

Guardianship of the Estate Research Guide

Overview

This research guide includes information and resources on guardianship of the estate. The guardian of the estate is “a guardian responsible for taking care of the property of someone who is incapable of caring for his or her own property because of infancy, incapacity, or disability.” (*Black’s Law Dictionary*) The resources listed below are not exhaustive and may not include the most up-to-date information. It is for information purposes only and should not be construed as legal advice or act as the substitute for legal counsel.

Related guides: Guardianship of the Person, Elder Law

Statutes and Codes

Texas Statutes Online www.statutes.capitol.texas.gov

Texas Estate Code

- Ch. 1101 General Procedure to Appoint Guardian
<https://statutes.capitol.texas.gov/Docs/ES/htm/ES.1101.htm>
- Ch. 1104 Selection of and Eligibility to Serve as Guardian
<https://statutes.capitol.texas.gov/Docs/ES/htm/ES.1104.htm>
- Ch. 1156 Education and Maintenance Allowances Paid from Ward’s Estate
<https://statutes.capitol.texas.gov/Docs/ES/htm/ES.1156.htm>
- Ch. 1158 Sale or Partition of Ward’s Property
<https://statutes.capitol.texas.gov/Docs/ES/htm/ES.1158.htm>
- Ch. 1161 Investments and Loans of Estates of Wards
<https://statutes.capitol.texas.gov/Docs/ES/htm/ES.1161.htm>

Texas Property Code

- Ch. 141 Transfers to Minors
<https://statutes.capitol.texas.gov/Docs/PR/htm/PR.141.htm>
- Ch. 143 Pooled Trust Subaccounts
<https://statutes.capitol.texas.gov/Docs/PR/htm/PR.143.htm>

Secondary Resources in Print

Texas Guardianship Manual REF KFT 1306 .T49

- Ch. 4 Creating Guardianship
 - §4.4 Guardians of Estate
 - Form 4-3 Application for Appointment of Guardian of Person and Estate of Minor
 - Form 4-4 Application for Appointment of Guardian of [Person/Estate/Person and Estate] [Adult, Partial Incapacity]
 - Form 4-5 Application for Appointment of Guardian of Person and Estate [Adult, Total Incapacity]
 - Form 4-10 Order Appointing Permanent Guardian of Person and Estate with Full Authority
 - Form 4-12 Order Appointing Permanent Guardian of Person and Estate with Limited Authority

West’s Texas Forms REF KFT 1268 .W47

- Vol. 12A, Chs. 47-55 Guardianship
- Vol. 12B, Chs. 56-77 Guardianship (cont.)

Texas Transaction Guide REF KFT 1268 .K45

- Vol. 8, Ch. 44A Guardianship Provisions
 - §44A.31 Methods for Avoiding Guardianship of Minor’s Estate
 - §44A.205 Provision Appointing Guardian of Person and Estate – Single Individual

- §44A.206 Provisions Naming Separate Guardians of Person and Estate
- §44A.220 Written Declaration Appointing Guardian of Child

Texas Probate, Estate and Trust Administration REF KFT 1344 .T465

- Vol. 4, Chs. 70-71 Guardianship
 - §70.13[4] Estate of Minor (Trial and Evidence Matters)
 - §70.15[3][c] Amount of Bond Required of Guardian of Estate
 - §71.02[1] Right to Possess Ward's Estate
 - §71.03 Specific Powers and Duties of Guardian

Texas Estate Planning REF KFT 1340 .T49

- Vol. 1, Ch. 16 Guardianships
 - §16.03 Alternatives to Guardianship of the Estate
 - §16.08[3] Guardians of Estate (Rights, Duties, Powers)
- Vol. 2, §70.24[1] Alternatives to Medical Power of Attorney – Guardianship of Person

Guardianship Alternatives REF KFT 1306 .S73

- §28.6:20 Avoiding Final Distribution to Estate of Ward or Incapacitated Person

Texas Litigation Guide REF KFT 1730 .T4

- Vol. 24, Ch. 410 Appointment of Guardians
 - §410.07[3] Guardianship of Estate (Powers and Duties)
 - §410.07[4] Guardianship of the Person and of the Estate (Powers and Duties)
 - §410.08[3][c] Bond of Guardian of the Estate
 - §410.17 Authority to Sell Minor's Property Without Guardianship
 - §410.100[1][d] Guardian Appointed to Enable Ward to Receive Funds from Government Agency
- Vol. 24, Ch. 411 Administration of Guardianships
 - §411.01 Overview of Administration of Guardianship Estate
 - §411.02 Preliminary Administrative Functions of Guardian

- §411.03[2] Sale of Ward's Property
- §411.04[2] Accounts by Guardian of Estate

O'Connor's Texas Probate Law Handbook REF KFT 1344 .H67

- Ch. 8-E §5.2 Delivering to minors & other incapacitated persons

CLE Materials

Advanced Guardianship Law KFT 1306 .A75S7

- 2019-2021 (in PDF format)
- 2018 and older (in print)

Advanced Estate Planning and Probate KFT 1340 .A75S7

- 2020 Ch. 31 Planning for Beneficiaries with Disabilities
- 2019 Ch. 4: The Latest in Guardianship Law
- 2018 Ch. 20: What's the Meaning of All This? "Supports and Services" and Alternatives to Guardianship
- 2016 Ch. 2: How the 2015 Legislative Changes Are Affecting Your Guardianship Practice
- 2016 Ch. 27: Elder Abuse and the Criminal Aspects of Estates, Guardianships, and Mental Commitments
- 2014 Ch. 13: The Client is Incapacitated – What Do You Do Next
- 2014 Ch. 14: Texas Probate Judges Survey
- 2014 Ch. 35: Capacity: Do You Know What Floor the Elevator is on for Execution of Documents?- Section V. Subsection A – Declaration of Appointment of Guardian, p. 10
- 2013 Ch. 14: Realistic Solutions to Complex Guardianship

Online Resources

Guardianship (Texas Law Help)

<https://texaslawhelp.org/article/guardianship>

Guardianship Guide (Texas Law Help)

<https://texaslawhelp.org/article/guardianship-guide>

Guardianship Guide (TSSL)

<https://guides.sll.texas.gov/guardianship>

Guardianship Guide (Texas Young Lawyers Association)

<https://tyla.org/resource/guardianship-guide/>

Help for Court-Appointed Guardians of the Estate (Texas Appleseed/AARP)

<http://protecttheirmoneytx.org/guide/help-court-appointed-guardians-estate/help-court-appointed-guardians-estate>

Legal Assistance

Legal Lines – Ask Attorneys simple legal questions (free service)

- Tarrant County LegalLine Sign-up
<https://www.tarrantbar.org/>
- Dallas County LegalLine Sign-up
<https://www.dallasbar.org/index.cfm?pg=legalline>

Tarrant County Bar Association Lawyer Referral Service: 817-336-4101 (\$20 for the first 30 minutes)

