

ESTATES CODE

TITLE 3. GUARDIANSHIP AND RELATED PROCEDURES

SUBTITLE G. SPECIAL TYPES OF GUARDIANSHIPS

CHAPTER 1253. INTERSTATE GUARDIANSHIPS

SUBCHAPTER A. TRANSFER OF GUARDIANSHIP TO FOREIGN JURISDICTION

Sec. 1253.001. APPLICATION TO TRANSFER GUARDIANSHIP TO FOREIGN JURISDICTION. On application of the guardian or on the court's own motion, a court that has jurisdiction over the guardianship may transfer the guardianship to a court in a foreign jurisdiction to which the ward has permanently moved.

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

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 521 (S.B. 626), Sec. 59, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 576 (S.B. 615), Sec. 25, eff. September 1, 2021.

Sec. 1253.002. NOTICE OF APPLICATION. Notice of an application to transfer a guardianship under this subchapter shall be:

- (1) served personally on the ward; and
- (2) given to the foreign court to which the guardianship is to be transferred.

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

Sec. 1253.003. DETERMINATION REGARDING TRANSFER OF GUARDIANSHIP. (a) On the court's own motion or on the motion of the ward or any interested person, the court shall hold a hearing to consider an application to transfer a guardianship under this subchapter.

(b) The court shall transfer a guardianship to a foreign court if the court determines the transfer is in the best interests of the ward. The transfer of the guardianship must be made

contingent on the acceptance of the guardianship in the foreign jurisdiction.

(c) The court shall coordinate efforts with the appropriate foreign court to facilitate the orderly transfer of the guardianship.

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

#### SUBCHAPTER B. RECEIPT AND ACCEPTANCE OF FOREIGN GUARDIANSHIP

Sec. 1253.051. APPLICATION FOR RECEIPT AND ACCEPTANCE OF FOREIGN GUARDIANSHIP. A guardian appointed by a foreign court to represent an incapacitated person who is residing in this state or intends to move to this state may file an application with a court in the county in which the ward resides or in which it is intended that the ward will reside to have the guardianship transferred to that court. The application must have attached a certified copy of all papers of the guardianship filed and recorded in the foreign court.

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

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 66A.02, eff. January 1, 2014.

Acts 2015, 84th Leg., R.S., Ch. 1031 (H.B. 1438), Sec. 24, eff. September 1, 2015.

Sec. 1253.0515. CERTIFICATION OR TRAINING OF GUARDIAN.  
(a) A guardian filing an application under this subchapter must comply with Subchapter C or D, Chapter 155, Government Code, as applicable.

(b) A court may not grant an application filed under this subchapter unless the guardian complies with Subsection (a).

Added by Acts 2017, 85th Leg., R.S., Ch. 313 (S.B. 1096), Sec. 6, eff. September 1, 2017.

Sec. 1253.052. NOTICE OF APPLICATION. Notice of an

application for receipt and acceptance of a foreign guardianship under this subchapter shall be:

(1) served personally on the ward; and

(2) given to the foreign court from which the guardianship is to be transferred.

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

Sec. 1253.053. DETERMINATION REGARDING RECEIPT AND ACCEPTANCE OF FOREIGN GUARDIANSHIP. (a) The court shall hold a hearing to:

(1) consider an application for receipt and acceptance of a foreign guardianship under this subchapter; and

(2) consider modifying the administrative procedures or requirements of the proposed transferred guardianship in accordance with local and state law.

(b) In reviewing the application, the court should determine:

(1) that the proposed guardianship is not a collateral attack on an existing or proposed guardianship in another jurisdiction in this or another state; and

(2) for a guardianship in which a court in one or more states may have jurisdiction, that the application has been filed in the court that is best suited to consider the matter.

(c) The court shall grant the application if the transfer of the guardianship from the foreign jurisdiction is in the best interests of the ward.

(d) In granting the application, the court shall give full faith and credit to the provisions of the foreign guardianship order concerning the determination of the ward's incapacity and the rights, powers, and duties of the guardian.

(e) The court shall coordinate efforts with the appropriate foreign court to facilitate the orderly transfer of the guardianship.

(f) At the time of granting an application for receipt and acceptance of a foreign guardianship, the court may also modify the administrative procedures or requirements of the transferred

guardianship in accordance with local and state law.

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

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 66A.03, eff. January 1, 2014.

Sec. 1253.055. GUARDIANSHIP TRANSFER PROCEEDINGS FILED IN TWO OR MORE COURTS. If an application for receipt and acceptance of a foreign guardianship under this subchapter is filed in two or more courts with jurisdiction, the proceeding shall be heard in the court with jurisdiction over the application filed on the earliest date, if venue is otherwise proper in that court. A court that does not have venue to hear the application shall transfer the proceeding to the proper court.

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

Sec. 1253.056. CONSTRUCTION WITH OTHER LAW. The denial of an application for receipt and acceptance of a guardianship under this subchapter does not affect the right of a guardian appointed by a foreign court to file an application to be appointed guardian of the incapacitated person under Section 1101.001.

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

SUBCHAPTER C. GUARDIANSHIP PROCEEDINGS FILED IN THIS STATE AND IN FOREIGN JURISDICTION

Sec. 1253.101. DELAY OF CERTAIN GUARDIANSHIP PROCEEDINGS. A court in which a guardianship proceeding is filed and in which venue of the proceeding is proper may delay further action in the proceeding in that court if:

(1) another guardianship proceeding involving a matter at issue in the proceeding filed in the court is subsequently filed in a court in a foreign jurisdiction; and

(2) venue of the proceeding in the foreign court is

proper.

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

Sec. 1253.102. DETERMINATION OF VENUE; ACTION FOLLOWING DETERMINATION. (a) A court that delays further action in a guardianship proceeding under Section 1253.101 shall determine whether venue of the proceeding is more suitable in that court or in the foreign court.

(b) In making a determination under Subsection (a), the court may consider:

- (1) the interests of justice;
- (2) the best interests of the ward or proposed ward;
- (3) the convenience of the parties; and
- (4) the preference of the ward or proposed ward, if the ward or proposed ward is 12 years of age or older.

(c) The court shall resume the guardianship proceeding delayed under Section 1253.101 if the court determines under this section that venue is more suitable in that court. If the court determines that venue is more suitable in the foreign court, the court shall, with the consent of the foreign court, transfer the proceeding to that foreign court.

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

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 66A.04, eff. January 1, 2014.

Sec. 1253.103. NECESSARY ORDERS. A court that delays further action in a guardianship proceeding under Section 1253.101 may issue any order the court considers necessary to protect the proposed ward or the proposed ward's estate.

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

SUBCHAPTER D. DETERMINATION OF MOST APPROPRIATE FORUM FOR CERTAIN  
GUARDIANSHIP PROCEEDINGS

Sec. 1253.151. DETERMINATION OF ACQUISITION OF JURISDICTION IN THIS STATE DUE TO UNJUSTIFIABLE CONDUCT. If at any time a court of this state determines that it acquired jurisdiction of a proceeding for the appointment of a guardian of the person or estate, or both, of a ward or proposed ward because of unjustifiable conduct, the court may:

(1) decline to exercise jurisdiction;

(2) exercise jurisdiction for the limited purpose of fashioning an appropriate remedy to ensure the health, safety, and welfare of the ward or proposed ward or the protection of the ward's or proposed ward's property or prevent a repetition of the unjustifiable conduct, including staying the proceeding until a petition for the appointment of a guardian or issuance of a protective order is filed in a court of another state having jurisdiction; or

(3) continue to exercise jurisdiction after considering:

(A) the extent to which the ward or proposed ward and all persons required to be notified of the proceedings have acquiesced in the exercise of the court's jurisdiction;

(B) whether the court of this state is a more appropriate forum than the court of any other state after considering the factors described by Section [1253.102\(b\)](#); and

(C) whether the court of any other state would have jurisdiction under the factual circumstances of the matter.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 66A.05, eff. January 1, 2014.

Sec. 1253.152. ASSESSMENT OF EXPENSES AGAINST PARTY.

(a) If a court of this state determines that it acquired jurisdiction of a proceeding for the appointment of a guardian of the person or estate, or both, of a ward or proposed ward because a party seeking to invoke the court's jurisdiction engaged in unjustifiable conduct, the court may assess against that party

necessary and reasonable expenses, including attorney's fees, investigative fees, court costs, communication expenses, witness fees and expenses, and travel expenses.

(b) The court may not assess fees, costs, or expenses of any kind against this state or a governmental subdivision, agency, or instrumentality of this state unless authorized by other law.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 66A.05, eff. January 1, 2014.