

ESTATES CODE

TITLE 3. GUARDIANSHIP AND RELATED PROCEDURES

SUBTITLE E. ADMINISTRATION OF GUARDIANSHIP

CHAPTER 1155. COMPENSATION, EXPENSES, AND COURT COSTS

SUBCHAPTER A. COMPENSATION OF GUARDIANS IN GENERAL

Sec. 1155.001. DEFINITIONS. In this subchapter:

(1) "Gross income" does not include United States Department of Veterans Affairs or social security benefits received by a ward.

(2) "Money paid out" does not include any money loaned, invested, or paid over on the settlement of a guardianship or a tax-motivated gift made by a ward.

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

Sec. 1155.002. COMPENSATION FOR CERTAIN GUARDIANS OF THE PERSON. (a) The court may authorize compensation for a guardian serving as a guardian of the person alone from available funds of the ward's estate or other funds available for that purpose. The court may set the compensation in an amount not to exceed the greater of \$3,000 per year or five percent of the ward's gross income.

(b) If the ward's estate is insufficient to pay for the services of a private professional guardian or a licensed attorney serving as a guardian of the person, the court may authorize compensation for that guardian if funds in the county treasury are budgeted for that purpose.

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. 207 (S.B. [1457](#)), Sec. 18, eff. September 1, 2023.

Sec. 1155.003. COMPENSATION FOR GUARDIAN OF THE ESTATE.

(a) The guardian of an estate is entitled to reasonable

compensation on application to the court at the time the court approves an annual or final accounting filed by the guardian under this title.

(b) A fee of five percent of the gross income of the ward's estate and five percent of all money paid out of the estate, subject to the award of an additional amount under Section 1155.006(a) following a review under Section 1155.006(a)(1), is considered reasonable under this section if the court finds that the guardian has taken care of and managed the estate in compliance with the standards of this title.

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

Sec. 1155.004. CONSIDERATIONS IN AUTHORIZING COMPENSATION. In determining whether to authorize compensation for a guardian under this subchapter, the court shall consider:

- (1) the ward's monthly income from all sources; and
- (2) whether the ward receives medical assistance under the state Medicaid program.

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

Sec. 1155.005. MAXIMUM AGGREGATE COMPENSATION. Except as provided by Section 1155.006(a) for a fee the court determines is unreasonably low, the aggregate fee of the guardian of the person and guardian of the estate may not exceed an amount equal to five percent of the gross income of the ward's estate plus five percent of all money paid out of the estate.

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

Sec. 1155.006. MODIFICATION OF UNREASONABLY LOW COMPENSATION; AUTHORIZATION FOR PAYMENT OF ESTIMATED QUARTERLY COMPENSATION. (a) On application of an interested person or on the court's own motion, the court may:

- (1) review and modify the amount of compensation authorized under Section 1155.002(a) or 1155.003 if the court finds

that the amount is unreasonably low when considering the services provided as guardian; and

(2) authorize compensation for the guardian in an estimated amount the court finds reasonable, to be paid on a quarterly basis before the guardian files an annual or final accounting, if the court finds that delaying the payment of compensation until the guardian files an accounting would create a hardship for the guardian.

(b) A finding of unreasonably low compensation may not be established under Subsection (a) solely because the amount of compensation is less than the usual and customary charges of the person or entity serving as guardian.

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

Sec. 1155.007. REDUCTION OR ELIMINATION OF ESTIMATED QUARTERLY COMPENSATION. (a) A court that authorizes payment of estimated quarterly compensation under Section [1155.006](#)(a) may later reduce or eliminate the guardian's compensation if, on review of an annual or final accounting or otherwise, the court finds that the guardian:

(1) received compensation in excess of the amount permitted under this subchapter;

(2) has not adequately performed the duties required of a guardian under this title; or

(3) has been removed for cause.

(b) If a court reduces or eliminates a guardian's compensation as provided by Subsection (a), the guardian and the surety on the guardian's bond are liable to the guardianship estate for any excess compensation received.

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

Sec. 1155.008. DENIAL OF COMPENSATION. On application of an interested person or on the court's own motion, the court may wholly or partly deny a fee authorized under this subchapter if:

(1) the court finds that the guardian has not

adequately performed the duties required of a guardian under this title; or

(2) the guardian has been removed for cause.

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

SUBCHAPTER B. COMPENSATION FOR PROFESSIONAL SERVICES

Sec. 1155.052. ATTORNEY SERVING AS GUARDIAN AND PROVIDING RELATED LEGAL SERVICES. (a) Notwithstanding any other provision of this chapter, an attorney who serves as guardian and who also provides legal services in connection with the guardianship is not entitled to compensation for the guardianship services or payment of attorney's fees for the legal services from the ward's estate or other funds available for that purpose unless the attorney files with the court a detailed description of the services performed that identifies which of the services provided were guardianship services and which were legal services.

(b) An attorney described by Subsection (a) is not entitled to payment of attorney's fees for guardianship services that are not legal services.

(c) The court shall set the compensation of an attorney described by Subsection (a) for the performance of guardianship services in accordance with Subchapter A. The court shall set attorney's fees for an attorney described by Subsection (a) for legal services provided in accordance with Sections [1155.054](#), [1155.101](#), and [1155.151](#).

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. 17, eff. January 1, 2014.

Sec. 1155.053. COMPENSATION FOR SERVICES TO RECOVER PROPERTY. (a) Subject only to the approval of the court in which the estate is being administered and except as provided by Subsection (b), a guardian of an estate may convey or contract to

convey a contingent interest in any property sought to be recovered, not to exceed one-third of the property for services of attorneys.

(b) A guardian of an estate may convey or contract to convey for services of attorneys a contingent interest that exceeds one-third of the property sought to be recovered under this section only on the approval of the court in which the estate is being administered. The court must approve a contract entered into or conveyance made under this section before an attorney performs any legal services. A contract entered into or conveyance made in violation of this section is void unless the court ratifies or reforms the contract or documents relating to the conveyance to the extent necessary to cause the contract or conveyance to meet the requirements of this section.

(c) In approving a contract or conveyance under Subsection (a) or (b) for services of an attorney, the court shall consider:

(1) the time and labor that will be required, the novelty and difficulty of the questions to be involved, and the skill that will be required to perform the legal services properly;

(2) the fee customarily charged in the locality for similar legal services;

(3) the value of property recovered or sought to be recovered by the guardian under this section;

(4) the benefits to the estate that the attorney will be responsible for securing; and

(5) the experience and ability of the attorney who will be performing the services.

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

Sec. 1155.054. PAYMENT OF ATTORNEY'S FEES TO CERTAIN ATTORNEYS. (a) A court that creates a guardianship or creates a management trust under Chapter [1301](#) for a ward, on request of a person who filed an application to be appointed guardian of the proposed ward, an application for the appointment of another suitable person as guardian of the proposed ward, or an application for the creation of the management trust, may authorize the payment

of reasonable and necessary attorney's fees, as determined by the court, in amounts the court considers equitable and just, to an attorney who represents the person who filed the application at the application hearing, regardless of whether the person is appointed the ward's guardian or whether a management trust is created, from available funds of the ward's estate or management trust, if created, subject to Subsections (b) and (d).

(b) The court may authorize amounts that otherwise would be paid from the ward's estate or the management trust as provided by Subsection (a) to instead be paid from the county treasury, subject to Subsection (e), if:

(1) the ward's estate or management trust is insufficient to pay the amounts; and

(2) funds in the county treasury are budgeted for that purpose.

(c) The court may not authorize attorney's fees under this section unless the court finds that the applicant acted in good faith and for just cause in the filing and prosecution of the application.

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

(e) The court may authorize the payment of attorney's fees from the county treasury under Subsection (b) only if the court is satisfied that the attorney to whom the fees will be paid has not received, and is not seeking, payment for the services described by that subsection from any other source.

Added by Acts 1995, 74th Leg., R.S., Ch. 1039 (H.B. [2029](#)), Sec. 28, eff. Sept. 1, 1995.

Amended by Acts 1999, 76th Leg., Ch. 905 (H.B. [2165](#)), Sec. 2, eff. Sept. 1, 1999.

Amended by Acts 2003, 78th Leg., Ch. 549 (H.B. [1470](#)), Sec. 10, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 314 (H.B. [587](#)), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 930 (H.B. [3080](#)), Sec. 2, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 930 (H.B. [3080](#)), Sec. 3, eff. September 1, 2009.

Reenacted, transferred, redesignated and amended by Acts 2013, 83rd Leg., R.S., Ch. 982 (H.B. [2080](#)), Sec. 18, eff. January 1, 2014.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 521 (S.B. [626](#)), Sec. 34, eff. September 1, 2021.

SUBCHAPTER C. EXPENSES

Sec. 1155.101. REIMBURSEMENT OF EXPENSES IN GENERAL. A guardian is entitled to reimbursement from the guardianship estate for all necessary and reasonable expenses incurred in performing any duty as a guardian, including reimbursement for the payment of reasonable attorney's fees necessarily incurred by the guardian in connection with the management of the estate or any other matter in the guardianship.

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. 6.043, eff. January 1, 2014.

Sec. 1155.102. REIMBURSEMENT OF EXPENSES FOR COLLECTION OF CLAIM OR DEBT. On satisfactory proof to the court, a guardian of an estate is entitled to all necessary and reasonable expenses incurred by the guardian in collecting or attempting to collect a claim or debt owed to the estate or in recovering or attempting to recover property to which the estate has title or a claim.

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

Sec. 1155.103. EXPENSE CHARGES: REQUIREMENTS. All expense charges shall be:

(1) in writing, showing specifically each item of expense and the date of the expense;

(2) verified by affidavit of the guardian;

(3) filed with the clerk; and

(4) paid only if the payment is authorized by court order.

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

SUBCHAPTER D. COSTS IN GENERAL

Sec. 1155.151. COSTS IN GUARDIANSHIP PROCEEDING GENERALLY.

(a) In a guardianship proceeding, the court costs of the proceeding, including the costs described by Subsection (a-1), shall, except as provided by Subsection (c), be paid as follows, and the court shall issue the judgment accordingly:

(1) out of the guardianship estate;

(2) out of the management trust, if a management trust has been created for the benefit of the ward under Chapter [1301](#) and the court determines it is in the ward's best interest;

(3) by the party to the proceeding who incurred the costs, unless that party filed, on the party's own behalf, an affidavit of inability to pay the costs under Rule 145, Texas Rules of Civil Procedure, that shows the party is unable to afford the costs, if:

(A) there is no guardianship estate or no management trust has been created for the ward's benefit; or

(B) the assets of the guardianship estate or management trust, as appropriate, are insufficient to pay the costs; or

(4) out of the county treasury if:

(A) there is no guardianship estate or management trust or the assets of the guardianship estate or management trust, as appropriate, are insufficient to pay the costs; and

(B) the party to the proceeding who incurred the

costs filed, on the party's own behalf, an affidavit of inability to pay the costs under Rule 145, Texas Rules of Civil Procedure, that shows the party is unable to afford the costs.

(a-1) In a guardianship proceeding, the cost of any guardians ad litem, attorneys ad litem, court visitors, mental health professionals, and interpreters appointed under this title shall be set in an amount the court considers equitable and just.

(a-2) Notwithstanding any other law requiring the payment of court costs in a guardianship proceeding, the following are not required to pay court costs on the filing of or during a guardianship proceeding:

- (1) an attorney ad litem;
- (2) a guardian ad litem;
- (3) a person or entity who files an affidavit of inability to pay the costs under Rule 145, Texas Rules of Civil Procedure, that shows the person or entity is unable to afford the costs;
- (4) a nonprofit guardianship program;
- (5) a governmental entity; and
- (6) a government agency or nonprofit agency providing guardianship services.

(a-3) For purposes of Subsections (a) and (a-2), a person or entity who files an affidavit of inability to pay the costs under Rule 145, Texas Rules of Civil Procedure, is unable to afford the costs if the affidavit shows that the person or entity:

(1) is currently receiving assistance or other benefits from a government program under which assistance or other benefits are provided to individuals on a means-tested basis;

(2) is eligible for and currently receiving free legal services in the guardianship proceeding through the following:

(A) a legal services provider funded partly by the Texas Access to Justice Foundation;

(B) a legal services provider funded partly by the Legal Services Corporation; or

(C) a nonprofit corporation formed under the laws of this state that provides legal services to low-income individuals whose household income is at or below 200 percent of the

federal poverty guidelines as determined by the United States Department of Health and Human Services;

(3) applied and was eligible for free legal services through a person or entity listed in Subdivision (2) but was declined representation; or

(4) has a household income that is at or below 200 percent of the federal poverty guidelines as determined by the United States Department of Health and Human Services and has money or other available assets, excluding any homestead and exempt property under Chapter 42, Property Code, in an amount that does not exceed \$2,000.

(a-4) If an affidavit of inability to pay costs filed under Rule 145, Texas Rules of Civil Procedure, is contested, the court, at a hearing, shall review the contents of and attachments to the affidavit and any other evidence offered at the hearing and make a determination as to whether the person or entity is unable to afford the costs. If the court finds that the person or entity is able to afford the costs, the person or entity must pay the court costs. Except with leave of court, no further action in the guardianship proceeding may be taken by a person or entity found able to afford costs until payment of those costs is made.

(b) The costs attributable to the services of a person described by Subsection (a-1) shall be paid under this section at any time after the commencement of the proceeding as ordered by the court.

(c) If the court finds that a party in a guardianship proceeding acted in bad faith or without just cause in prosecuting or objecting to an application in the proceeding, the court may order the party to pay all or part of the costs of the proceeding. If the party found to be acting in bad faith or without just cause was required to provide security for the probable costs of the proceeding under Section 1053.052, the court shall first apply the amount provided as security as payment for costs ordered by the court under this subsection. If the amount provided as security is insufficient to pay the entire amount ordered by the court, the court shall render judgment in favor of the estate against the party for the remaining amount.

(d) If a guardianship of the estate or management trust under Chapter 1301 is created, a person or entity who paid any costs on the filing of or during the proceeding is entitled to be reimbursed out of assets of the guardianship estate or management trust, as appropriate, for the costs if:

(1) the assets of the estate or trust, as appropriate, are sufficient to cover the reimbursement of the costs; and

(2) the person or entity has not been ordered by the court to pay the costs as all or part of the payment of court costs under Subsection (c).

(e) If at any time after a guardianship of the estate or management trust under Chapter 1301 is created there are sufficient assets of the estate or trust, as appropriate, to pay the amount of any of the costs exempt from payment under Subsection (a-2), the court shall require the guardian to pay out of the guardianship estate or management trust, as appropriate, to the court clerk for deposit in the county treasury the amount of any of those costs.

(f) To the extent that this section conflicts with the Texas Rules of Civil Procedure or other rules, this section controls.

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. 19, eff. January 1, 2014.

Acts 2015, 84th Leg., R.S., Ch. 1031 (H.B. 1438), Sec. 18, eff. September 1, 2015.

Sec. 1155.152. CERTAIN COSTS ADJUDGED AGAINST GUARDIAN. If costs are incurred because a guardian neglects to perform a required duty or is removed for cause, the guardian and the sureties on the guardian's bond are liable for:

(1) any costs of removal and other additional costs incurred that are not expenditures authorized under this title; and

(2) reasonable attorney's fees incurred in:

(A) removing the guardian; or

(B) obtaining compliance regarding any statutory duty the guardian has neglected.

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

SUBCHAPTER E. COMPENSATION AND COSTS IN GUARDIANSHIPS FOR CERTAIN
MEDICAL ASSISTANCE RECIPIENTS

Sec. 1155.201. DEFINITIONS. In this subchapter:

(1) "Applied income" means the portion of the earned and unearned income of a recipient of medical assistance, or if applicable the recipient and the recipient's spouse, that is paid under the medical assistance program to an institution or long-term care facility in which the recipient resides.

(2) "Medical assistance" has the meaning assigned by Section [32.003](#), Human Resources 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. 161 (S.B. [1093](#)), Sec. 6.046, eff. January 1, 2014.

Sec. 1155.202. COMPENSATION AND COSTS PAYABLE UNDER MEDICAL ASSISTANCE PROGRAM. (a) Notwithstanding any other provision of this title and to the extent permitted by federal law, a court that appoints a guardian for a recipient of medical assistance who has applied income may order the following to be deducted as an additional personal needs allowance in the computation of the recipient's applied income in accordance with Section [32.02451](#), Human Resources Code:

(1) compensation to the guardian in an amount not to exceed \$250 per month;

(2) costs directly related to establishing or terminating the guardianship, not to exceed \$1,000 except as provided by Subsection (b); and

(3) other administrative costs related to the guardianship, not to exceed \$1,000 during any three-year period.

(b) Costs ordered to be deducted under Subsection (a)(2) may include compensation and expenses for an attorney ad litem or

guardian ad litem and reasonable attorney's fees for an attorney representing the guardian. The costs ordered to be paid may exceed \$1,000 if the costs in excess of that amount are supported by documentation acceptable to the court and the costs are approved by the court.

(c) A court may not order:

(1) that the deduction for compensation and costs under Subsection (a) take effect before the later of:

(A) the month in which the court order issued under that subsection is signed; or

(B) the first month of medical assistance eligibility for which the recipient is subject to a copayment; or

(2) a deduction for services provided before the effective date of the deduction as provided by Subdivision (1).

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. 6.047, eff. January 1, 2014.

Acts 2019, 86th Leg., R.S., Ch. 404 (S.B. [1784](#)), Sec. 1, eff. June 2, 2019.