

## **BILL ANALYSIS**

Senate Research Center  
77R7552 CLG-D

H.B. 1037  
By: Thompson (Harris)  
Jurisprudence  
5/2/2001  
Engrossed

### **DIGEST AND PURPOSE**

Under current law, a probate court has the jurisdiction to settle the estate of a ward of the state only on the death of the ward or the attainment of majority or capacity by the ward. This provision has been construed to mean that the court can only approve a final accounting, even if assets need to be collected and liquidated, claims need to be approved or rejected, or litigation needs to be commenced, continued, or brought to an end. Such an interpretation may be inconsistent with other provisions that allow a guardian to pay other debts and expenses. As proposed, H.B. 1037 clarifies the jurisdiction of a probate court in such guardianship matters and removes the provision authorizing a probate court to award judgment against a guardian or former guardian in favor of a surety even if the ward has died, regained capacity, or the ward's disabilities of minority have been removed.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 606, Texas Probate Code, by amending Subsections (e) and (f) and adding Subsection (g), as follows:

(e) Provides that, after a guardianship of the estate of a ward is required to be settled as provided by Section 745 of this chapter, the court exercising original probate jurisdiction over the settling of the former ward's estate has the jurisdiction to hear certain matters.

(f) Provides that when a surety is called on to perform in place of a guardian or former guardian, a court exercising original probate jurisdiction, including jurisdiction exercised under Subsection (e) of this section, is authorized to award judgment against the guardian or former guardian in favor of the surety of the guardian or former guardian in the same suit. Deletes text regarding the death of a ward, a ward's regained capacity, or a disability of a ward being removed.

(g) Redesignated from former Subsection (f).

SECTION 2. Amends Section 694G, Texas Probate Code, to provide that, if the court finds that a ward is no longer incapacitated, the order restoring the ward's capacity is required to specify that the guardian is required to immediately settle the guardianship in accordance with this chapter. Deletes references to closing the guardianship and Section 745 of this code.

SECTION 3. Amends the heading to Section 745, Texas Probate Code, to read as follows:

Sec. 745. SETTLING GUARDIANSHIPS OF THE ESTATE.

SECTION 4. Amends Sections 745(a) and (d), Texas Probate Code, to make conforming changes.

SECTION 5. Amends Section 746, Texas Probate Code, as follows:

Sec. 746. New heading: PAYMENT OF FUNERAL EXPENSES AND OTHER DEBTS ON DEATH OF WARD. Deletes text regarding Section 745 of this code.

SECTION 6. Amends Section 747(a), Texas Probate Code, to make a conforming change.

SECTION 7. Amends Section 749, Texas Probate Code, to make a conforming change.

SECTION 8. Amends the heading to Section 752, Texas Probate Code, as follows:

Sec. 752. COURT ACTION; CLOSING OF GUARDIANSHIP OF WARD'S ESTATE.

SECTION 9. Makes the changes in law made by SECTIONS 2-8 of this Act prospective.

SECTION 10. Effective date: September 1, 2001.