

ESTATES CODE

TITLE 3. GUARDIANSHIP AND RELATED PROCEDURES

SUBTITLE D. CREATION OF GUARDIANSHIP

CHAPTER 1104. SELECTION OF AND ELIGIBILITY TO SERVE AS GUARDIAN

SUBCHAPTER A. GENERAL PROVISIONS RELATING TO APPOINTMENT OF
GUARDIAN

Sec. 1104.001. GUARDIAN OF THE PERSON OR ESTATE. (a) Only one person may be appointed as guardian of the person or estate, but one person may be appointed guardian of the person and another person may be appointed guardian of the estate, if it is in the best interest of the incapacitated person or ward.

(b) Subsection (a) does not prohibit the joint appointment, if the court finds it to be in the best interest of the incapacitated person or ward, of:

- (1) a husband and wife;
- (2) joint managing conservators;
- (3) co-guardians appointed under the laws of a jurisdiction other than this state; or

(4) both parents of an adult who is incapacitated if the incapacitated person:

(A) has not been the subject of a suit affecting the parent-child relationship; or

(B) has been the subject of a suit affecting the parent-child relationship and both of the incapacitated person's parents were named as joint managing conservators in the suit but are no longer serving in that capacity.

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

Sec. 1104.002. PREFERENCE OF INCAPACITATED PERSON. Before appointing a guardian, the court shall make a reasonable effort to consider the incapacitated person's preference of the person to be appointed guardian and, to the extent consistent with other provisions of this title, shall give due consideration to the preference indicated by the incapacitated person, regardless of

whether the person has designated by declaration a guardian before the need arises under Subchapter E.

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 214 (H.B. 39), Sec. 13, eff. September 1, 2015.

Sec. 1104.003. TRAINING REQUIRED. A court may not appoint an individual to serve as guardian under this title if the individual has not received the training required under Section 155.204, Government Code, unless waived by the court in accordance with rules adopted by the supreme court under Section 155.203, Government Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 313 (S.B. 1096), Sec. 3, eff. September 1, 2017.

SUBCHAPTER B. SELECTION OF GUARDIAN FOR MINOR

Sec. 1104.051. GUARDIAN OF MINOR CHILDREN. (a) If the parents live together, both parents are the natural guardians of the person of the minor children by the marriage, and one of the parents is entitled to be appointed guardian of the children's estates. If the parents disagree as to which parent should be appointed, the court shall make the appointment on the basis of which parent is better qualified to serve in that capacity.

(b) The rights of parents who do not live together are equal. The court shall assign the guardianship of their minor children to one parent considering only the best interests of the children.

(c) If one parent is deceased, the surviving parent is the natural guardian of the person of the minor children and is entitled to be appointed guardian of the minor children's estates.

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

Sec. 1104.052. GUARDIAN FOR MINOR ORPHAN. In appointing a

guardian for a minor orphan:

(1) if the last surviving parent did not appoint a guardian, the nearest ascendant in the direct line of the minor is entitled to guardianship of both the person and the estate of the minor;

(2) if more than one ascendant exists in the same degree in the direct line of the minor, the court shall appoint one ascendant according to circumstances and considering the minor's best interests;

(3) if the minor does not have an ascendant in the direct line of the minor:

(A) the court shall appoint the nearest of kin;
or

(B) if two or more persons are in the same degree of kinship to the minor, the court shall appoint one of those persons according to circumstances and considering the minor's best interests; and

(4) if the minor does not have a relative who is eligible to be guardian, or if none of the eligible persons apply to be guardian, the court shall appoint a qualified person as guardian.

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

Sec. 1104.053. GUARDIAN DESIGNATED BY WILL OR WRITTEN DECLARATION. (a) Notwithstanding Section [1104.001](#) or [1104.051](#), the surviving parent of a minor may by will or written declaration appoint any eligible person to be guardian of the person of the parent's minor children after the parent dies or in the event of the parent's incapacity.

(b) After the surviving parent of a minor dies or if the court finds the surviving parent is an incapacitated person, the court shall appoint the person designated in the will or declaration to serve as guardian of the person of the parent's minor children in preference to another otherwise entitled to serve as guardian under this title, unless the court finds that the person designated to serve as guardian:

- (1) is disqualified;
- (2) is deceased;
- (3) refuses to serve; or
- (4) would not serve the minor children's best interests.

(c) On compliance with this title, an eligible person is also entitled to be appointed guardian of the minor children's estates after the surviving parent dies or in the event of the surviving parent's incapacity.

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

Sec. 1104.054. SELECTION OF GUARDIAN BY MINOR. (a) Notwithstanding any other provision of this subchapter, if an application is filed for the guardianship of the person or estate, or both, of a minor at least 12 years of age, the minor may select the guardian by a writing filed with the clerk, if the court finds that the selection is in the minor's best interest and approves the selection.

(b) Notwithstanding any other provision of this subchapter, a minor at least 12 years of age may select another guardian of the minor's person or estate, or both, if the minor has a guardian appointed by the court, by will of the minor's parent, or by written declaration of the minor's parent, and that guardian dies, resigns, or is removed from guardianship. The minor must make the selection by filing an application in open court in person or by an attorney. The court shall make the appointment and revoke the letters of guardianship of the former guardian if the court is satisfied that:

- (1) the person selected is suitable and competent; and
- (2) the appointment of the person is in the minor's best interest.

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

SUBCHAPTER C. SELECTION OF GUARDIAN FOR INCAPACITATED PERSON OTHER
THAN MINOR

Sec. 1104.101. APPOINTMENT ACCORDING TO CIRCUMSTANCES AND BEST INTERESTS. The court shall appoint a guardian for an incapacitated person other than a minor according to the circumstances and considering the incapacitated person's best interests.

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

Sec. 1104.102. APPOINTMENT PREFERENCES. If the court finds that two or more eligible persons are equally entitled to be appointed guardian of an incapacitated person:

(1) the incapacitated person's spouse is entitled to the guardianship in preference to any other person, if the spouse is one of the eligible persons;

(2) the eligible person nearest of kin to the incapacitated person is entitled to the guardianship, if the incapacitated person's spouse is not one of the eligible persons; or

(3) the court shall appoint the eligible person who is best qualified to serve as guardian if:

(A) the persons entitled to serve under Subdivisions (1) and (2) refuse to serve;

(B) two or more persons entitled to serve under Subdivision (2) are related in the same degree of kinship to the incapacitated person; or

(C) neither the incapacitated person's spouse nor any person related to the incapacitated person is an eligible person.

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

Sec. 1104.103. DESIGNATION OF GUARDIAN BY WILL OR WRITTEN DECLARATION. (a) The surviving parent of an adult individual who is an incapacitated person may, if the parent is the guardian of the

person of the adult individual, by will or written declaration appoint an eligible person to serve as guardian of the person of the adult individual after the parent dies or in the event of the parent's incapacity.

(b) After the surviving parent dies or if the court finds the surviving parent has become an incapacitated person after being appointed the adult individual's guardian, the court shall appoint the person designated in the will or declaration to serve as guardian in preference to any other person otherwise entitled to serve as guardian under this title, unless the court finds that the person designated to serve as guardian:

- (1) is disqualified;
- (2) is deceased;
- (3) refuses to serve; or
- (4) would not serve the adult individual's best interests.

(c) On compliance with this title, the eligible person appointed under Subsection (b) is also entitled to be appointed guardian of the estate of the adult individual after the surviving parent dies or in the event of the surviving parent's incapacity, if the surviving parent is the guardian of the estate of the adult individual.

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

SUBCHAPTER D. WRITTEN DECLARATION BY CERTAIN PARENTS TO APPOINT GUARDIAN FOR THEIR CHILDREN

Sec. 1104.151. DEFINITIONS. In this subchapter:

(1) "Declaration" means a written declaration of a person that:

(A) appoints a guardian for the person's child under Section [1104.053\(a\)](#) or [1104.103\(a\)](#); and

(B) satisfies the requirements of this subdivision and Sections [1104.152](#), [1104.153](#), [1104.154](#), [1104.156](#), [1104.159](#), and [1104.160](#).

(2) "Self-proving affidavit" means an affidavit the

form and content of which substantially comply with the requirements of Section [1104.153](#).

(3) "Self-proving declaration" includes a self-proving affidavit that is attached or annexed to a declaration.

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

Sec. 1104.152. REQUIREMENTS FOR DECLARATION. (a) A declaration appointing an eligible person to be guardian of the person of a parent's child under Section [1104.053](#)(a) or [1104.103](#)(a) must be signed by the declarant and be:

(1) written wholly in the declarant's handwriting; or
(2) attested to in the declarant's presence by at least two credible witnesses who are:

(A) 14 years of age or older; and
(B) not named as guardian or alternate guardian in the declaration.

(b) Notwithstanding Subsection (a), a declaration that is not written wholly in the declarant's handwriting may be signed by another person for the declarant under the direction of and in the presence of the declarant.

(c) A declaration described by Subsection (a)(2) may have attached a self-proving affidavit signed by the declarant and the witnesses attesting to:

(1) the competence of the declarant; and
(2) the execution of the declaration.

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

Sec. 1104.153. FORM AND CONTENT OF DECLARATION AND SELF-PROVING AFFIDAVIT. (a) A declaration and affidavit may be in any form adequate to clearly indicate the declarant's intention to designate a guardian for the declarant's child.

(b) The following form may be used but is not required to be used:

DECLARATION OF APPOINTMENT OF GUARDIAN FOR MY CHILDREN

IN THE EVENT OF MY DEATH OR INCAPACITY

I, _____, make this Declaration to appoint as guardian for my child or children, listed as follows, in the event of my death or incapacity:

(add blanks as appropriate)

I designate _____ to serve as guardian of the person of my (child or children), _____ as first alternate guardian of the person of my (child or children), _____ as second alternate guardian of the person of my (child or children), and _____ as third alternate guardian of the person of my (child or children).

I direct that the guardian of the person of my (child or children) serve (with or without) bond.

(If applicable) I designate _____ to serve as guardian of the estate of my (child or children), _____ as first alternate guardian of the estate of my (child or children), _____ as second alternate guardian of the estate of my (child or children), and _____ as third alternate guardian of the estate of my (child or children).

If any guardian or alternate guardian dies, does not qualify, or resigns, the next named alternate guardian becomes guardian of my (child or children).

Signed this _____ day of _____, 20__.

Declarant

Witness

Witness

SELF-PROVING AFFIDAVIT

Before me, the undersigned authority, on this date personally appeared _____, the declarant, and _____ and _____ as witnesses, and all being duly sworn, the declarant said that the above instrument was his or her Declaration of Appointment of Guardian for the Declarant's Children in the Event of Declarant's Death or Incapacity and that the declarant had made and executed it

for the purposes expressed in the declaration. The witnesses declared to me that they are each 14 years of age or older, that they saw the declarant sign the declaration, that they signed the declaration as witnesses, and that the declarant appeared to them to be of sound mind.

Declarant

Affiant

Affiant

Subscribed and sworn to before me by _____, the above named declarant, and _____ (names of affiants) affiants, on this ___ day of _____, 20__.

Notary Public in and for the
State of Texas
My Commission expires:

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

Sec. 1104.154. ALTERNATIVE TO SELF-PROVING AFFIDAVIT.
(a) As an alternative to the self-proving affidavit authorized by Section [1104.153](#), a declaration of appointment of a guardian for the declarant's children in the event of the declarant's death or incapacity may be simultaneously executed, attested, and made self-proved by including the following in substantially the same form and with substantially the same contents:

I, _____, as declarant, after being duly sworn, declare to the undersigned witnesses and to the undersigned authority that this instrument is my Declaration of Appointment of Guardian for My Children in the Event of My Death or Incapacity, and that I willingly make and execute it for the purposes expressed in the declaration. I now sign this declaration in the presence of the attesting witnesses and the undersigned authority on this ___ day of _____, 20__.

Declarant

The undersigned, _____ and _____, each being 14 years of age or older, after being duly sworn, declare to the declarant and to the undersigned authority that the declarant declared to us that this instrument is the declarant's Declaration of Appointment of Guardian for the Declarant's Children in the Event of Declarant's Death or Incapacity and that the declarant executed it for the purposes expressed in the declaration. The declarant then signed this declaration and we believe the declarant to be of sound mind. We now sign our names as attesting witnesses on this ____ day of _____, 20__.

Witness

Witness

Subscribed and sworn to before me by the above named declarant, and affiants, this ____ day of _____, 20__.

Notary Public in and for the
State of Texas

My Commission expires:

(b) A declaration that is executed as provided by Subsection (a) is considered self-proved to the same extent a declaration executed with a self-proving affidavit under Section [1104.153](#) is considered self-proved.

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1031 (H.B. [1438](#)), Sec. 14, eff. September 1, 2015.

Sec. 1104.155. ALTERNATE SELF-PROVING OF DECLARATION. At any time during the declarant's lifetime, a declaration described by Section [1104.152](#)(a)(1) may be made self-proved in the same form and manner that a will written wholly in the testator's handwriting is made self-proved under Section [251.107](#).

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

Sec. 1104.156. FILING OF DECLARATION AND SELF-PROVING AFFIDAVIT. The declaration and any self-proving affidavit may be filed with the court at any time after the application for appointment of a guardian is filed and before a guardian is appointed.

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

Sec. 1104.157. PROOF OF DECLARATION. (a) The court may admit a declaration that is self-proved into evidence without the testimony of witnesses attesting to the competency of the declarant and the execution of the declaration. Additional proof of the execution of the declaration with the formalities and solemnities and under the circumstances required to make it a valid declaration is not necessary.

(b) A declaration described by Section [1104.152\(a\)\(1\)](#) that is not self-proved may be proved in the same manner that a will written wholly in the testator's handwriting is proved under Section [256.154](#).

(c) A declaration described by Section [1104.152\(a\)\(2\)](#) that is not self-proved may be proved in the same manner that an attested written will produced in court is proved under Section [256.153](#).

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

Sec. 1104.158. PRIMA FACIE EVIDENCE. A properly executed and witnessed self-proving declaration, including a declaration and self-proving affidavit described by Section [1104.152\(c\)](#), is prima facie evidence that:

(1) the declarant was competent at the time the declarant executed the declaration; and

(2) the guardian named in the declaration would serve the best interests of the ward or incapacitated person.

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

eff. January 1, 2014.

Sec. 1104.159. REVOCATION OF DECLARATION. The declarant may revoke a declaration in any manner provided for the revocation of a will under Section 253.002, including the subsequent re-execution of the declaration in the manner required for the original declaration.

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

Sec. 1104.160. ALTERNATE OR OTHER COURT-APPOINTED GUARDIAN.

(a) The court shall appoint the next eligible designated alternate guardian named in a declaration if the designated guardian does not qualify, is deceased, refuses to serve, resigns, or dies after being appointed guardian, or is otherwise unavailable to serve as guardian.

(b) The court shall appoint another person to serve as guardian as otherwise provided by this title if the designated guardian and all designated alternate guardians named in the declaration:

- (1) do not qualify;
- (2) are deceased;
- (3) refuse to serve; or
- (4) later die or resign.

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

SUBCHAPTER E. WRITTEN DECLARATION TO DESIGNATE GUARDIAN BEFORE
NEED ARISES

Sec. 1104.201. DEFINITIONS. In this subchapter:

(1) "Declaration" means a written declaration of a person that:

(A) designates another person to serve as a guardian of the person or estate of the declarant; and

(B) satisfies the requirements of this subdivision and Sections 1104.202, 1104.203, 1104.204, 1104.205,

[1104.207](#), [1104.210](#), [1104.211](#), and [1104.212](#).

(2) "Self-proving affidavit" means an affidavit the form and content of which substantially comply with the requirements of Section [1104.204](#).

(3) "Self-proving declaration" includes a self-proving affidavit that is attached or annexed to a declaration.

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

Sec. 1104.202. DESIGNATION OF GUARDIAN FOR DECLARANT.

(a) A person other than an incapacitated person may designate by declaration a person to serve as guardian of the person or estate of the declarant if the declarant becomes incapacitated. The court shall appoint the person designated in the declaration to serve as guardian in preference to any other person otherwise entitled to serve as guardian under this title, unless the court finds that the person designated to serve as guardian:

- (1) is disqualified; or
- (2) would not serve the ward's best interests.

(b) A declarant may, in the declaration, disqualify a named person from serving as guardian of the declarant's person or estate. The court may not under any circumstances appoint as guardian a person named under this subsection.

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

Sec. 1104.203. REQUIREMENTS FOR DECLARATION. (a) Except as provided by Subsection (a-1), a declaration under this subchapter must be signed by the declarant and be:

- (1) written wholly in the declarant's handwriting; or
- (2) attested to in the declarant's presence by at least two credible witnesses who are:

- (A) 14 years of age or older; and
- (B) not named as guardian or alternate guardian in the declaration.

(a-1) If the declaration does not expressly disqualify any

individual from serving as guardian of the declarant's person or estate, the declaration must be signed by the declarant and may be acknowledged by a notary public instead of being attested to in the declarant's presence by witnesses as required by Subsection (a)(2).

(b) Notwithstanding Subsection (a) or (a-1), a declaration that is not written wholly in the declarant's handwriting may be signed by another person for the declarant under the direction of and in the presence of the declarant.

(c) A declaration described by Subsection (a)(2) may have attached a self-proving affidavit signed by the declarant and the witnesses attesting to:

- (1) the competence of the declarant; and
- (2) the execution of the declaration.

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. 298 (S.B. 511), Sec. 1, eff. September 1, 2017.

Sec. 1104.204. FORM AND CONTENT OF DECLARATION AND SELF-PROVING AFFIDAVIT. (a) A declaration and affidavit may be in any form adequate to clearly indicate the declarant's intention to designate a guardian.

(b) The following form may be used but is not required to be used:

DECLARATION OF GUARDIAN

IN THE EVENT OF LATER INCAPACITY OR NEED OF GUARDIAN

I, _____, make this Declaration of Guardian, to operate if the need for a guardian for me later arises.

1. I designate _____ to serve as guardian of my person, _____ as first alternate guardian of my person, _____ as second alternate guardian of my person, and _____ as third alternate guardian of my person.

2. I designate _____ to serve as guardian of my estate, _____ as first alternate guardian of my estate, _____ as second alternate guardian of my estate, and _____ as third alternate guardian of my estate.

3. If any guardian or alternate guardian dies, does not qualify, or resigns, the next named alternate guardian becomes my guardian.

4. I expressly disqualify the following persons from serving as guardian of my person: _____, _____, and _____.

5. I expressly disqualify the following persons from serving as guardian of my estate: _____, _____, and _____.

Signed this ____ day of _____, 20__.

Declarant

Witness

Witness

SELF-PROVING AFFIDAVIT

Before me, the undersigned authority, on this date personally appeared _____, the declarant, and _____ and _____ as witnesses, and all being duly sworn, the declarant said that the above instrument was his or her Declaration of Guardian and that the declarant had made and executed it for the purposes expressed in the declaration. The witnesses declared to me that they are each 14 years of age or older, that they saw the declarant sign the declaration, that they signed the declaration as witnesses, and that the declarant appeared to them to be of sound mind.

Declarant

Affiant

Affiant

Subscribed and sworn to before me by the above named declarant and affiants on this ____ day of _____, 20__.

Notary Public in and for the
State of Texas
My Commission expires:

(c) A declaration that complies with the requirements of

Section 1104.203(a-1) may, but is not required to, be in the form specified by Subsection (b), except that instead of having attached the self-proving affidavit prescribed by that subsection, the declaration shall have attached the following acknowledgment:

STATE OF _____

COUNTY OF _____

This instrument was acknowledged before me on the ____ day of _____, 20_____, by _____ (Declarant).

Notary Public, in and for

the

State of Texas
Notary's printed name:

My commission expires:

(d) A declaration that complies with the requirements of Section 1104.203(a-1) that has attached the acknowledgment provided by Subsection (c) is considered self-proved.

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. 298 (S.B. 511), Sec. 2, eff. September 1, 2017.

Sec. 1104.205. ALTERNATIVE TO SELF-PROVING AFFIDAVIT.

(a) As an alternative to the self-proving affidavit authorized by Section 1104.204, a declaration of guardian in the event of later incapacity or need of guardian may be simultaneously executed, attested, and made self-proved by including the following in substantially the same form and with substantially the same contents:

I, _____, as declarant, after being duly sworn, declare to the undersigned witnesses and to the undersigned authority that this instrument is my Declaration of Guardian in the Event of Later Incapacity or Need of Guardian, and that I willingly

make and execute it for the purposes expressed in the declaration. I now sign this declaration in the presence of the attesting witnesses and the undersigned authority on this ____ day of _____, 20__.

Declarant

The undersigned, _____ and _____, each being 14 years of age or older, after being duly sworn, declare to the declarant and to the undersigned authority that the declarant declared to us that this instrument is the declarant's Declaration of Guardian in the Event of Later Incapacity or Need of Guardian and that the declarant executed it for the purposes expressed in the declaration. The declarant then signed this declaration and we believe the declarant to be of sound mind. We now sign our names as attesting witnesses on this ____ day of _____, 20__.

Witness

Witness

Subscribed and sworn to before me by the above named declarant, and affiants, this ____ day of _____, 20__.

Notary Public in and for the
State of Texas
My Commission expires:

(b) A declaration that is executed as provided by Subsection (a) is considered self-proved to the same extent a declaration executed with a self-proving affidavit under Section 1104.204 is considered self-proved.

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1031 (H.B. 1438), Sec. 15, eff. September 1, 2015.

Sec. 1104.206. ALTERNATE SELF-PROVING OF DECLARATION. At any time during the declarant's lifetime, a declaration described by Section [1104.203\(a\)\(1\)](#) may be made self-proved in the same form and manner that a will written wholly in the testator's handwriting is made self-proved under Section [251.107](#).

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

Sec. 1104.207. FILING OF DECLARATION AND SELF-PROVING AFFIDAVIT. The declaration and any self-proving affidavit may be filed with the court at any time after the application for appointment of a guardian is filed and before a guardian is appointed.

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

Sec. 1104.208. PROOF OF DECLARATION. (a) The court may admit a declaration that is self-proved into evidence without the testimony of witnesses attesting to the competency of the declarant and the execution of the declaration. Additional proof of the execution of the declaration with the formalities and solemnities and under the circumstances required to make it a valid declaration is not necessary.

(b) A declaration described by Section [1104.203\(a\)\(1\)](#) that is not self-proved may be proved in the same manner that a will written wholly in the testator's handwriting is proved under Section [256.154](#).

(c) A declaration described by Section [1104.203\(a\)\(2\)](#) that is not self-proved may be proved in the same manner that an attested written will produced in court is proved under Section [256.153](#).

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

Sec. 1104.209. PRIMA FACIE EVIDENCE. A properly executed and witnessed self-proving declaration, including a declaration and self-proving affidavit described by Section [1104.203\(c\)](#), is prima facie evidence that:

(1) the declarant was competent at the time the declarant executed the declaration; and

(2) the guardian named in the declaration would serve the best interests of the ward or incapacitated person.

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

Sec. 1104.210. REVOCATION OF DECLARATION. The declarant may revoke a declaration in any manner provided for the revocation of a will under Section 253.002, including the subsequent re-execution of the declaration in the manner required for the original declaration.

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

Sec. 1104.211. EFFECT OF DIVORCE ON DESIGNATION OF SPOUSE. If a declarant designates the declarant's spouse to serve as guardian under this subchapter, and the declarant is subsequently divorced from that spouse before a guardian is appointed, the provision of the declaration designating the spouse has no effect.

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

Sec. 1104.212. ALTERNATE OR OTHER COURT-APPOINTED GUARDIAN.
(a) The court shall appoint the next eligible designated alternate guardian named in a declaration if the designated guardian does not qualify, is deceased, refuses to serve, resigns, or dies after being appointed guardian, or is otherwise unavailable to serve as guardian.

(b) The court shall appoint another person to serve as guardian as otherwise provided by this title if the designated guardian and all designated alternate guardians named in the declaration:

- (1) do not qualify;
- (2) are deceased;
- (3) refuse to serve; or

(4) later die or resign.

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

SUBCHAPTER F. CERTIFICATION REQUIREMENTS

FOR CERTAIN GUARDIANS

Sec. 1104.251. CERTIFICATION REQUIRED FOR CERTAIN GUARDIANS. (a) An individual must be certified under Subchapter C, Chapter 155, Government Code, if the individual:

(1) is a private professional guardian;

(2) will represent the interests of a ward as a guardian on behalf of a private professional guardian;

(3) is providing guardianship services to a ward of a guardianship program on the program's behalf, except as provided by Section 1104.254; or

(4) is an employee of the Department of Aging and Disability Services providing guardianship services to a ward of the department.

(b) An individual employed by or contracting with a guardianship program must be certified as provided by Subsection (a) to provide guardianship services to a ward of the program.

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. 2.08, eff. September 1, 2014.

Sec. 1104.252. EFFECT OF PROVISIONAL CERTIFICATE. For purposes of this subchapter, a person who holds a provisional certificate issued under Section 155.103, Government Code, is considered to be certified.

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. 2.09, eff. September 1, 2014.

Sec. 1104.253. EXCEPTION FOR FAMILY MEMBERS AND FRIENDS. A family member or friend of an incapacitated person is not required to be certified under Subchapter C, Chapter 155, Government Code, or any other law to serve as the person's guardian.

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. 2.10, eff. September 1, 2014.

Sec. 1104.254. EXCEPTION FOR CERTAIN VOLUNTEERS. An individual volunteering with a guardianship program or with the Department of Aging and Disability Services is not required to be certified as provided by Section 1104.251 to provide guardianship services or other services under Section 161.114, Human Resources Code, on the program's or the department's behalf.

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. 6.038, eff. January 1, 2014.

Sec. 1104.255. EXPIRATION OF CERTIFICATION. A person whose certification under Subchapter C, Chapter 155, Government Code, has expired must obtain a new certification under that subchapter to provide or continue providing guardianship services to a ward or incapacitated person under this title.

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. 2.11, eff. September 1, 2014.

Sec. 1104.256. FAILURE TO COMPLY; COURT'S DUTY TO NOTIFY. The court shall notify the guardianship certification program of the Judicial Branch Certification Commission if the

court becomes aware of a person who is not complying with:

(1) the terms of a certification issued under Subchapter C, Chapter 155, Government Code; or

(2) the standards and rules adopted under that subchapter.

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. 2.12, eff. September 1, 2014.

Sec. 1104.257. INFORMATION REGARDING SERVICES PROVIDED BY GUARDIANSHIP PROGRAM. Not later than January 31 of each year, each guardianship program operating in a county shall submit to the county clerk a copy of the report submitted to the guardianship certification program of the Judicial Branch Certification Commission under Section 155.105, 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. 2.13, eff. September 1, 2014.

Sec. 1104.258. INFORMATION REGARDING CERTAIN STATE EMPLOYEES PROVIDING GUARDIANSHIP SERVICES. Not later than January 31 of each year, the Department of Aging and Disability Services shall submit to the guardianship certification program of the Judicial Branch Certification Commission a statement containing:

(1) the name, address, and telephone number of each department employee who is or will be providing guardianship services to a ward or proposed ward on the department's behalf; and

(2) the name of each county in which each employee named in Subdivision (1) is providing or is authorized to provide those services.

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. 2.14, eff. September 1, 2014.

SUBCHAPTER G. PRIVATE PROFESSIONAL GUARDIANS

Sec. 1104.301. CERTIFICATION AND REGISTRATION REQUIRED. A court may not appoint a private professional guardian to serve as a guardian or permit a private professional guardian to continue to serve as a guardian under this title if the private professional guardian is not:

- (1) certified as provided by Section 1104.251(a), 1104.252, 1104.255, or 1104.256; or
- (2) in compliance with the registration requirements of this subchapter.

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

Sec. 1104.302. ANNUAL CERTIFICATE OF REGISTRATION. A private professional guardian must annually apply for a certificate of registration.

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

Sec. 1104.303. REQUIREMENTS OF APPLICATION. (a) An application for a certificate of registration must include a sworn statement containing the following information concerning a private professional guardian or each person who represents or plans to represent the interests of a ward as a guardian on behalf of the private professional guardian:

- (1) place of residence;
- (2) business address and business telephone number;
- (3) educational background and professional experience;
- (4) three or more professional references;
- (5) the name of each ward for whom the private professional guardian or person is or will be serving as a guardian;
- (6) the aggregate fair market value of the property of

all wards that is or will be managed by the private professional guardian or person;

(7) whether the private professional guardian or person has ever been removed as a guardian by the court or resigned as a guardian in a particular case, and, if so:

(A) a description of the circumstances causing the removal or resignation; and

(B) the style of the suit, the docket number, and the court having jurisdiction over the proceeding; and

(8) the certification number or provisional certification number issued to the private professional guardian or person by the guardianship certification program of the Judicial Branch Certification Commission.

(b) The application must be:

(1) made to the clerk of the county having venue of the proceeding for the appointment of a guardian; and

(2) accompanied by a nonrefundable fee of \$40 to cover the cost of administering this subchapter.

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. 2.15, eff. September 1, 2014.

Acts 2013, 83rd Leg., R.S., Ch. 982 (H.B. 2080), Sec. 13, eff. January 1, 2014.

Sec. 1104.304. TERM OF REGISTRATION; RENEWAL. (a) The term of an initial registration begins on the date the requirements under Section 1104.303 are met and extends through December 31 of the year in which the application is made. After the term of the initial registration, the term of registration begins on January 1 and extends through December 31 of each year.

(b) An application to renew a registration must be completed during December of the year preceding the year for which the renewal is requested.

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

Sec. 1104.305. USE OF REGISTRATION INFORMATION. (a) The clerk shall bring the information received under Section [1104.303](#) to the judge's attention for review.

(b) The judge shall use the information only to determine whether to appoint, remove, or continue the appointment of a private professional guardian.

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

Sec. 1104.306. USE OF NAMES AND BUSINESS ADDRESSES. Not later than January 31 of each year, the clerk shall submit to the guardianship certification program of the Judicial Branch Certification Commission the name and business address of each private professional guardian who has satisfied the registration requirements of this subchapter during the preceding year.

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. 2.16, eff. September 1, 2014.

SUBCHAPTER H. GROUNDS FOR DISQUALIFICATION

Sec. 1104.351. INCAPACITY OR INEXPERIENCE. A person may not be appointed guardian if the person is:

- (1) a minor or other incapacitated person; or
- (2) a person who, because of inexperience, lack of education, or other good reason, is incapable of properly and prudently managing and controlling the person or estate of the ward.

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

Sec. 1104.352. UNSUITABILITY. A person may not be appointed guardian if the person is a person, institution, or corporation found by the court to be unsuitable.

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. 6.039, eff. January 1, 2014.

Sec. 1104.353. NOTORIOUSLY BAD CONDUCT; PRESUMPTION CONCERNING BEST INTEREST. (a) A person may not be appointed guardian if the person's conduct is notoriously bad.

(b) It is presumed to be not in the best interests of a ward or incapacitated person to appoint as guardian of the ward or incapacitated person a person who has been finally convicted of:

- (1) any sexual offense, including sexual assault, aggravated sexual assault, and prohibited sexual conduct;
- (2) aggravated assault;
- (3) injury to a child, elderly individual, or disabled individual;
- (4) abandoning or endangering a child;
- (5) terroristic threat; or
- (6) continuous violence against the family of the ward or incapacitated person.

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. 14, eff. January 1, 2014.

Sec. 1104.354. CONFLICT OF INTEREST. A person may not be appointed guardian if the person:

(1) is a party or is a person whose parent is a party to a lawsuit concerning or affecting the welfare of the proposed ward, unless the court:

(A) determines that the lawsuit claim of the person who has applied to be appointed guardian is not in conflict with the lawsuit claim of the proposed ward; or

(B) appoints a guardian ad litem to represent the interests of the proposed ward throughout the litigation of the

ward's lawsuit claim;

(2) is indebted to the proposed ward, unless the person pays the debt before appointment; or

(3) asserts a claim adverse to the proposed ward or the proposed ward's property.

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

Sec. 1104.355. DISQUALIFIED IN DECLARATION. A person may not be appointed guardian if the person is disqualified in a declaration under Section 1104.202(b).

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

Sec. 1104.356. LACK OF CERTAIN REQUIRED CERTIFICATION. A person may not be appointed guardian if the person does not have the certification to serve as guardian that is required by Subchapter F.

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

Sec. 1104.357. NONRESIDENT WITHOUT RESIDENT AGENT. A person may not be appointed guardian if the person is a nonresident who has failed to file with the court the name of a resident agent to accept service of process in all actions or proceedings relating to the guardianship.

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

Sec. 1104.358. SUBJECT TO PROTECTIVE ORDER FOR FAMILY VIOLENCE. A person found to have committed family violence who is subject to a protective order issued under Chapter 85, Family Code, may not be appointed guardian of a proposed ward or ward who is protected by the protective order.

Added by Acts 2013, 83rd Leg., R.S., Ch. 982 (H.B. 2080), Sec. 15, eff. January 1, 2014.

Sec. 1104.359. EFFECT OF LACK OF REQUIRED REGISTRATION.

(a) A guardianship program may not be appointed guardian:

(1) if the program is not registered as required under Subchapter F, Chapter 155, Government Code;

(2) if a registration certificate issued to the program under Subchapter F, Chapter 155, Government Code, is expired or refused renewal, or has been revoked and not been reissued; or

(3) during the time a registration certificate issued to the program under Subchapter F, Chapter 155, Government Code, is suspended.

(b) This section does not prevent the appointment, on the individual's own behalf, of an individual who is employed by or contracts with a guardianship program to provide guardianship and related services independently of the program.

Added by Acts 2017, 85th Leg., R.S., Ch. 715 (S.B. 36), Sec. 1, eff. September 1, 2017.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 21.002(5), eff. September 1, 2019.

SUBCHAPTER I. ACCESS TO CRIMINAL HISTORY RECORDS

Sec. 1104.401. DEFINITION. In this subchapter, "department" means the Department of Aging and Disability Services. Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Sec. 1104.402. COURT CLERK'S DUTY TO OBTAIN CRIMINAL HISTORY RECORD INFORMATION; AUTHORITY TO CHARGE FEE. (a) Except as provided by Section 1104.403, 1104.404, or 1104.406(a), the clerk of the county having venue of the proceeding for the appointment of a guardian shall obtain criminal history record information that is maintained by the Department of Public Safety or the Federal Bureau of Investigation identification division relating to:

(1) a private professional guardian;

(2) each person who represents or plans to represent the interests of a ward as a guardian on behalf of the private professional guardian;

(3) each person employed by a private professional guardian who will:

(A) have personal contact with a ward or proposed ward;

(B) exercise control over and manage a ward's estate; or

(C) perform any duties with respect to the management of a ward's estate;

(4) each person employed by or volunteering or contracting with a guardianship program to provide guardianship services to a ward of the program on the program's behalf; or

(5) any other person proposed to serve as a guardian under this title, including a proposed temporary guardian and a proposed successor guardian, other than an attorney.

(b) The clerk may charge a \$10 fee to recover the costs of obtaining criminal history record information under Subsection (a).

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1031 (H.B. [1438](#)), Sec. 16, eff. September 1, 2015.

Sec. 1104.403. SUBMISSION OF CRIMINAL HISTORY RECORD INFORMATION BY PROPOSED GUARDIAN. Not later than the 10th day before the date of the hearing to appoint a guardian, a person may submit to the clerk a copy of the person's criminal history record information required under Section [1104.402](#)(a)(5) that the person obtains not earlier than the 30th day before the date of the hearing from:

(1) the Department of Public Safety; or

(2) the Federal Bureau of Investigation.

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

Sec. 1104.404. EXCEPTION FOR INFORMATION CONCERNING CERTAIN PERSONS. (a) The clerk described by Section 1104.402 is not required to obtain criminal history record information for a person if the Judicial Branch Certification Commission conducted a criminal history check on the person under Chapter 155, Government Code.

(b) The board shall provide to the clerk at the court's request the criminal history record information that was obtained from the Department of Public Safety or the Federal Bureau of Investigation.

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. 2.17, eff. September 1, 2014.

Acts 2017, 85th Leg., R.S., Ch. 313 (S.B. 1096), Sec. 4, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 313 (S.B. 1096), Sec. 5, eff. September 1, 2017.

Sec. 1104.405. INFORMATION FOR EXCLUSIVE USE OF COURT. (a) Criminal history record information obtained or provided under Section 1104.402, 1104.403, or 1104.404 is privileged and confidential and is for the exclusive use of the court. The criminal history record information may not be released or otherwise disclosed to any person or agency except on court order or consent of the person being investigated.

(b) The county clerk may destroy the criminal history record information after the information is used for the purposes authorized by this subchapter.

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

Sec. 1104.406. DEPARTMENT'S DUTY TO OBTAIN CRIMINAL HISTORY RECORD INFORMATION. (a) The department shall obtain criminal history record information that is maintained by the Department of

Public Safety or the Federal Bureau of Investigation identification division relating to each individual who is or will be providing guardianship services to a ward of or referred by the department, including:

(1) an employee of or an applicant selected for an employment position with the department;

(2) a volunteer or an applicant selected to volunteer with the department;

(3) an employee of or an applicant selected for an employment position with a business entity or other person who contracts with the department to provide guardianship services to a ward referred by the department;

(4) a volunteer or an applicant selected to volunteer with a business entity or other person described by Subdivision (3); and

(5) a contractor or an employee of a contractor who provides services to a ward of the Department of Aging and Disability Services under a contract with the estate of the ward.

(b) The department must obtain the information in Subsection (a) before:

(1) making an offer of employment to an applicant for an employment position; or

(2) a volunteer contacts a ward of or referred by the department.

(c) The department must annually obtain the information in Subsection (a) regarding employees, contractors, or volunteers providing guardianship services.

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 6.025, eff. April 2, 2015.

Sec. 1104.407. DUTY TO PROVIDE INFORMATION ON REQUEST. The department shall provide the information obtained under Section [1104.406](#)(a) to:

(1) the clerk of the county having venue of the

guardianship proceeding at the court's request; and

(2) the guardianship certification program of the Judicial Branch Certification Commission at the commission's request.

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. 2.18, eff. September 1, 2014.

Sec. 1104.408. INFORMATION FOR EXCLUSIVE USE OF COURT OR GUARDIANSHIP CERTIFICATION PROGRAM OF JUDICIAL BRANCH CERTIFICATION COMMISSION. (a) Criminal history record information obtained under Section 1104.407 is privileged and confidential and is for the exclusive use of the court or guardianship certification program of the Judicial Branch Certification Commission, as appropriate. The information may not be released or otherwise disclosed to any person or agency except:

- (1) on court order;
- (2) with the consent of the person being investigated;

or

(3) as authorized by Section 1104.404 of this code or Section 411.1386(a-6), Government Code.

(b) The county clerk or guardianship certification program of the Judicial Branch Certification Commission may destroy the criminal history record information after the information is used for the purposes authorized by this subchapter.

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. 2.19, eff. September 1, 2014.

Sec. 1104.409. USE OF INFORMATION BY COURT. The court shall use the information obtained under this subchapter only in determining whether to:

- (1) appoint, remove, or continue the appointment of a

private professional guardian, a guardianship program, or the department; or

(2) appoint any other person proposed to serve as a guardian under this title, including a proposed temporary guardian and a proposed successor guardian, other than an attorney.

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1031 (H.B. 1438), Sec. 17, eff. September 1, 2015.

Sec. 1104.410. USE OF INFORMATION BY GUARDIANSHIP CERTIFICATION PROGRAM OF JUDICIAL BRANCH CERTIFICATION COMMISSION. Criminal history record information obtained by the guardianship certification program of the Judicial Branch Certification Commission under Section 1104.407(2) may be used for any purpose related to the issuance, denial, renewal, suspension, or revocation of a certificate issued by the commission.

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. 2.20, eff. September 1, 2014.

Sec. 1104.411. CRIMINAL OFFENSE FOR UNAUTHORIZED RELEASE OR DISCLOSURE. (a) A person commits an offense if the person releases or discloses any information received under this subchapter without the authorization prescribed by Section 1104.405 or 1104.408.

(b) An offense under this section is a Class A misdemeanor.
Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Sec. 1104.412. EFFECT OF SUBCHAPTER ON DEPARTMENT'S AUTHORITY TO OBTAIN OR USE INFORMATION. This subchapter does not prohibit the department from obtaining and using criminal history record information as provided by other law.

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

eff. January 1, 2014.