

1-1 By: Moody (Senate Sponsor - Zaffirini) H.B. No. 2665
 1-2 (In the Senate - Received from the House May 11, 2015;
 1-3 May 13, 2015, read first time and referred to Committee on State
 1-4 Affairs; May 21, 2015, reported favorably by the following vote:
 1-5 Yeas 9, Nays 0; May 21, 2015, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to access to and receipt of certain information regarding
 1-20 a ward by certain relatives of the ward.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Subchapter B, Chapter 1151, Estates Code, is
 1-23 amended by adding Sections 1151.055 and 1151.056 to read as
 1-24 follows:

1-25 Sec. 1151.055. APPLICATION BY CHILDREN FOR ACCESS TO WARD;
 1-26 HEARING AND COURT ORDER. (a) A child of a ward may file an
 1-27 application with the court requesting access to the ward, including
 1-28 the opportunity to establish visitation or communication with the
 1-29 ward.

1-30 (b) Except as provided by Subsection (c), the court shall
 1-31 schedule a hearing on the application not later than the 60th day
 1-32 after the date an application is filed under Subsection (a). The
 1-33 court may grant a continuance of a hearing under this section for
 1-34 good cause.

1-35 (c) If an application under Subsection (a) states that the
 1-36 ward's health is in significant decline or that the ward's death may
 1-37 be imminent, the court shall conduct an emergency hearing as soon as
 1-38 practicable, but not later than the 10th day after the date the
 1-39 application is filed under Subsection (a).

1-40 (d) The guardian of a ward with respect to whom an
 1-41 application is filed under Subsection (a) shall be personally
 1-42 served with a copy of the application and cited to appear at a
 1-43 hearing under:

1-44 (1) Subsection (b) at least 21 days before the date of
 1-45 the hearing; and

1-46 (2) Subsection (c) as soon as practicable.

1-47 (e) The court shall issue an order after notice and a
 1-48 hearing under this section. An order issued under this section may:

1-49 (1) prohibit the guardian of a ward from preventing
 1-50 the applicant access to the ward if the applicant shows by a
 1-51 preponderance of the evidence that:

1-52 (A) the guardian's past act or acts prevented
 1-53 access to the ward; and

1-54 (B) the ward desires contact with the applicant;
 1-55 and

1-56 (2) specify the frequency, time, place, location, and
 1-57 any other terms of access.

1-58 (f) In deciding whether to issue or modify an order issued
 1-59 under this section, the court:

1-60 (1) shall consider:

1-61 (A) whether any protective orders have been
 1-62 issued against the applicant to protect the ward;

1-63 (B) whether a court or other state agency has
 1-64 found that the applicant abused, neglected, or exploited the ward;

2-1 and
 2-2 (C) the best interest of the ward; and
 2-3 (2) may consider whether:
 2-4 (A) visitation by the applicant should be limited
 2-5 to situations in which a third person, specified by the court, is
 2-6 present; or
 2-7 (B) visitation should be suspended or denied.
 2-8 (g) The court may, in its discretion, award the prevailing
 2-9 party in any action brought under this section court costs and
 2-10 attorney's fees, if any.
 2-11 Sec. 1151.056. GUARDIAN'S DUTY TO INFORM CERTAIN RELATIVES
 2-12 ABOUT WARD'S HEALTH AND RESIDENCE. (a) This section applies with
 2-13 respect to relatives described under Sections
 2-14 1101.001(b)(13)(A)-(D).
 2-15 (b) Except as provided by Subsection (e), the guardian of an
 2-16 adult ward shall as soon as practicable inform relatives if:
 2-17 (1) the ward dies;
 2-18 (2) the ward is admitted to a medical facility for
 2-19 acute care for a period of three days or more;
 2-20 (3) the ward's residence has changed; or
 2-21 (4) the ward is staying at a location other than the
 2-22 ward's residence for a period that exceeds one calendar week.
 2-23 (c) In the case of the ward's death, the guardian shall
 2-24 inform relatives of any funeral arrangements and the location of
 2-25 the ward's final resting place.
 2-26 (d) A relative entitled to notice about a ward under this
 2-27 section may elect to not receive the notice by providing a written
 2-28 request to that effect to the guardian. A guardian shall file any
 2-29 written request received by the guardian under this subsection with
 2-30 the court.
 2-31 (e) On motion filed with the court showing good cause and
 2-32 after a relative is provided an opportunity to present evidence to
 2-33 the court under Subsection (f), the court, subject to Subsection
 2-34 (g), may relieve the guardian of the duty to provide notice about a
 2-35 ward to a relative under this section.
 2-36 (f) A copy of the motion required under Subsection (e) shall
 2-37 be provided to the relative specifically named in the motion unless
 2-38 the guardian was unable to locate the relative after making
 2-39 reasonable efforts to discover and locate the relative. The
 2-40 relative provided notice under this subsection may file evidence
 2-41 with the court in response to the motion, and the court shall
 2-42 consider that evidence before making a decision on the motion.
 2-43 (g) In considering a motion under Subsection (e), the court
 2-44 shall relieve the guardian of the duty to provide notice about a
 2-45 ward to a relative under this section if the court finds that:
 2-46 (1) the motion includes a written request from a
 2-47 relative electing to not receive the notice;
 2-48 (2) the guardian was unable to locate the relative
 2-49 after making reasonable efforts to discover and locate the
 2-50 relative;
 2-51 (3) the guardian was able to locate the relative, but
 2-52 was unable to establish communication with the relative after
 2-53 making reasonable efforts to establish communication;
 2-54 (4) a protective order was issued against the relative
 2-55 to protect the ward;
 2-56 (5) a court or other state agency has found that the
 2-57 relative abused, neglected, or exploited the ward; or
 2-58 (6) notice is not in the best interest of the ward.
 2-59 SECTION 2. The changes in law made by this Act apply to a
 2-60 guardianship created before, on, or after the effective date of
 2-61 this Act.
 2-62 SECTION 3. This Act takes effect immediately if it receives
 2-63 a vote of two-thirds of all the members elected to each house, as
 2-64 provided by Section 39, Article III, Texas Constitution. If this
 2-65 Act does not receive the vote necessary for immediate effect, this
 2-66 Act takes effect September 1, 2015.

2-67

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