

BILL ANALYSIS

Senate Research Center

S.B. 997
By: Harris
Jurisprudence
3-20-97
As Filed

DIGEST

Currently, the Probate Code requires that a social security number be provided when applying for the appointment of a guardian, does not grant guardians the authority to abandon worthless holdings or property, is unclear on who is eligible to apply for the creation of a management trust, and recently there was a change in the procedure for the designation of a guardian. S.B. 997 removes the requirement for the provision of social security numbers in certain proceedings, clarifies the authority of guardians to conduct certain transactions, clarifies who may apply for the creation of a guardian trust, and restores the procedure for designation of a guardian to that which was in effect prior to 1995.

PURPOSE

As proposed, S.B. 997 removes the requirement for the provision of social security numbers in certain proceedings, clarifies the authority of guardians to conduct certain transactions, clarifies who may apply for the creation of a guardian trust, and restores the procedure for designation of a guardian to that which was in effect prior to 1995.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 609(c), Probate Code, to require the court to which a transfer is made under this section to apply Sections 155.005 and 155.205, Family Code, rather than Section 11.05(h), Family Code, and its subsequent amendments.

SECTION 2. Amends Sections 633(d) and (f), Probate Code, to require the clerk of the court to mail notice to certain persons designated as guardian of a proposed ward. Makes conforming changes.

SECTION 3. Amends Section 677A(a), Probate Code, to require a declaration appointing a guardian under Section 677(b), rather than Section 676(d) or 677(b), to be attested.

SECTION 4. Amends Section 682, Probate Code, to delete a provision requiring an application to include the social security number of the proposed ward and of the person the applicant desires to have appointed as guardian. Makes conforming changes.

SECTION 5. Amends Section 774(a), Probate Code, to authorize the guardian to take certain action in the best interest of the estate. including abandoning worthless or burdensome property.

SECTION 6. Amends section 776, Probate Code, as follows:

Sec. 776. New heading: SUMS ALLOWABLE FOR EDUCATION AND MAINTENANCE OF WARD AND THE WARD'S SPOUSE OR DEPENDENT. Makes conforming changes.

SECTION 7. Amends Section 783(a), Probate Code, to require representatives of the estate to send to the comptroller if the ward, rather than decedent, remitted or should have remitted taxes administered by the comptroller.

SECTION 8. Amends Section 865(a), Probate Code, to authorize the court to authorize guardians to make gifts of the ward's property to or for the benefit of the ward's spouse, descendant, or other person related to the ward by blood or marriage, rather than the ward's heirs at law.

SECTION 9. Amends Section 867, Probate Code, to authorize a court to enter an order creating a trust upon application by an attorney ad litem, guardian ad litem, or a person interested in the welfare of a ward. Requires the order to direct delivery of all assets of the guardianship to a trust company.

SECTION 10. Authorizes a court to modify a guardianship in effect on September 1, 1997 to conform to this Act.

SECTION 11. Makes application of this Act prospective.

SECTION 12. Effective date: September 1, 1997.

SECTION 13. Emergency clause.