

**COURT INITIATED GUARDIANSHIPS FOR
ADULTS IN TARRANT COUNTY PROBATE COURT TWO**

Section 1102.001 of the Texas Estates Code provides:

"If a court has probable cause to believe that a person domiciled or found in the county in which the court is located is an incapacitated person, and the person does not have a guardian in this state, the court shall appoint a guardian ad litem or court investigator to investigate the person's conditions and circumstances to determine whether: 1) the person is an incapacitated person; and 2) a guardianship is necessary."

Tarrant County Probate Court No. 2 has implemented the following procedures to comply with this statute. Procedures in Probate Court No. 1 may vary slightly.

1. INFORMATION LETTER: The Court must receive a fully completed information letter on the attached form from a concerned party who may be a relative or friend of the proposed incapacitated person or an agency or institution such as Adult Protective Services, a hospital, a nursing home etc.

2. DOCTOR'S LETTER or a Determination of Intellectual and Developmental Disabilities (DIDD): With the Information Letter, the Court must also receive the attached Physician's Certificate which must be fully completed and must be signed by a physician (M.D. or D.O.) licensed to practice medicine in Texas. The Physician's Certificate must be dated within **3 months** of the information letter and based upon an examination conducted within **3 months** of the information letter.

If the sole reason for the person's incapacity is due to Mental Retardation, you may submit the Physician's Certificate or a DIDD. When a DIDD is submitted, it must be based on an examination which has been completed within 24 months of the date of the hearing to appoint the guardian. A doctor or psychologist licensed by Texas or certified by the Texas Department of Mental Health and Mental Retardation must perform the examination.

3. ASSIGNMENT TO A COURT: Please send the Information Letter and Physician's Certificate together to:

Tarrant County Probate Clerk's Office
Old Courthouse, Room 233
100 West Weatherford Street
Fort Worth, TX 76196

or FAX to: 817-850-2337 and
mail the original documents

PLEASE DO NOT SEND THESE FORMS DIRECTLY TO THE COURT

Once the Information Letter and Physician's Certificate or DIDD are received in Probate

Court 2 from the Clerk's Office, the Court Investigator will be appointed to cases in which the proposed ward does not have sufficient assets to pay for a guardianship action. In most cases, a Court Visitor will also be appointed and will investigate the circumstances of the Proposed Ward, contact the person who completed the Information Letter, meet with the proposed ward and complete a Court Visitor's Report.

COURT INITIATED GUARDIANSHIP TAKES A MINIMUM OF SIX WEEKS FROM THE DATE THE COURT RECEIVES THE INFORMATION LETTER AND PHYSICIAN'S CERTIFICATE.

4. DUTIES OF COURT INVESTIGATOR AND COURT VISITOR: The duties of a Court Investigator and Court Visitor upon such appointments are as follows:

- a. personally interview the Proposed Ward ("PW");
- b. interview the party who filed the letter concerning PW and relatives of PW;
- c. consider less restrictive alternatives to guardianship;
- d. consider the necessity for a temporary guardianship in cases where PW is in imminent danger;
- e. file an application for guardianship, if necessary;
- f. file a report with Court if no application is filed;
- g. locate a person or agency to serve as guardian;
- h. notify family members as required by TEC 1051.101, if an application is filed;
- i. visit with attorney ad litem concerning application;
- j. ensure that PW is properly served and that citation time has run prior to hearing;
- k. set date for hearing
- l. prepare Order Appointing Guardian, Oath & Bond;
- m. attend hearing on application;
- n. assist guardian in obtaining bond and letters; and
- o. represent the **best interest** of PW.

5. UPON FILING OF APPLICATION. When an application for guardianship is filed, PW will be served a copy of the application by a Constable. The Court will appoint an Attorney Ad Litem to represent and **advocate on behalf of PW** and a hearing will be set for the application. The proposed guardian will receive a letter concerning the hearing.

6. DUTIES OF ATTORNEY AD LITEM. The duties of the Attorney Ad Litem are as follows:

Interview the Proposed Ward within a reasonable time before the hearing;

Discuss with the Proposed Ward, to the greatest extent possible:

- a. the law and facts of the case;
- b. Proposed Ward's legal options regarding the disposition of the case;
- c. the grounds on which guardianship is sought; and
- d. whether alternatives to guardianship, including, but not limited to those set forth in Section 1002.0015 of the Texas Estates Code, would meet the needs of the Proposed Ward and avoid the need for the appointment of a guardian.

Review, before the hearing:

- a. the application for guardianship;
- b. certificates of current physical, medical, and intellectual examinations; and
- c. all of the Proposed Ward's relevant medical, psychological, and intellectual testing records.

Discuss with the Proposed Ward, before the hearing, the attorney ad litem's opinion regarding:

- a. whether a guardianship is necessary for the Proposed Ward; and
- b. if a guardianship is necessary, the specific powers or duties of the guardian that should be limited if the Proposed Ward receives supports and services as defined in Section 1002.031 of the Texas Estates Code.

Provide a copy of this order to the administrator of any facility where the proposed ward lives or is receiving in-patient health services, within seven (7) days from the date of this order.

Review, if applicable, the proposal to establish a management trust or a trust to qualify Proposed Ward for Medicaid and determine if the establishment of such a trust is in the best interest of the Proposed Ward.

Represent the Proposed Ward at the hearing described in Section 1101.051 of the Texas Estates Code.

Procedures may vary slightly if your case is assigned to Probate Court No. 1. You may address questions concerning this policy or the status of your case with the Court Investigator:

Probate Court No. 2: Jeffery Arnier 817-884-3395

Probate Court No. 1: Barrie Allen 817-884-2189

Revised February, 2017