4) provide a complete, accurate, and detailed description of:

(A) the property being administered;

(B) the condition of the property and the use

being made of the property; and

(C) if rented, the terms on which and the price for which the property was rented;

(5) show the cash balance on hand and the name and location of the depository where the balance is kept;

(6) show any other cash held in a savings account or other manner that was deposited subject to court order and the name and location of the depository for that cash; and

(7) provide a detailed description of the personal property of the estate that shows how and where the property is held for safekeeping.

(c) For bonds, notes, and other securities, the description required by Subsection (b)(7) must include:

(1) the names of the obligor and obligee or, if payable to bearer, a statement that the bond, note, or other security is payable to bearer;

(2) the date of issue and maturity;

(3) the interest rate;

(4) the serial number or other identifying numbers;

(5) the manner in which the property is secured; and

(6) other information necessary to fully identify the bond, note, or other security.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Sec. 1163.002. ANNUAL ACCOUNT REQUIRED UNTIL ESTATE CLOSED. (a) A guardian of the estate shall file an annual account conforming to the essential requirements of Section 1163.001 regarding changes in the estate assets occurring since the date the most recent previous account was filed.

(b) The annual account must be filed in a manner that allows the court or an interested person to ascertain the true condition of the estate, with respect to money, securities, and other property, by adding to the balances forwarded from the most recent previous account the amounts received during the period covered by the account and subtracting the disbursements made during that period.

(c) The description of property sufficiently described in

an inventory or previous account may be made in the annual account by reference to the property.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Sec. 1163.003. SUPPORTING VOUCHERS AND OTHER DOCUMENTS ATTACHED TO ACCOUNT. (a) The guardian of the estate shall attach to each annual account:

(1) a voucher for each item of credit claimed in the account or, to support the item in the absence of the voucher, other evidence satisfactory to the court;

(2) an official letter from the bank or other depository where the money on hand of the estate or ward is deposited that shows the amounts in general or special deposits; and

(3) proof of the existence and possession of:

(A) securities owned by the estate or shown by the account; and

(B) other assets held by a depository subject to court order.

(b) An original voucher submitted to the court may on application be returned to the guardian after approval of the annual account.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Sec. 1163.004. METHOD OF PROOF FOR SECURITIES AND OTHER ASSETS. (a) The proof required by Section 1163.003(a)(3) must be by:

(1) an official letter from the bank or other depository where the securities or other assets are held for safekeeping, and if the depository is the guardian, the official letter must be signed by a representative of the depository other than the depository verifying the annual account;

(2) a certificate of an authorized representative of a corporation that is surety on the guardian's bonds;

(3) a certificate of the clerk or a deputy clerk of a

court of record in this state; or

(4) an affidavit of any other reputable person designated by the court on request of the guardian or other interested party.

(b) A certificate or affidavit described by Subsection (a) must:

(1) state that the affiant has examined the assets that the guardian exhibited to the affiant as assets of the estate for which the annual account is made;

(2) describe the assets by reference to the account or in another manner that sufficiently identifies the assets exhibited; and

(3) state the time and the place the assets were exhibited.

(c) Instead of attaching a certificate or an affidavit, the guardian may exhibit the securities to the judge of the court, who shall endorse on the annual account, or include in the judge's order with respect to the account, a statement that the securities shown to the judge as on hand were exhibited to the judge and that the securities were the same as those shown in the account, or note any variance. If the securities are exhibited at a location other than where the securities are deposited for safekeeping, that exhibit is at the guardian's own expense and risk.

(d) The judge of the court may require:

(1) additional evidence of the existence and custody of the securities and other personal property as the judge considers proper; and

(2) the guardian at any time to exhibit the securities to the judge or another person designated by the judge at the place where the securities are held for safekeeping.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Sec. 1163.005. VERIFICATION OF ACCOUNT AND STATEMENT REGARDING TAXES AND STATUS AS GUARDIAN. (a) The guardian of the estate shall attach to an account the guardian's affidavit stating:

(1) that the account contains a correct and complete

statement of the matters to which the account relates;

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

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

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

(5) if the guardian is a private professional guardian, a guardianship program, or the Health and Human Services Commission, whether the guardian or an individual certified under Subchapter C, Chapter 155, Government Code, who is providing guardianship services to the ward and who is swearing to the account on the guardian's behalf, is or has been the subject of an investigation conducted by the Judicial Branch Certification Commission during the accounting period.

(b) If on the filing of the account the guardian of the estate has failed on the ward's behalf to file a tax return or pay taxes due, the guardian shall attach to the account a description of the taxes and the reasons for the guardian's failure to file the return or pay the taxes.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 982 (H.B. 2080), Sec. 20, eff. January 1, 2014.

Acts 2013, 83rd Leg., R.S., Ch. 982 (H.B. 2080), Sec. 21, eff. January 1, 2014.

Acts 2021, 87th Leg., R.S., Ch. 521 (S.B. 626), Sec. 53, eff. September 1, 2021.

Sec. 1163.006. WAIVER OF ACCOUNT FILING. If the ward's estate produces negligible or fixed income, the court may waive the filing of annual accounts and may permit the guardian to:

(1) receive all estate income and apply the income to the support, maintenance, and education of the ward; and

(2) account to the court for the estate income and corpus when the estate must be closed.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

SUBCHAPTER B. ACTION ON ANNUAL ACCOUNT

Sec. 1163.051. FILING AND CONSIDERATION OF ANNUAL ACCOUNT. (a) The guardian of the estate shall file an annual account with the county clerk. The county clerk shall note the filing on the judge's docket.

(b) An annual account must remain on file for 10 days after the date the account is filed before being considered by the judge. After the expiration of that period, the judge shall consider the account and may continue the hearing on the account until fully advised on all account items.

(c) The court may not approve the annual account unless possession of cash, listed securities, or other assets held in safekeeping or on deposit under court order has been proven as required by law.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Sec. 1163.052. CORRECTION AND APPROVAL OF ANNUAL ACCOUNT. (a) If an annual account is found to be incorrect, the account shall be corrected.

(b) The court by order shall approve an annual account that is corrected to the satisfaction of the court and shall act with respect to unpaid claims in accordance with Sections 1163.053 and 1163.054.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Sec. 1163.053. ORDER FOR PAYMENT OF CLAIMS IN FULL. After approval of an annual account as provided by Section 1163.052, if it appears to the court from the exhibit or other evidence that the estate is wholly solvent and that the guardian has sufficient funds

to pay every claim against the estate, the court shall order immediate payment of all claims allowed and approved or established by judgment.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Sec. 1163.054. ORDER FOR PRO RATA PAYMENT OF CLAIMS. After approval of an annual account as provided by Section 1163.052, if it appears to the court from the account or other evidence that the funds on hand are not sufficient to pay all claims against the estate or if the estate is insolvent and the guardian has any funds on hand, the court shall order the funds to be applied:

(1) first to the payment of any unpaid claims having a preference in the order of their priority; and

(2) then to the pro rata payment of the other claims allowed and approved or established by final judgment, considering also:

(A) claims that were presented not later than the first anniversary of the date letters of guardianship were granted; and

(B) claims that are in litigation or on which a lawsuit may be filed.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

SUBCHAPTER C. ANNUAL REPORT BY GUARDIAN OF THE PERSON

Sec. 1163.101. ANNUAL REPORT REQUIRED. (a) Once each year for the duration of the guardianship, a guardian of the person shall file with the court a report that contains the information required by this section.

(b) The guardian of the person shall file a sworn, written report that shows each receipt and disbursement for:

(1) the support and maintenance of the ward;

(2) when necessary, the education of the ward; and

(3) when authorized by court order, the support and maintenance of the ward's dependents.

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

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

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

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

(A) the ward's own home;

(B) a nursing home;

(C) a guardian's home;

(D) a foster home;

(E) a boarding home;

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

(G) a hospital or medical facility; or

(H) another type of residence;

(4) statements indicating:

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

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

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

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

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

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

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

(H) whether the ward has regular medical care;

(I) the ward's treatment or evaluation by any of

the following persons during the past year, including the person's name and a description of the treatment:

(i) a physician;

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

(iii) a dentist;

(iv) a social or other caseworker; or

(v) any other individual who provided treatment; and

(J) supports and services the ward has received or is currently receiving, as described by Subsection (d);

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

(6) the guardian's evaluation of:

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

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

(C) unmet needs of the ward;

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

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

(9) if the guardian is a private professional guardian, a guardianship program, or the Health and Human Services Commission, whether the guardian or an individual certified under Subchapter C, Chapter 155, Government Code, who is providing guardianship services to the ward and who is filing the affidavit on the guardian's behalf, is or has been the subject of an investigation conducted by the Judicial Branch Certification Commission during the preceding year; and

(10) any additional information the guardian desires

to share with the court regarding the ward, including:

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

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

(d) The statements in the sworn affidavit regarding the ward's supports and services under Subsection (c)(4)(J) must include:

(1) information regarding actions the guardian is taking to encourage the development of the ward's maximum self-reliance and independence;

(2) a list of all the supports and services the ward is currently receiving, including whether the ward:

(A) has a representative payee;

(B) receives services from a local mental health authority or local intellectual and developmental disability authority;

(C) receives any supports and services under Medicaid, including under a Medicaid waiver program authorized under Section 1915(c) of the federal Social Security Act (42 U.S.C. Section 1396n); and

(D) receives any supports and services informally;

(3) where the ward receives the supports and services described by Subdivision (2);

(4) who provides the supports and services described by Subdivision (2);

(5) a list of the supports and services the ward previously received or attempted to receive and why the support or service was discontinued or not received; and

(6) the guardian's opinion on whether the ward has the capacity or sufficient capacity with supports and services for complete restoration of the ward's capacity or modification of the guardianship under Chapter 1202 or the reasons why the ward does not have the capacity or sufficient capacity with supports and services

for complete restoration of the ward's capacity or modification of the guardianship under Chapter 1202.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 982 (H.B. 2080), Sec. 22, eff. January 1, 2014.

Acts 2015, 84th Leg., R.S., Ch. 1031 (H.B. 1438), Sec. 19, eff. September 1, 2015.

Acts 2021, 87th Leg., R.S., Ch. 521 (S.B. 626), Sec. 54, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 939 (S.B. 1624), Sec. 10, eff. September 1, 2023.

Sec. 1163.1011. USE OF UNSWORN DECLARATION IN LIEU OF SWORN DECLARATION OR AFFIDAVIT FOR FILING ANNUAL REPORT. (a) A guardian of the person who is required to file an annual report under Section 1163.101 with the court, including a guardian filing the annual report electronically, may use an unsworn declaration made as provided by this section instead of the sworn declaration or affidavit required by Section 1163.101.

(b) An unsworn declaration authorized by this section must be:

(1) in writing; and

(2) subscribed by the person making the declaration as true under penalty of perjury.

(c) The form of an unsworn declaration authorized by this section must be substantially as follows:

I, (insert name of guardian of the person), the guardian of the person for (insert name of ward) in _____ County, Texas, declare under penalty of perjury that the foregoing is true and correct.

Executed on (insert date)

_____

(signature)

(d) An unsworn declaration authorized by Section 132.001, Civil Practice and Remedies Code, may not be used instead of a

written sworn declaration or affidavit required by Section 1163.101.

Added by Acts 2013, 83rd Leg., R.S., Ch. 982 (H.B. 2080), Sec. 23, eff. January 1, 2014.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1031 (H.B. 1438), Sec. 20, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1031 (H.B. 1438), Sec. 21, eff. September 1, 2015.

Sec. 1163.102. REPORTING PERIOD. (a) Except as provided under Subsection (b), an annual report required by Section 1163.101 must cover a 12-month reporting period that begins on the date or the anniversary of the date the guardian of the person qualifies to serve.

(b) The court may change a reporting period for purposes of this subchapter but may not extend a reporting period so that it covers more than 12 months.

(c) Each report is due not later than the 60th day after the date the reporting period ends.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Sec. 1163.103. REPORT IN CASE OF DECEASED WARD. If the ward is deceased, the guardian of the person shall provide the court with the date and place of death, if known, instead of the information about the ward otherwise required to be provided in the annual report.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Sec. 1163.104. APPROVAL OF REPORT. (a) If the judge is satisfied that the facts stated in the report are true, the court shall approve the report.

(b) Unless the judge is satisfied that the facts stated in the report are true, the judge shall issue orders necessary for the ward's best interests.

(c) The court on the court's own motion may waive the costs and fees related to the filing of a report approved under Subsection (a).

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Sec. 1163.105. ATTORNEY NOT REQUIRED. A guardian of the person may complete and file the report required under this subchapter without the assistance of an attorney.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

SUBCHAPTER D. PENALTIES

Sec. 1163.151. PENALTY FOR FAILURE TO FILE REQUIRED ACCOUNT, EXHIBIT, OR REPORT. (a) If a guardian does not file an account, an exhibit, a report of the guardian of the person, or another report required by this title, any person interested in the estate, on written complaint filed with the court clerk, or the court on the court's own motion, may have the guardian cited to appear and show cause why the guardian should not file the account, exhibit, or report.

(b) On hearing, the court may:

(1) order the guardian to file the account, exhibit, or report; and

(2) unless good cause is shown for the failure to file:

(A) revoke the guardian's letters of guardianship;

(B) fine the guardian in an amount not to exceed $1,000; or

(C) revoke the guardian's letters of guardianship and fine the guardian in an amount not to exceed $1,000.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.