

PROPERTY CODE

TITLE 10. MISCELLANEOUS BENEFICIAL PROPERTY INTERESTS

SUBTITLE A. PERSONS UNDER DISABILITY

CHAPTER 143. POOLED TRUST SUBACCOUNTS

Sec. 143.001. DEFINITIONS. In this chapter:

(1) "Beneficiary" means a person for whose benefit a subaccount is established.

(2) "Incapacitated person" has the meaning assigned by Section 142.007.

(3) "Medical assistance" means benefits and services under the medical assistance program administered under Chapter 32, Human Resources Code.

(4) "Pooled trust" means a trust that meets the requirements of 42 U.S.C. Section 1396p(d)(4)(C) for purposes of exempting the trust from the applicability of 42 U.S.C. Section 1396p(d) in determining the eligibility of a person who is disabled for medical assistance.

(5) "Subaccount" means an account in a pooled trust established under this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 1112 (H.B. 2245), Sec. 8, eff. September 1, 2019.

Sec. 143.002. APPLICATION TO ESTABLISH SUBACCOUNT. The following persons may apply to the court having jurisdiction under Section 142.005 for the establishment of a subaccount solely for the benefit of a proposed beneficiary who is a person for whom a management trust has been or could be established for the person's benefit under Section 142.005:

(1) the trustee of a management trust established under Section 142.005 for the benefit of the proposed beneficiary of the subaccount;

(2) the guardian of the person or estate, or both, of the proposed beneficiary of the subaccount;

(3) a person who has filed an application for the appointment of a guardian of the person or estate, or both, for the proposed beneficiary of the subaccount;

(4) an attorney ad litem or guardian ad litem appointed to represent the proposed beneficiary of the subaccount; or

(5) the proposed beneficiary, if the proposed beneficiary is not a minor or incapacitated person.

Added by Acts 2019, 86th Leg., R.S., Ch. 1112 (H.B. 2245), Sec. 8, eff. September 1, 2019.

Sec. 143.003. APPOINTMENT OF ATTORNEY AD LITEM. (a) The court shall appoint an attorney ad litem for a person who is a minor or an incapacitated person and who is the subject of an application under Section 143.002.

(b) The attorney ad litem is entitled to a reasonable fee and reimbursement of expenses to be paid from the person's property.

Added by Acts 2019, 86th Leg., R.S., Ch. 1112 (H.B. 2245), Sec. 8, eff. September 1, 2019.

Sec. 143.004. ESTABLISHMENT OF SUBACCOUNT. If the court finds that it is in the best interests of a person who is the subject of an application under Section 143.002, the court may order:

(1) the establishment of a subaccount of which the person is the beneficiary; and

(2) the transfer to the subaccount of any of the person's property on hand or accruing to the person.

Added by Acts 2019, 86th Leg., R.S., Ch. 1112 (H.B. 2245), Sec. 8, eff. September 1, 2019.

Sec. 143.005. TERMS OF SUBACCOUNT. Unless the court orders otherwise, the terms governing the subaccount must provide that:

(1) the subaccount terminates on the earliest of the date of:

(A) the beneficiary's 18th birthday, if the beneficiary:

(i) is not found by the court to be considered disabled for purposes of 42 U.S.C. Chapter 7, Subchapter XVI; and

(ii) is a minor at the time the subaccount is established;

(B) the beneficiary's death; or

(C) a court order terminating the subaccount; and

(2) on termination, any property remaining in the beneficiary's subaccount after making any required payments to satisfy the amounts of medical assistance reimbursement claims for medical assistance provided to the beneficiary under this state's medical assistance program and other states' medical assistance programs shall be distributed to:

(A) the beneficiary, if on the date of termination the beneficiary is living and is not a minor or incapacitated person;

(B) the beneficiary's guardian of the estate, if on the date of termination the beneficiary is living and is a minor or incapacitated person; or

(C) the personal representative of the beneficiary's estate, if on the date of termination the beneficiary is deceased.

Added by Acts 2019, 86th Leg., R.S., Ch. 1112 (H.B. 2245), Sec. 8, eff. September 1, 2019.

Sec. 143.006. FEES AND REPORTING. (a) The manager or trustee of a pooled trust may:

(1) assess fees against a subaccount of that pooled trust that is established under this chapter, in accordance with the manager's or trustee's standard fee structure; and

(2) pay fees assessed under Subdivision (1) from the subaccount.

(b) If required by the court, the manager or trustee of the pooled trust shall file a copy of the annual report of account with the court clerk.

Added by Acts 2019, 86th Leg., R.S., Ch. 1112 (H.B. 2245), Sec. 8, eff. September 1, 2019.

Sec. 143.007. JURISDICTION EXCLUSIVE. Notwithstanding any

other law, the court that orders the establishment of a subaccount for a beneficiary has exclusive jurisdiction of a subsequent proceeding or action that relates to both the beneficiary and the subaccount, and the proceeding or action may be brought only in that court.

Added by Acts 2019, 86th Leg., R.S., Ch. 1112 (H.B. [2245](#)), Sec. 8, eff. September 1, 2019.