ESTATES CODE

TITLE 3. GUARDIANSHIP AND RELATED PROCEDURES

SUBTITLE F. EVALUATION, MODIFICATION, OR TERMINATION OF GUARDIANSHIP

CHAPTER 1201. EVALUATION OF GUARDIANSHIP

SUBCHAPTER A. REVIEW OF GUARDIANSHIP

Sec. 1201.001. DETERMINING GUARDIAN'S PERFORMANCE OF DUTIES. The court shall use reasonable diligence to determine whether a guardian is performing all of the duties required of the guardian that relate to the guardian's ward.

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

Sec. 1201.002. ANNUAL EXAMINATION OF GUARDIANSHIP; BOND OF GUARDIAN. (a) At least annually, the judge shall examine the well-being of each ward of the court and the solvency of the bond of the guardian of the ward's estate.

(b) If after examining the solvency of a guardian's bond as provided by Subsection (a) the judge determines that the guardian's bond is not sufficient to protect the ward or the ward's estate, the judge shall require the guardian to execute a new bond.

(c) The judge shall notify the guardian and the sureties on the guardian's bond as provided by law.

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

Sec. 1201.003. JUDGE'S LIABILITY. A judge is liable on the judge's bond to those damaged if damage or loss results to a guardianship or ward because of the gross neglect of the judge to use reasonable diligence in the performance of the judge's duty under this subchapter.

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

Sec. 1201.004. IDENTIFYING INFORMATION. (a) The court may

request an applicant or court-appointed fiduciary to produce other information identifying an applicant, ward, or guardian, including a social security number, in addition to identifying information the applicant or fiduciary is required to produce under this title.

(b) The court shall maintain any information required under this section, and the information may not be filed with the clerk.

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

SUBCHAPTER B. ANNUAL DETERMINATION TO CONTINUE, MODIFY, OR TERMINATE GUARDIANSHIP

Sec. 1201.051. APPLICABILITY. This subchapter does not apply to a guardianship that is created only because it is necessary for a person to have a guardian appointed to receive funds from a governmental source.

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

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

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

(2) may review annually any other guardianship.

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

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

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 939 (S.B. 1624), Sec. 11, eff. September 1, 2023.

Sec. 1201.053. METHOD OF DETERMINATION. (a) In reviewing a guardianship under Section 1201.052, a statutory probate court

shall review any:

(1) report prepared by:

(A) a court investigator under Section 1054.153 or 1202.054;

(B) a guardian ad litem under Section 1202.054; or

(C) a court visitor under Section 1054.104;

(2) annual account prepared under Subchapter A, Chapter 1163; and

(3) report prepared under Subchapter C, Chapter 1163.

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

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

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

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

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

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

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

(1) must include:

(A) whether the ward desires a full restoration of the ward's capacity or modification of the ward's guardianship; and

(B) any other information the ward wishes to share with the court; and

(2) may be in the form of:

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

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

(C) a verbal or written statement made by the ward during a hearing either in person or remotely through other means.

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

(1) shall review:

(A) any account prepared under Subchapter A, Chapter 1163; and

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

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

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

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 939 (S.B. 1624), Sec. 12, eff. September 1, 2023.

Sec. 1201.054. FORM OF DETERMINATION. A determination under this subchapter must be in writing and filed with the clerk.

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