

GUARDIANSHIP REFORMS 2015

WHAT'S NEW!

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The Road to Guardianship Reform

- In Summer of 2013, advocates for persons with disabilities and the elderly met to discuss problems with guardianship system in Texas.
- This led to the creation of the Guardianship Reform and Supported Decision-Making Work Group (GRSDM).
- GRSDM developed 8 guardianship reform proposals.
- GRSDM presented the 8 proposals to Texas Working Interdisciplinary Network of Guardianship Stakeholders (WINGS).
- WINGS adopted the majority of the reform proposals.
- The Office of Court Administration supported the WINGS proposal.
- Chief Justice Hecht of the Texas Supreme Court testified in support of the guardianship reforms.

Reforming Guardianship in Texas

The 84th Legislature passed four bills protecting the rights of persons with disabilities in the guardianship system:

- 1) HB 39 – Alternatives to Guardianship;
- 2) SB 1881 – Supported Decision-Making;
- 3) SB 1882 – Bill of Rights of Wards; and
- 4) HB 1438 (Section 10) – Court-Initiated Guardianships

[Note: All references are to the Estates Code and not the Bill provisions.]

Effective Date for Guardianship Reforms

September 1, 2015

Significant Changes

- For the first time, the Texas legislature mandated that probate courts consider alternatives to guardianships and supports and services before a guardianship is created.
- Texas became the first state in the nation to place supported decision-making into statute as an alternative to guardianship.

ALTERNATIVES TO GUARDIANSHIP

Alternatives to Guardianship: Texas Estates Code

Alternatives to guardianship include:

- 1) Medical Power of Attorney;
- 2) Durable Power of Attorney;
- 3) Declaration for Mental Health Treatment;
- 4) Representative Payee;
- 5) Joint Bank Account;

Alternatives to Guardianship

- 6) Management Trust;
- 7) Special Needs Trust;
- 8) Designation of Guardian Before the Need Arises;
- 9) Alternate Forms of Decision-Making Based on Person-Centered Planning; and
- 10) Supported Decision Making Agreement.

Tex. Est. Code §§ 1002.0015 & 1357.001 et seq.

Person-Centered Planning

- Person-Centered Planning is an ongoing problem-solving process used to help people with disabilities plan for the future. In person-centered planning, the person's parents, family members, friends, professionals and anyone else who has a personal interest in the person focus on the individual and that person's vision of what they would like to do in the future.
- The person-centered team meets to identify opportunities for the person with a disability to develop personal relationships, participate in the community, increase control over their own life, and develop skills and abilities needed to achieve these goals.

Purpose of Person-Centered Planning

- To look at an individual in a different way.
- To assist the person with a disability in gaining control over their own life.
- To increase opportunities for participation in the community.
- To recognize individual desires, interests and dreams.
- Through a team effort, develop a plan to turn dreams into a reality.

Person-Centered Planning Resources

- National Parent Center on Transition and Employment
 - <http://www.pacer.org/transition/learning-center/independent-community-living/person-centered.asp>
- U.S. Department of Health & Human Services
 - http://www.acl.gov/NewsRoom/blog/2014/2014_07_09.aspx
- DADS Person Directed Planning Guidelines
 - <https://www.dads.state.tx.us/providers/LA/PersonDirectedPlanningGuidelines.pdf>

Texas ABLE Act

- The Able Act is a federal law passed in December 2014 that amended the IRS code to create a tax-advantaged savings option for people with disabilities.
- SB 1664 amends Chapter 54 of the Education Code to create the Texas Achieving a Better Life Experience (ABLE) Program and Texas ABLE Savings Plan Account as authorized by federal law.
- Persons with a disability can save money in their own name to pay for certain disability expenses without the fear of exceeding the Medicaid individual resource limit of \$2,000.
- Each year an account beneficiary can save a total of \$14,000 into an ABLE account. The account can save as much as \$100,000 before having Medicaid coverage suspended. Funds can come from earned wages, a family member, a friend or any other source.

Texas ABLE Act

The funds in an ABLE Account may be used for:

- Education
- Housing (with exceptions)
- Transportation
- Employment training
- Assistive Technology
- Personal Support Services
- Health Prevention & Wellness
- Financial Management
- Administrative Services
- Legal Fees
- Funeral & Burial Services

Supports and Services: Now Defined in Estates Code

“Supports and Services” –means available formal and informal resources and assistance that enable an individual to:

- 1) Meet the individual’s needs for food, clothing, or shelter;
- 2) Care for the individual’s physical or mental health;
- 3) Manage the individual’s financial affairs; or
- 4) Make personal decisions regarding residence, voting, operating a motor vehicle, and marriage.

Tex. Est. Code § 1002.031

Common Supports and Services

- 1) Supportive and Trusted Individuals, Family Members and Friends** – Support and assist with explaining potential benefits and risks when making decisions about everyday issues like money management, cooking, hygiene, health care, safety, and relationships.
- 2) Community-Based Medicaid Waiver Programs** – Assist with supports to ensure that medical and personal needs are addressed.
- 3) Case Management Services** – Coordinate services with goal of individual with disability being as self-sufficient as possible.
- 4) Person Centered Planning** – Process of planning with and supporting an individual that honors the individual's preferences, choices and abilities.
- 5) Free or Reduced Price Meals, Foods and Prescription Delivery**

Common Supports and Services

- 6) **Free or Reduced Price Transportation** – Taxi vouchers, van services and public transit for appointments when mobility and safety are concerns.
- 7) **Daily Call or Home Visit Services** – Volunteer making daily calls to individual, get help if needed, and provide social contact.
- 8) **Utility Companies** – Notify third party if individual does not pay on time.
- 9) **Technology** – Devices such as smart phones and tablets to help individual become and remain independent (e.g. use pictures and verbal instructions, timers to remind when to take medication, turn off stove and lock the door.)

Common Supports and Services

10) Credit Union and Banking Services – Provide services for individuals that may need assistance with money management. Some options are:

- **Direct Deposits & Payments:** Individual's regular income or government benefits (e.g. SSI) could be directly deposited into an account and regular payments for rent, utilities etc. can be made from the account.
- **Joint Accounts:** Refer to an account where at least two people have access to the funds either to make a deposit or withdrawal. Cosigner account requires both people to sign documents in order to authorize withdrawals.

11) Debit Cards – Refers to reloadable card that can be used as a money management tool to help individual adhere to a budget.

Supports and Services Through Medicaid

- Medicaid Entitlement Long Term Services and Supports provided by DADS
 - http://ww.dads.state.tx.us/providers/waiver_comparisons/LTSS-Entitlement.pdf
- Medicaid Waiver Home and Community Based Programs provided by HHSC and DADS
 - http://www.dads.state.tx.us/providers/waiver_comparisons/LTSS-Waivers.pdf

Supports and Services Through Medicaid

Community First Choice provides supports and services to individuals living in the community who are enrolled in the Medicaid program and are served by 1915(c) waiver program, Medicaid Managed Care, or personal care services for children:

1. Activities of daily living, activities related to living independently in the community, and health related tasks (personal assistance services);
 2. Acquisition, maintenance and enhancements of skills necessary for individuals to care for themselves and live independent;
 3. Provide a backup system or ways to ensure continuing services and supports (emergency response services); and
 4. Training people how to select, manage and dismiss their own attendants.
- <http://www.dads.state.tx.us/providers/cfc/>

Supports and Services Through Medicare

- Medicare Home Health Care
 - <http://www.medicare.gov/what-medicare-covers/home-health-care/home-health-care-what-is-it-what-to-expect.html>
 - Wide range of healthcare services provided in home for illness or injury which includes:
 - 1) Skilled home health services (wound care for pressure sores or surgical wounds, patient and caregiver education, intravenous or nutrition therapy, injections and monitoring serious illness or unstable health status).
 - 2) Home health services (check what person is eating and drinking; check blood pressure, temperature, heart rate and breathing, check that person is taking prescriptions to the drugs and treatment correctly, check for safety in home, teach self-care and coordination care).
- Home health services may also include medical social services, part-time or intermittent home health aide services, medical supplies for use at home, durable medical equipment or injectable osteoporosis drugs.

Where to Call to Get DADS Long-Term Care Services?

To obtain information about long-term care for older adults or persons with disabilities, call 1-855-937-2372.

<http://www.dads.state.tx.us/services/contact.cfm>

Attorneys: Training in Alternatives Required

The attorney representing an applicant in a guardianship and a court-appointed attorney ad litem in guardianship proceeding must complete a four hour course of study in guardianship which includes one hour on alternatives to guardianship and supports and services available to proposed wards.

Tex. Est. Code § 1054.201(a) & (b)

Attorney ad Litem: Duties to Investigate Alternatives

- An attorney ad litem shall discuss with the proposed ward whether alternatives to guardianship would meet the needs of the proposed ward and avoid the need for the appointment of a guardian.

AND

- Before a guardianship hearing, the attorney ad litem shall discuss with the proposed ward the attorney ad litem's opinion about whether a guardianship is necessary and 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.

Tex. Est. Code § 1054.004 (a) & (c)

Guardian ad Litem: Duties to Investigate Alternatives

- The guardian ad litem shall investigate whether a guardianship is necessary and evaluate alternatives to guardianship and supports and services that would avoid the need for a guardian.
- The information gathered by the guardian ad litem is subject to examination by the probate court.

Tex. Est. Code § 1054.054 (c) & (d)

Application for Guardianship: Must Include Alternatives Considered

The application for guardianship must be sworn by the applicant and state:

- 1) Whether alternatives to guardianship and available supports and services to avoid guardianship were considered;
- 2) Whether any alternatives to guardianship and supports and services are feasible and would avoid need for guardianship; and
- 3) Whether the proposed ward's right to vote, operate a motor vehicle and make personal decisions regarding residence should be terminated.

Tex. Est. Code §§ 1101.001(b)(3-a), (3-b) & (4)

MEDICAL EXAMINATION

**TO DECIDE IF PERSON NEEDS A
GUARDIAN**

Medical Exam: Determination of Incapacity

The letter or certificate from a physician supporting an application for guardianship must state:

- 1) Whether improvement in proposed ward's physical condition and mental functioning is possible and, if so, state when proposed ward should be reevaluated to determine whether the guardianship continues to be necessary;
- 2) Whether the proposed ward would benefit from supports and services that would allow the individual to live in the least restrictive environment; and

Tex. Est. Code § 1101.103 (a-1); (b)

Medical Examination: To Determine Incapacity (continued)

- 3) Whether guardianship is necessary and if so what specific powers or duties of the guardian should be limited if the proposed ward receives supports and services. *Tex. Est. Code § 1101.153(a-1)*

If the exam finds that the ward's physical condition or mental function is likely to improve in less than a year, the order appointing a guardian must include the date by which the guardian must submit to the court an updated medical examination letter or certificate.

Tex. Est. Code § 1101.103(b) & 1101.153(a-1)

FINDINGS REQUIRED
FOR
GUARDIANSHIP ORDERS

Before Appointing a Guardian: Evidence Required

Before appointing a guardian, the probate court must find by clear and convincing evidence that alternatives to guardianship and supports and services have been considered and determined not to be feasible.

If the court grants a limited guardianship, the court must specifically state whether the proposed ward lacks the capacity with or without supports and services to make personal decisions regarding residence.

Tex. Est. Code § 1101.101(a)(D) & (E) and (c)

Order for Full Guardian: Right to Decide Residence

The order must specify that the ward does not have the capacity to make personal decisions regarding residence.

Tex. Est. Code § 1101.151(b)(5)

Order Appointing Limited Guardian: Services and Supports

The order must specify:

- 1) The specific rights and power retained by the ward with or without supports and services; and
- 2) Whether the ward retains the right to make personal decisions regarding residence.

Tex. Est. Code § 1101.151(b)(2-a)(A) & (B)

Choice of Guardian: Ward Preference Considered

Before appointing a guardian, the court shall make a reasonable effort to consider the ward's preference of the person to be appointed guardian regardless of whether the person was designated by the ward before the need arises.

Tex. Est. Code § 1104.002

A More Restrictive Setting: Person Under Guardianship May Object

Except in cases of emergency, a guardian has the right to decide where the ward resides but may only place a ward in a more restrictive placement if the guardian provides notice to the court, the ward and any person who has requested notice and after:

- 1) The court orders the placement after a hearing if the ward or another person objects to the proposed placement before the 8th business day after receipt of notice; or
- 2) The 7th business day after the court's receipt of notice if the court does not schedule a hearing on its own motion before that date.

Tex. Est. Code § 1151.051(e)

Duty to Provide Information About Ward

A guardian of adult ward shall as soon as practicable inform relatives if:

- 1) Ward dies;
- 2) Ward is admitted to an acute care medical facility for 3 days or more;
- 3) Ward's residence is changed; or
- 4) Ward is staying at a location other than ward's residence for more than a week.

A court may relieve the duty to inform the relative if the relative elects not to receive notice, the relative's whereabouts are unknown, guardian is unable to establish communication with the relative, a protective order was issued against relative to protect ward, relative is found to have abused, neglected or exploited ward, or notice is not in best interest of ward.

Tex. Est. Code § 1151.056

Capacity and Supports and Services: When Guardianship Ends

A guardianship shall be closed when the court finds that the ward has sufficient capacity with supports and services to care for himself or herself and to manage his or her property.

Tex. Est. Code § 1202.001(b)(2)

Steps to End or Limit Guardianship:

- A ward or any interested person may petition the court for the full or partial restoration of rights, including the right to decide their residence if he or she has sufficient capacity with or without supports and services. *Tex. Est. Code § 1202.051(3)*
- The court shall consider whether the guardianship is needed and specific power or duties of the guardian should be limited if the ward receives supports and services. *Tex. Est. Code § 1202.151(a)*
- The court order must state any supports and services needed for the restoration or modification of the guardianship. *Tex. Est. Code § 1202.154(a)(4)*
- When modifying a guardianship, the court must state whether the ward retains the right to make personal decisions on residence. *Tex. Est. Code § 1202.156(4)*

SUPPORTED DECISION-MAKING

The Supported Decision-Making Agreement Act – We're Number One!

Texas is the first state to recognize supported decision-making as a substitute for guardianship.

Tex. Est. Code § 1357.001 et seq.

What is Supported Decision-Making?

It is defined in statute as:

“A process of supporting and accommodating an adult with a disability to enable the adult to make life decisions, including decisions related to where the adult wants to live, the services, supports, and medical care the adult wants to receive, whom the adult wants to live with, and where the adult wants to work, without impeding the self-determination of the adult.”

Tex. Est. Code § 1357.002(3)

What is the Purpose of Supported Decision-Making?

The purpose of supported decision-making is “to enable the adult to make life decisions, including decisions related to where the adult wants to live, the services, supports, and medical care the adult wants to receive, whom the adult wants to live with, and where the adult wants to work, without impeding the self-determination of the adult.”

Tex. Est. Code § 1357.003 (new section)

Who Can Enter a Supported Decision-Making Agreement?

- Any individual over 18 who has a physical or mental impairment that substantially limits one or more major life activity. *Tex. Est. Code § 1357.002(1) & (2)*
- A level of capacity a person must have in order to enter a supported decision-making agreement is not defined, but a person must have sufficient capacity to agree to the supporter assisting him or her in making particular decisions.

Who Can Be the Supporter? Any Adult

- The law does not place any restrictions on who may become a supporter.
- The person who needs the support decides on someone they trust.
- Typically, the supporter may be a family member, relative or friend.

Tex. Est. Code § 1357.002(5)

Is this Voluntary or Court Ordered?

- An adult with a disability decides they need supports with decisions.
- The person with a disability and supporter enter into the agreement voluntarily, just like a power of attorney.
- It is informal and does not require going to court.

Tex. Est. Code § 1357.001

How is it Different from a Power of Attorney?

- A supported decision-making agreement is distinct from a power of attorney because it does not allow a person to make the decisions for a person.
- In a supported decision-making agreement, the person with a disability retains the right to make decisions.
- Chief Justice Hecht described supported decision-making agreements as “Power of Attorney Lite.”

Tex. Est. Code § 1357.054

What Can a Supporter Do?

A supporter may do any or all of the following:

- 1) Assist adult with a disability in understanding options, responsibilities and consequences of life decisions;
- 2) Assist adult with a disability in accessing, collecting and obtaining medical, psychological, financial, educational and treatment records;
- 3) Assist adult with a disability in understanding information in (2); and
- 4) Assist adult with a disability in communicating his or her decision to appropriate persons.

Tex. Est. Code § 1357.051

Does a Supporter Have a Fiduciary Duty?

- Unlike a power of attorney, a supported decision making agreement does not create a statutory fiduciary relationship.
- However, a supported decision making agreement creates a fiduciary relationship between the supporter and a person with a disability because the person with a disability trusts and relies upon the supporter. Therefore, a supporter could be held liable for the breach of the fiduciary relationship.

Crim Truck & Tractor v. Navistar Int'l Transp. Corp., 823 S.W.2d 591, 594 (Tex. 1992)

When Does a Supported Decision-Making Agreement End?

A supported decision-making agreement ends:

- 1) When terminated by the adult with a disability or the supporter;
- 2) By the terms of the agreement;
- 3) If DFPS finds that adult with a disability has been abused, neglected or exploited by the supporter; or
- 4) The supporter is found criminally liable for the abuse, neglect or exploitation of the adult with a disability.

Tex. Est. Code § 1357.053

What About Confidential Information?

- A supporter is only authorized to assist adult with a disability to access, collect or obtain information.
- This includes protected health information under HIPAA and education records under FERPA.
- A supporter shall ensure that information is kept privileged and confidential and is not subject to unauthorized access, use or disclosure.
- A supported decision-making agreement does not prevent an adult with a disability from seeking personal information on his or her own without the assistance of the supporter.

Tex. Est. Code § 1357.054

What are the Requirements for the Supported Decision-Making Agreement form?

- The adult with a disability and the supporter must sign the agreement voluntarily in the presence of two witnesses over 14 **or** a notary public.
- There is a sample agreement in Texas Estates Code § 1357.056.
- A supported decision-making agreement may be in any form as long as it substantially complies with §1357.056(a).
- A simplified supported decision-making agreement form will be available on DRTx's website at www.dr.tx.org.

Reliance Upon a Supported Decision-Making Agreement

- A person shall rely upon the original or a copy of the supported decision-making agreement.
- A person is not subject to criminal or civil liability or professional misconduct for an act or omission done in good faith and in reliance upon the supported decision-making agreement.

Tex. Est. Code § 1357.101

What If Someone Suspects Abuse or Exploitation?

If a person who receives or is aware of the supported decision-making agreement has cause to believe that an adult with a disability is being abused, neglected or exploited by the supporter, the person shall report the abuse, neglect or exploitation to DFPS.

Tex. Est. Code § 1357.102

Is a Supported Decision-Making Agreement Binding on a Third Party?

- Not sure, there is disagreement over whether a supported decision-making agreement is binding on a third party.
- Regardless the supporter can assist the person with a disability to understand and communicate what is needed to provide informed consent.

Can a Supported Decision-Making Agreement Be Used Along With Other Alternatives to Guardianships?

- Yes, a supported decision making agreement can be used in conjunction with other alternatives to guardianships such as a medical power of attorney or representative payee.
- This is consistent with the goal of supported decision-making to promote the self-determination of persons with disabilities and to avoid guardianships.

BILL OF RIGHTS FOR PERSONS UNDER GUARDIANSHIP

Bill of Rights for Wards

- The bill of rights for persons under guardianship were compiled in one statute so that it would be easier for wards, guardians and attorneys to be aware of the rights of wards.
- State and federal rights for persons under guardianship are now listed in the Texas Estates Code.

Tex. Est. Code §1151.351.

Cornerstone of the Bill of Rights For Persons Under Guardianship

A person under a guardianship has all of the rights, benefits, responsibilities and privileges granted by the constitution and laws of Texas and the United States except where specifically limited by a court-ordered guardianship or where otherwise lawfully restricted.

Tex. Est. Code § 1151.351(a)

24 Rights

Unless limited by a court or otherwise restricted by law, a ward is **authorized** to the following:

- 1) To have a copy of guardianship order and letters of guardianship and contact information for the court;
- 2) To have a guardianship that encourages the development or maintenance of maximum self-reliance and independence in the ward with the eventual goal, if possible, of self-sufficiency;
- 3) To be treated with respect and dignity with recognition of the ward's individuality;

24 Specific Rights

- 4) To reside and receive supports and services in the most integrated setting, including home-based or other community-based settings required under Title II of the ADA;
- 5) To consideration of ward's current and previously stated preferences, desires, medical and psychiatric treatment preferences, religious beliefs and living arrangements;
- 6) To financial self-determination for all public benefits after essential living expenses and health needs are met and to have access to a monthly personal allowance;

24 Specific Rights (continued)

- 7) To receive timely and appropriate health care and treatment;
- 8) To exercise full control of all aspects of life not specifically granted to guardian by the court;
- 9) To control ward's personal environment based on the ward's preferences;
- 10) To complain or raise concerns regarding the guardian or guardianship to the court, including living arrangements, retaliation by guardian, conflicts of interest between the guardian and service providers, or a violation of any of the Bill of Rights;

24 Specific Rights (continued)

- 11) To receive notice in ward's native language or preferred mode of communication of a court proceeding to continue, modify or terminate the guardianship and the opportunity to appear before the court to express the ward's preferences and concerns;
- 12) To have court investigator, guardian ad litem or attorney ad litem investigate a complaint received by the court from the ward or any other person;
- 13) To participate in social, religious and recreational activities, training, employment, education, habilitation, and rehabilitation of the ward's choice in the most integrated setting;

24 Specific Rights (continued)

- 14) To self-determination in maintenance, disposition and management of real and personal property after essential living expenses and health needs are met, including the right to receive notice and object about the substantial maintenance, disposition and management of clothing, furniture, vehicles and other personal effects;
- 15) To personal privacy and confidentiality in personal matters, subject to state and federal law;

24 Specific Rights (continued)

- 16) To unimpeded, private, and uncensored communication and visitation with persons of the ward's choice, except if the guardian determines that it would cause substantial harm:
- A. Guardian may limit, supervise, or restrict communication or visitation, but only to the extent necessary to protect ward from substantial harm; and
 - B. The ward may request a hearing to remove any restrictions imposed by the guardian;

24 Specific Rights (continued)

- 17) To petition the court and retain counsel of ward's choice who is certified, to represent ward's interest in the termination or modification of guardianship, the appointment of a different guardian or other appropriate relief under the Bill of Rights, including transition to a supported decision-making agreement;
- 18) To vote, marry or operate a motor vehicle, unless restricted by the court;
- 19) To personal visits from guardian or the guardian's designee at least once every three months, but more often, if necessary, unless the court orders otherwise;

24 Specific Rights (continued)

- 20) To be informed of and allowed to meet and talk with Disability Rights Texas, the federal legal protection and advocacy body for people with disabilities.
- 21) To be informed of the name, address, phone number and purpose of an independent living center, an area agency on aging, an aging and disability resource center and the local mental health and intellectual and developmental disability center and to communicate and meet with representative from these agencies;
- 22) To be informed of the Judicial Branch Certification Commission and the procedure for filing a complaint against a certified guardian;

24 Specific Rights (continued)

- 23) To contact DFPS to report abuse, neglect, exploitation, or violation of rights; and
- 24) To have guardian explain Bill of Rights to ward in ward's native language or preferred mode of communication upon appointment and on annual renewal.

Enforcing the Bill of Rights

- A person under guardianship may file a complaint with the probate court regarding a violation of any of the rights.
- A person under guardianship may petition the court and retain counsel to represent their interest “for other appropriate relief” under the Bill of Rights.

Tex. Est. Code § 1151.351(b)(10) & (17)

STOPPING THE TRAIN BEFORE IT
LEAVES THE STATION:
PREVENTING UNNECESSARY
COURT- INITIATED GUARDIANSHIPS

Court-Initiated Guardianship

- H.B. 1438 provides additional due process protection to persons who are the subject of court-initiated guardianships under Chapter 1102 of the Texas Estates Code.
- A person who is alleged to be incapacitated has the right to petition to stop the court-initiated guardianship before an application for guardianship is filed.

Court-Initiated Guardianship Procedure

- If a court has probable cause to believe that person located in the county is incapacitated and does not have a guardian, the court appoints a guardian ad litem or court investigator to investigate whether the person is incapacitated and needs a guardian. *Tex. Est. Code § 1102.001(a)*
- A court-initiated guardianship is normally triggered by an information letter filed with the court alleging that a person is incapacitated. *Tex. Est. Code §§ 1102.002, 1102.003*

Additional Due Process Protection

- When the court appoints a guardian ad litem or court investigator, the order must state that the person believed to be incapacitated has the right to petition the court to have the appointment set aside. *Tex. Est. Code § 1102.001(b)(1)*
- At the first meeting between guardian ad litem or court investigator and the person believed to be incapacitated, the guardian ad litem or court investigator shall provide a copy of the information letter which serves as basis for the court-initiated guardianship and the order and to discuss contents of the letter and order with the person believed to be incapacitated. *Tex. Est. Code § 1102.001(b)(2)*

Additional Due Process Protection

- From the date of the initial meeting and the filing of the application of guardianship, the person believed to be incapacitated may petition the court to have the appointment of the guardian ad litem or court investigator set aside. *Tex. Est. Code § 1102.001(b)(3)*
- This will provide the person believed to be incapacitated with an opportunity to have the court-initiated guardianship dismissed before an application for guardianship is filed by the guardian ad litem or court investigator.

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THANK YOU