

ESTATES CODE

TITLE 3. GUARDIANSHIP AND RELATED PROCEDURES

SUBTITLE A. GENERAL PROVISIONS

CHAPTER 1002. DEFINITIONS

Sec. 1002.001. APPLICABILITY OF DEFINITIONS. The definition for a term provided by this chapter applies in this title.

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

Sec. 1002.0015. ALTERNATIVES TO GUARDIANSHIP. "Alternatives to guardianship" includes the:

(1) execution of a medical power of attorney under Chapter 166, Health and Safety Code;

(2) appointment of an attorney in fact or agent under a durable power of attorney as provided by Subtitle P, Title 2;

(3) execution of a declaration for mental health treatment under Chapter 137, Civil Practice and Remedies Code;

(4) appointment of a representative payee to manage public benefits;

(5) establishment of a joint bank account;

(6) creation of a management trust under Chapter 1301;

(7) creation of a special needs trust;

(8) designation of a guardian before the need arises under Subchapter E, Chapter 1104; and

(9) establishment of alternate forms of decision-making based on person-centered planning.

Added by Acts 2015, 84th Leg., R.S., Ch. 214 (H.B. 39), Sec. 2, eff. September 1, 2015.

Sec. 1002.002. ATTORNEY AD LITEM. "Attorney ad litem" means an attorney appointed by a court to represent and advocate on behalf of a proposed ward, an incapacitated person, an unborn person, or another person described by Section 1054.007 in a guardianship proceeding.

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. 1, eff. January 1, 2014.

Sec. 1002.003. AUTHORIZED CORPORATE SURETY. "Authorized corporate surety" means a domestic or foreign corporation authorized to engage in business in this state to issue surety, guaranty, or indemnity bonds that guarantee the fidelity of a guardian.

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

Sec. 1002.004. CHILD. "Child" includes a biological child and an adopted child, regardless of whether the child was adopted by a parent under a statutory procedure or by acts of estoppel.

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

Sec. 1002.005. CLAIM. "Claim" includes:

(1) a liability against the estate of an incapacitated person; and

(2) a debt due to the estate of an incapacitated person.

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

Sec. 1002.006. COMMUNITY ADMINISTRATOR. "Community administrator" means a spouse who, on the judicial declaration of incapacity of the other spouse, is authorized to manage, control, and dispose of the entire community estate, including the part of the community estate the incapacitated spouse legally has the power to manage in the absence of the incapacity.

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

Sec. 1002.007. CORPORATE FIDUCIARY. "Corporate fiduciary"

means a financial institution, as defined by Section [201.101](#), Finance Code, that:

(1) is existing or engaged in business under the laws of this state, another state, or the United States;

(2) has trust powers; and

(3) is authorized by law to act under the order or appointment of a court of record, without giving bond, as guardian, receiver, trustee, executor, administrator, or, although the financial institution does not have general depository powers, depository for any money paid into the court, or to become sole guarantor or surety in or on any bond required to be given under the laws of this state.

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

Sec. 1002.008. COURT; PROBATE COURT; STATUTORY PROBATE COURT. (a) "Court" or "probate court" means:

(1) a county court exercising its probate jurisdiction;

(2) a court created by statute and authorized to exercise original probate jurisdiction; or

(3) a district court exercising original probate jurisdiction in a contested matter.

(b) "Statutory probate court" means a court created by statute and designated as a statutory probate court under Chapter [25](#), Government Code. The term does not include a county court at law exercising probate jurisdiction unless the court is designated a statutory probate court under Chapter [25](#), Government Code.

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

Sec. 1002.009. COURT INVESTIGATOR. "Court investigator" means a person appointed by the judge of a statutory probate court under Section [25.0025](#), Government Code, or a judge under Section [1054.156](#).

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

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 414 (S.B. [1016](#)), Sec. 1, eff. September 1, 2017.

Sec. 1002.010. ESTATE; GUARDIANSHIP ESTATE. "Estate" or "guardianship estate" means a ward's or deceased ward's property, as that property:

(1) exists originally and changes in form by sale, reinvestment, or otherwise;

(2) is augmented by any accretions and other additions to the property, including any property to be distributed to the deceased ward's representative by the trustee of a trust that terminates on the ward's death, or substitutions for the property; and

(3) is diminished by any decreases in or distributions from the property.

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

Sec. 1002.011. EXEMPT PROPERTY. "Exempt property" means the property in a deceased ward's estate that is exempt from execution or forced sale by the constitution or laws of this state, and any allowance paid instead of that property.

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

Sec. 1002.012. GUARDIAN. (a) "Guardian" means a person appointed as a:

(1) guardian under Subchapter D, Chapter [1101](#);

(2) successor guardian; or

(3) temporary guardian.

(b) Except as expressly provided otherwise, "guardian" includes:

(1) the guardian of the estate of an incapacitated person; and

(2) the guardian of the person of an incapacitated person.

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

Sec. 1002.013. GUARDIAN AD LITEM. "Guardian ad litem" means a person appointed by a court to represent the best interests of an incapacitated person in a guardianship proceeding.

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

Sec. 1002.014. GUARDIANSHIP CERTIFICATION PROGRAM OF THE JUDICIAL BRANCH CERTIFICATION COMMISSION. "Guardianship certification program of the Judicial Branch Certification Commission" means the program established under Chapter [155](#), Government Code.

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. 42 (S.B. [966](#)), Sec. 2.04, eff. September 1, 2014.

Sec. 1002.015. GUARDIANSHIP PROCEEDING. The term "guardianship proceeding" means a matter or proceeding related to a guardianship or any other matter covered by this title, including:

(1) the appointment of a guardian of a minor or other incapacitated person, including an incapacitated adult for whom another court obtained continuing, exclusive jurisdiction in a suit affecting the parent-child relationship when the person was a child;

(2) an application, petition, or motion regarding guardianship or a substitute for guardianship under this title;

(3) a mental health action; and

(4) an application, petition, or motion regarding a trust created under Chapter [1301](#).

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. 161 (S.B. [1093](#)), Sec. 6.014,

eff. January 1, 2014.

Acts 2015, 84th Leg., R.S., Ch. 214 (H.B. 39), Sec. 3, eff. September 1, 2015.

Sec. 1002.016. GUARDIANSHIP PROGRAM. "Guardianship program" has the meaning assigned by Section 155.001, Government Code.

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. 42 (S.B. 966), Sec. 2.05, eff. September 1, 2014.

Sec. 1002.017. INCAPACITATED PERSON. "Incapacitated person" means:

- (1) a minor;
- (2) an adult who, because of a physical or mental condition, is substantially unable to:
 - (A) provide food, clothing, or shelter for himself or herself;
 - (B) care for the person's own physical health; or
 - (C) manage the person's own financial affairs; or
- (3) a person who must have a guardian appointed for the person to receive funds due the person 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. 1002.018. INTERESTED PERSON; PERSON INTERESTED. "Interested person" or "person interested" means:

- (1) an heir, devisee, spouse, creditor, or any other person having a property right in or claim against an estate being administered; or
- (2) a person interested in the welfare of an incapacitated person.

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

Sec. 1002.019. MINOR. "Minor" means a person younger than 18 years of age who:

(1) has never been married; and

(2) has not had the disabilities of minority removed for general purposes.

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

Sec. 1002.020. MORTGAGE; LIEN. "Mortgage" and "lien" include:

(1) a deed of trust;

(2) a vendor's lien;

(3) a mechanic's, materialman's, or laborer's lien;

(4) a judgment, attachment, or garnishment lien;

(5) a federal or state tax lien;

(6) a chattel mortgage; and

(7) a pledge by hypothecation.

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

Sec. 1002.021. NEXT OF KIN. "Next of kin" includes:

(1) an adopted child;

(2) an adopted child's descendants; and

(3) the adoptive parent of an adopted child.

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

Sec. 1002.022. PARENT. "Parent" means the mother of a child, a man presumed to be the biological father of a child, a man who has been adjudicated to be the biological father of a child by a court of competent jurisdiction, or an adoptive mother or father of a child, but does not include a parent as to whom the parent-child relationship has been terminated.

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

Sec. 1002.023. PERSON. (a) "Person" includes a natural

person, a corporation, and a guardianship program.

(b) The definition of "person" assigned by Section 311.005, Government Code, does not apply to any provision in this title. Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Sec. 1002.024. PERSONAL PROPERTY. "Personal property" includes an interest in:

- (1) goods;
- (2) money;
- (3) a chose in action;
- (4) an evidence of debt; and
- (5) a real chattel.

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

Sec. 1002.025. PRIVATE PROFESSIONAL GUARDIAN. "Private professional guardian" has the meaning assigned by Section 155.001, Government Code.

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. 42 (S.B. 966), Sec. 2.06, eff. September 1, 2014.

Sec. 1002.026. PROPOSED WARD. "Proposed ward" means a person alleged in a guardianship proceeding to be incapacitated.

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

Sec. 1002.027. REAL PROPERTY. "Real property" includes estates and interests in land, whether corporeal or incorporeal or legal or equitable. The term does not include a real chattel.

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

Sec. 1002.028. REPRESENTATIVE; PERSONAL

REPRESENTATIVE. "Representative" and "personal representative" include:

- (1) a guardian; and
- (2) a successor guardian.

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

Sec. 1002.029. SURETY. "Surety" includes a personal surety and a corporate surety.

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

Sec. 1002.030. WARD. "Ward" means a person for whom a guardian has been appointed.

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

Sec. 1002.031. SUPPORTS AND SERVICES. "Supports and services" means available formal and informal resources and assistance that enable an individual to:

- (1) meet the individual's needs for food, clothing, or shelter;
- (2) care for the individual's physical or mental health;
- (3) manage the individual's financial affairs; or
- (4) make personal decisions regarding residence, voting, operating a motor vehicle, and marriage.

Added by Acts 2015, 84th Leg., R.S., Ch. 214 (H.B. 39), Sec. 2, eff. September 1, 2015.