

PROBATE AND GUARDIANSHIP ADMINISTRATION - HOW TO AVOID COMMON PITFALLS

Hon. Brenda Hull Thompson – Sr. Probate Judge of Dallas County

Gregory W. Sampson – Sr. Counsel, Gray Reed & McGraw LLP

Barkley T. Miller – Attorney & Counselor at Law

Dallas Bar Association – March 5, 2018

Getting Started – Jurisdiction, Venue, and Standing

- Broad Jurisdiction of Statutory Probate Courts on matters related to an estate
- Venue Provisions
- Standing – based on “Interested Persons” in Probate Cases
- Standing – anyone interested in proposed Ward’s welfare in Guardianship Cases
- Notice for Jurisdiction to Attach
 - Posted Notice
 - Published Notice
 - Personal Service
 - Certified Mail RRR
 - Special Court Ordered Service
 - Waivers
- Special Notice When the Original Will Cannot be Produced
- Special Notice in Cases Filed More than Four Years After Death
- Specific Notice Requirements in Guardianship Cases
- Importance of Administration Calendar and Checklists

Getting Started – Jurisdiction - Denton County Probate Notice Checklists



Denton County Probate Website – Notice Checklist for Determination of Heirship

Cause No. _____

In Re: THE ESTATE OF _____

 DECEASED

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IN THE PROBATE COURT
 OF
 DENTON COUNTY, TEXAS

HEARING REQUEST FORM UNCONTESTED DETERMINATION OF HEIRSHIP

To obtain a setting, complete the appropriate Hearing Request Form and email to hearingrequest@dentoncounty.com. A hearing will not be set until all boxes have been checked or marked as not applicable. The Probate Staff will review the file to make sure all necessary steps have been completed. If a step has not been completed, you will receive an email from the Probate Staff. Once the Probate Staff has approved the Hearing Request Form, the staff will email you the following docket entry has been made: Hearing Request Form Approved. After the Hearing Request Form has been approved, please contact the Probate Court Coordinator to obtain a setting that is convenient for you.

IF SEEKING AN ADMINISTRATION, MUST ALSO COMPLETE APPROPRIATE REQUEST FORM WHETHER INDEPENDENT OR DEPENDENT

- ☐ 1. Required affidavit(s) of Applicant(s) supporting Application for Determination of Heirship have been filed with the Court. Texas Estates Code §202.007
- ☐ 2. Citation has been posted.
 ***Denton County Clerks' Office REQUIRES a Citation Request Form be completed in order to obtain citations. The Clerks' Citation Request Form is found on the Denton County website at:
<http://dentoncounty.com/departments/court/courts/probate-court.aspx>***
- ☐ 3. Citation by Publication has been returned and publisher's affidavit filed with Court. Texas Estates Code §202.052
- ☐ 4. Requirement of personal service on (1) each distributee who is 12 years of age or older, and (2) the managing conservator, guardian, or ad litem of each child under 12 years of age has been met. Proof of Service or Waivers of Service of Citation for each distributee have been filed with the Court. Texas Estates Code §202.051
Parent, managing conservator, guardian, or ad litem may not waive or accept service for a minor child over 12 years of age. EST §202.056 (b)(2)
- ☐ 5. Applicant will present an original certified Death Certificate to the Court upon arrival at the prove up hearing.

Effective 11/08/2017

- ☐ 6. Affidavit of Service of Citation filed with the Court stating names of all heirs who received service or waived and proof of delivery or waiver are attached to affidavit. Texas Estates Code §202.057
 The Court may not enter an order in an heirship proceeding until the Affidavit of Service of Citation is filed with the Court. Texas Estates Code §202.057
- ☐ 7. Attorney Ad Litem was appointed and has filed an answer. I have conferred with the ad litem, and the ad litem is ready to proceed with a hearing.
- ☐ 8. Applicant will produce at least TWO disinterested witnesses who are familiar with Decedent's family history to testify in court.
- ☐ 9. Testimony admitted into evidence must be reduced to writing. Proof of Death and Other Facts have been prepared and filed with the Court. Bring a copy of the Proofs with you the day of Prove-Up in order they can be signed in front of the Judge. Texas Estates Code §256.157. If testimony is by written deposition, it must comply with Texas Estates Code §51.203 and with the Texas Rules of Civil Procedure.
- ☐ 10. The Judgment must provide for division of shares in fractional format (use 1/3 not decimal format of .333) for separate real and personal property; and, if married, community real and personal property.

BRING A DIGITAL VERSION OF YOUR DOCUMENTS IN WORD FORMAT IN THE EVENT CHANGES NEED TO BE MADE.

As attorney for the Applicant, before submitting this request, I verify by signing below that each of the above-listed items has been completed, that I have complied with all procedural and statutory requirements of the Texas Estates Code Chapter 202, and that this matter is ready to be set on the Probate Court's uncontested docket. I understand that if an above-listed item has not been completed, this matter will not be set on the Court's docket until all items on the checklist have been completed and emailed to hearingrequest@dentoncounty.com.

Respectfully Submitted,

Attorney Name: _____
 SBN: _____
 Address: _____
 Phone: _____
 Email: _____

Cause No. _____ – Determination of Heirship

Page 2

Denton County Probate Website – Notice Checklist for Intestate Court-Created Ind. Admin.

Cause No. _____

In Re: THE ESTATE OF _____

DECEASED

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IN THE PROBATE COURT
OF
DENTON COUNTY, TEXAS

HEARING REQUEST FORM
UNCONTESTED INTESTATE ESTATE - EST §401.003
INDEPENDENT ADMINISTRATION BY AGREEMENT

To obtain a setting, complete the appropriate Hearing Request Form and email it to hearingrequest@dentoncounty.com. A hearing will not be set until all boxes have been checked or marked as not applicable. The Probate Staff will review the file to make sure all necessary steps have been completed. If a step has not been completed, you will receive an email from the Probate Staff. Once the Probate Staff has approved the Hearing Request Form, the staff will email you the following docket entry has been made: Hearing Request Form Approved. After the Hearing Request Form has been approved, please contact the Probate Court Coordinator to obtain a setting that is convenient for you.

- ☐ 1. A Determination of Heirship under Texas Estates Code Chapter 202 Hearing Request Form has been completed and filed. Texas Estates Code §401.003(b)
- ☐ 2. Application includes last 3 digits of Applicant's and Decedent's SSN and DL or explains why omitted as required by Texas Estates Code §256.052.
- ☐ 3. You are required to present the Court an Original Death Certificate at the prove up hearing.
- ☐ 4. General citation has been posted.
***Denton County Clerks' Office REQUIRES a Citation Request Form be completed in order to obtain citations. The Clerks' Citation Request Form is found on the Denton County website at:
<http://dentoncounty.com/departments/county-courts/probate-court.aspx>**
- ☐ 5. The proper inquiries have been made and the designated Independent Administrator is qualified to serve. Texas Estates Code §304.003.
- ☐ 6. All Distributees have agreed and consented to creating an Independent Administration of the estate and the proper documents evidencing all distributees' consent have been filed with the Court. Texas Estates Code §401.003

Effective 11/8/2017

- ☐ 7. All Distributees have agreed collectively on the designation of a qualified person, firm, or corporation to serve as Independent Administrator and the proper documents evidencing all distributees' consent have been filed with the Court. Texas Estates Code §401.003
- ☐ 8. All Distributees have been served with citation and notice of the Application, or proper waivers for the issuance of citation have been filed, or the distributee has entered an appearance in Court. Texas Estates Code §401.004(b)
(MARK ONLY IF APPLIES)
- ☐ 9. If requesting waiver of bond, the proper waiver(s) must be filed with the Court evidencing all distributees' understanding that a bond is required and that they are waiving the requirement for the Independent Administration to be bonded. Texas Estates Code §401.005
- ☐ 10. Testimony admitted into evidence must be reduced to writing. Proof of Death and Other Facts have been prepared and filed with the Court. Bring a copy of the Proofs with you the day of Prove-Up in order they can be signed in front of the Judge. Texas Estates Code §256.157. If testimony is by written deposition, it must comply with Texas Estates Code §51.203 and with the Texas Rules of Civil Procedure.
- ☐ 11. Oath has been prepared for the Independent Administrator in accordance with Texas Estates Code Chapter 305.

**BRING A DIGITAL VERSION OF YOUR DOCUMENTS IN WORD FORMAT
IN THE EVENT CHANGES NEED TO BE MADE.**

As attorney for the Applicant, before submitting this request, I verify by signing below that each of the above-listed items has been completed, that I have complied with all procedural and statutory requirements of the Texas Estates Code Chapter 401.003, and that this matter is ready to be set on the Probate Court's uncontested docket. I understand that if an above-listed item has not been completed, this matter will not be set on the Court's docket until all items on the checklist have been completed and emailed to hearingrequest@dentoncounty.com.

Respectfully Submitted,

Attorney Name: _____

SBN: _____

Address: _____

Phone: _____

Email: _____

Cause No. _____ - Chapter 401 Independent Administration

Page 2

Denton County Probate Website – Notice Checklist to Appoint Ind. Admin. With Will

Cause No. _____

In Re: THE ESTATE OF _____
DECEASED

IN THE PROBATE COURT
OF
DENTON COUNTY, TEXAS

HEARING REQUEST FORM LETTERS TESTAMENTARY
UNTESTED APPLICANT IS NAMED INDEPENDENT EXECUTOR IN WILL FOR

To obtain a setting, complete the appropriate Hearing Request Form and email to hearingrequest@dentoncounty.com. A hearing will not be set until all boxes have been checked or marked as not applicable. The Probate Staff will review the file to make sure all necessary steps have been completed. If a step has not been completed, you will receive an email from the Probate Staff. Once the Probate Staff has approved the Hearing Request Form, the staff will email you the following docket entry has been made: Hearing Request Form Approved. After the Hearing Request Form has been approved, please contact the Probate Court Coordinator to obtain a setting that is convenient for you.

☐ 1. Copy of will filed with Application. Application includes last 3 digits of Applicant's and Decedent's SSN and DL or explains why omitted as required by Texas Estates Code §256.052.

☐ 2. You are required to present the Court an Original Death Certificate at the prove up hearing.

☐ 3. General Citation has been posted.
Denton County Clerks' Office REQUIRES a Citation Request Form be completed in order to obtain citations. The Clerks' Citation Request Form is found on the Denton County website at: <http://dentoncounty.com/departments/county-courts/probate-court.aspx>

☐ 4. Original will filed within 3 days of the filing of Application. TRCP §21(f)(12) (Must be on file at least 10 days prior to hearing.)

(MARK ONLY IF APPLIES)

☐ 5. If Will filed after the four-year period for probate, Applicant has complied with Texas Estates Code §258 subchapter B.

☐ 6. If probating a copy of a will, Applicant has complied with Texas Estates Code §257.053 and §258.002

☐ 7. If Applicant is other than first named executor in the will, the renunciation of right to serve has been filed and/or the cause of ineligibility of first named executor has been plead.

Effective 11/8/2017

- ☐ 8. Proper inquiries have been made and the Designated Independent Executor is qualified to serve under Texas Estates Code §304.003.
- ☐ 9. Testimony admitted into evidence must be reduced to writing. Proof of Death and Other Facts have been prepared and filed with the Court. Bring a copy of the Proofs with you the day of Prove-Up in order they can be signed in front of the Judge. Texas Estates Code §256.157. If testimony is by written deposition, it must comply with Texas Estates Code §51.203 and with the Texas Rules of Civil Procedure.
- ☐ 10. Oath has been prepared for the Independent Executor in accordance with Texas Estates Code §305.051

IT IS STRONGLY ADVISED THAT YOU BRING A DIGITAL VERSION OF YOUR DOCUMENTS IN WORD FORMAT IN THE EVENT CHANGES NEED TO BE MADE.

As attorney for the Applicant, before submitting this request, I verify by signing below that each of the above-listed items has been completed, that I have complied with all procedural and statutory requirements of the Texas Estates Code Chapter 256, and that this matter is ready to be set on the Probate Court's uncontested docket. I understand that if an above-listed item has not been completed, this matter will not be set on the Court's docket until all items on the checklist have been completed and submitted to hearingrequest@dentoncounty.com

Respectfully Submitted,

Attorney Name: _____
SBN: _____
Address: _____
Phone: _____
Email: _____

Cause No. _____ – Original Will Filed

Page 2

Denton County Probate Website – Notice Checklist for Testate Court Created Ind. Admin.

Cause No. _____

In Re: THE ESTATE OF _____

DECEASED

IN THE PROBATE COURT
OF
DENTON COUNTY, TEXAS

HEARING REQUEST FORM
UNCONTESTED TESTATE ESTATE - EST §401.002
INDEPENDENT ADMINISTRATION BY AGREEMENT

To obtain a setting, complete the appropriate Hearing Request Form and email it to hearingrequest@dentoncounty.com. A hearing will not be set until all boxes have been checked or marked as not applicable. The Probate Staff will review the file to make sure all necessary steps have been completed. If a step has not been completed, you will receive an email from the Probate Staff. Once the Probate Staff has approved the Hearing Request Form, the staff will email you the following docket entry has been made: Hearing Request Form Approved. After the Hearing Request Form has been approved, please contact the Probate Court Coordinator to obtain a setting that is convenient for you.

- ☐ 1. General citation posted.
***Denton County Clerks' Office REQUIRES a Citation Request Form be completed in order to obtain citations. The Clerks' Citation Request Form is found on the Denton County website at:
<http://dentoncounty.com/departments/court-courts/probate-court.aspx>
- ☐ 2. Copy of Will filed with Application, Application includes last 3 digits of Applicant's and Decedent's SSN and DL or explains why omitted as required by Texas Estates Code §256.052.
- ☐ 3. You are required to present the Court an Original Death Certificate at the prove up hearing.
- ☐ 4. The proper inquiries have been made and the designated Independent Administrator is qualified to serve. Texas Estates Code §304.003.

SELECT NO. 3 OR NO. 4

- ☐ 5. Will names an Executor but does not provide for Independent Administration.
 - ☐ a. All Distributees have (1) agreed and consented to have the Executor named in the will serve as Independent Executor and (2) have agreed to creating an Independent Administration of the estate, and proper documents evidencing all Distributees' consent have been filed with the Court. Texas Estates Code §401.002(a)

Effective 11/09/2017

- ☐ 6. Will does not name an Executor or named Executors are deceased, disqualified, or decline to serve. (Appointment of Independent Administrator with will annexed.)
 - ☐ a. All Distributees have agreed and consented to creating an Independent Administration of the estate and the proper documents evidencing all Distributees' consent have been filed with the Court. Texas Estates Code §401.002(b)
 - ☐ b. All Distributees have agreed collectively on the designation of a qualified person, firm, or corporation to serve as Independent Administrator, and the proper documents evidencing all Distributees' consent have been filed with the Court. Texas Estates Code §401.002(b)
- ☐ 7. All Distributees have been served with citation and notice of the Application, or proper waivers for the issuance of citation have been filed, or the Distributee has entered an appearance in Court. Texas Estates Code §401.004(b)
- ☐ 8. (CHECK ONLY IF APPLIES)
If requesting waiver of bond, the proper waiver(s) must be filed with the Court evidencing all Distributee's understanding that a bond is required and that they are waiving the requirement for the Independent Administration to be bonded. Texas Estates Code §401.005
- ☐ 9. Testimony admitted into evidence must be reduced to writing. Proof of Death and Other Facts have been prepared and filed with the Court. Bring a copy of the Proofs with you the day of Prove-Up in order they can be signed in front of the Judge. Texas Estates Code §256.157. If testimony is by written deposition, it must comply with Texas Estates Code §51.203 and with the Texas Rules of Civil Procedure.
- ☐ 10. Oath has been prepared for the Independent Executor or Independent Administrator in accordance with Texas Estates Code §305.051.

BRING A DIGITAL VERSION OF YOUR DOCUMENTS IN WORD FORMAT IN THE EVENT CHANGES NEED TO BE MADE.

Cause No. _____ - Chapter 401 Independent Administration

Page 2

Denton County Probate Website – Notice Checklist for Muniment of Title

Cause No. _____

In Re: THE ESTATE OF _____ § IN THE PROBATE COURT
 _____ § OF
 DECEASED § DENTON COUNTY, TEXAS

HEARING REQUEST FORM
UNCONTESTED MUNIMENT OF TITLE

To obtain a setting, complete the appropriate Hearing Request Form and email it to hearingrequest@dentoncounty.com. A hearing will not be set until all boxes have been checked or marked as not applicable. The Probate Staff will review the file to make sure all necessary steps have been completed. If a step has not been completed, you will receive an email from the Probate Staff. Once the Probate Staff has approved the Hearing Request Form, the staff will email you the following docket entry has been made: Hearing Request Form Approved. After the Hearing Request Form has been approved, please contact the Probate Court Coordinator to obtain a setting that is convenient for you.

☐ 1. A copy of the will was filed with Application. Application includes last three digits of Applicant's and Decedent's SSN and DL, or explains why omitted as required by Texas Estates Code §257.051(a).

☐ 2. An Original Death Certificate must be produced to the Court during the Prove up hearing.

☐ 3. Citation has been posted.
 ***Denton County Clerks' Office REQUIRES a Citation Request Form be completed in order to obtain citations. The Clerks' Citation Request Form is found on the Denton County website at:
<http://dentoncounty.com/departments/county-courts/probate-court.aspx>***

☐ 4. Original will was filed within 3 days of the date Application filed.
 TRCP §21(f)(12). (Must be on file at least 10 days prior to hearing.)

(MARK ONLY IF APPLIES)

☐ 5. If Will filed after the four-year period for probate, Applicant has complied with Texas Estates Code §258 subchapter B.

☐ 6. If probating a copy of a will, Applicant has complied with Texas Estates Codes §257.053 and §258.002.

☐ 7. If Applicant is other than the first named executor in the Will, reason first named executor has not filed Application for Muniment of Title.

Effective 11/8/2017

- ☐ 8. Testimony admitted into evidence must be reduced to writing. Proof of Death and Other Facts have been prepared and filed with the Court. Bring a copy of the Proofs with you the day of Prove-Up in order they can be signed in front of the Judge. Texas Estates Code §256.157. If testimony is by written deposition, it must comply with Texas Estates Code §51.203 and with the Texas Rules of Civil Procedure.
- ☐ 9. All "Proof of Facts" and proposed Orders include a statement concerning a Medicaid status such as: "No Medicaid benefits were received after March 1, 2005"; "Medicaid benefits were received after March 1, 2005 and have been repaid"; or if benefits were received and not repaid, Applicant must file a Medicaid Estate Recovery Program (MERP) certification that decedent's estate is not subject to a MERP claim.

BRING A DIGITAL VERSION OF YOUR DOCUMENTS IN WORD FORMAT IN THE EVENT CHANGES NEED TO BE MADE.

As attorney for the Applicant, before submitting this request, I verify by signing below that each of the above-listed items has been completed, that I have complied with all procedural and statutory requirements of the Texas Estates Code Chapter 257, and that this matter is ready to be set on the Probate Court's uncontested docket. I understand that if an above-listed item has not been completed, this matter will not be set on the Court's docket until all items on the checklist have been completed and emailed to hearingrequest@dentoncounty.com.

Respectfully Submitted,

Attorney Name: _____
 SBN: _____
 Address: _____
 Phone: _____
 Email: _____

Cause No. _____ – Muniment of Title

Page 2

Getting Started – Waivers of Notice Heirship (Tarrant County Probate Courts)

The Intestacy Manual 2016 Chapter 3

Appendix 2 ESTATE OF DECEASED	No. _____ <i>waivers</i>	PROBATE COURT NUMBER ____ OF ____ COUNTY, TEXAS
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WAIVER OF CITATION

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes _____, who, after being duly sworn, deposes and says that:

1. "I have read the Application to Determine Heirship and acknowledge receipt of a file-marked copy of same;
2. "I am one of the heirs of Decedent and am listed in the Application;
3. "I agree with the allegations in the Application and that there is no need for administration in this case;
4. "I hereby waive the issuance and return of service upon me in this cause, and accept service herein; and
5. "I enter an appearance in this cause and agree that the Application may be considered by the Court at any time hereafter without further notice to me."

	Signature: _____
	Printed Name: _____
	Address: _____

STATE OF TEXAS	§
	§
COUNTY OF _____	§

This instrument was acknowledged before me by _____ on _____.

Notary Public, State of Texas
Identifying Number: _____

Getting Started – Waivers of Notice Court Created Ind. Admin. (Tarrant County)

No. _____-2

IN RE: ESTATE OF _____ DECEASED	IN THE PROBATE COURT NUMBER TWO FOR TARRANT COUNTY, TX
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**WAIVER OF CITATION, WAIVER OF BOND,
AND CONSENT TO APPOINTMENT OF INDEPENDENT ADMINISTRATOR**
Pursuant to Texas Estates Code (TEC) 401.002 & 401.003
TO THE HONORABLE JUDGE OF SAID COURT:
NOW COMES _____, who, after being duly sworn, deposes and says:

1. I am one of the heirs [TEC 401.003] or distributees [TEC 401.002] of the Decedent named in the heading of this case;
2. I have read the Application for Independent Administration (and possibly for Determination of Heirship) filed in this matter and acknowledge receipt of such Application, and if this application is brought for an intestate administration under TEC 401.003, I swear to the court that all heirs of the decedent, to the best of my knowledge, are listed in the Application;
3. Pursuant to TEC 401.004(b), I hereby waive the issuance or service of citation upon me, and enter an appearance in this cause, and agree that the Application may be amended or heard at any time hereafter without further notice to me;
4. I understand that an independent administrator is required to post a corporate surety bond unless waived in the Will by the decedent or unless all heirs of the decedent request the Court to waive such bond. I understand that a corporate surety bond is an obligation by an insurance company that would protect my interest in the decedent's estate and allow me to pursue payment from the company that issued the corporate surety bond if the independent administrator fails to perform required duties. Nevertheless, I hereby make application for waiver of bond pursuant to TEC 401.005, and request the Court to waive the corporate surety bond in this matter.
5. I understand that the independent administrator must only file an inventory, appraisal and list of claims with the Court, and that the independent administrator may perform all duties allowed by TEC 401-403 without further court permission.
6. I hereby designate and request the court to appoint _____, who is a qualified person, to serve as Independent Executor (TEC 401.002a) Independent Administrator (TEC 401.003) or Independent Administrator with Will Annexed (TEC 401.002b) to serve without bond of the estate of the decedent listed above.

SUBSCRIBED	AND	HEIR OR DISTRIBUTE (signature) SWORN TO BEFORE ME by _____ on this _____ day of _____, 20____.
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Notary Public, State of Texas

Instructions for Dependent Administrators (Sample – Tarrant County Probate Court 1)

Cause No. _____

COURT INSTRUCTIONS DEPENDENT ADMINISTRATOR ADMINISTRATOR WITH WILL ANNEXED

As a duly-appointed Administrator, you are hereby advised by the Court that you must do the following: (All section references are to the Texas Probate Code unless otherwise indicated.)

A. Fiduciary Responsibility: (§§232ff)

As an administrator, you are a fiduciary, a position of the highest trust and responsibility with respect to the estate of the decedent, keeping all affairs confidential; maintaining accurate and complete financial records and ensuring that all dealings undertaken on behalf of the estate, such as the purchase, sale or transfer of estate funds or property, whether real or personal, are properly completed.

Avoid conflicts of interest (and potential removal and personal liability) by: 1) not commingling your personal funds with the funds of the estate; 2) not borrowing money from or lending money to the estate; 3) not selling or encumbering real or personal property, or any interest therein, to yourself, a relative, friend or business acquaintance.

As a fiduciary, you and your bond surety may be held liable for any breach of your fiduciary duties. The requirements of the Probate Code are clear regarding your responsibilities.

D. Take Possession of all Property of the Estate - Immediately upon receiving Letters of Administration, collect and take possession of all personal property and business records of the Estate. (§232) This may include, as necessary:

1. Security Change the locks on real property;
2. Storage Place all the non-perishable personal property in insured storage;
3. Perishable Property Obtain permission to sell perishable personal property (§333) after the Inventory has been filed and approved;
4. Insurance Proceeds or other Employee Benefits payable to the Estate and subject to administration.
5. Accounts and Investments Set up appropriate accounts for the Estate funds. (All Estate funds must be deposited in insured accounts in the name of the Estate. Retain in a checking account only such funds reasonably necessary for the current business of winding up the Estate. All other funds should be invested in insured, interest-bearing accounts.

PROBATE CALENDAR

DEADLINES FOR INDEPENDENT ADMINISTRATION

RE:

CAUSE NO. :

CHRONOLOGY OF EVENTS IN "TYPICAL" PROBATE PROCEEDING (DECEDENT'S ESTATE)

ITEM NO.	EVENT	SCHEDULE	AUTHORITY	DUE DATE	DATE COMPLETED
	DATE OF DEATH OF DECEDENT:				
	DATE ORDER ENTERED ADMITTING WILL:				
1.	Locate Will and remove from Decedent's safe deposit box	Filed with Application by counsel	Texas Estates Code ("TEC") § 151.001, § 151.002, § 151.003 and § 151.004		
2.	Engagement Letter		TEC § 352.051 and § 352.052		
3.	Deliver Will to Court	upon receiving notice of Testator's death	TEC § 252.201-252.204		
4.	File Application to probate Will	within 4 years after DOD	TEC § 256.003 and § 301.002		

Issues Raised in Heirship Cases

- Statutory identification of heirs in intestate estates.
 - Standard of proof – creating firm belief in or conviction as to the truth of the allegations.
 - Duty to verify stated facts
 - Utilize all available resources, online services and public records.
- Duties of Ad Litem

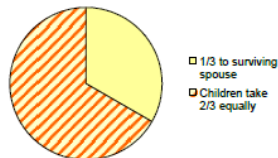
Heirship Issues – Intestate Succession (Judge Guy Herman, Travis County)

Texas Descent and Distribution^{*}

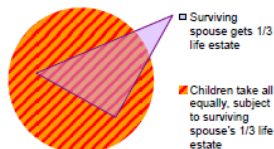
The Legal Effect of Not Having a Will (for decedents dying after 9/1/1993)
Compliments of Judge Guy Herman, Travis County Probate Court No. 1

1. Married Person with Child[ren] or Other Descendants

A. Decedent's separate personal property (all that is not real property) (EC § 201.002(b))

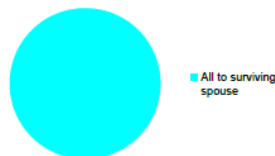


B. Decedent's separate real property (EC § 201.002(b))

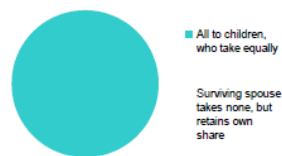


All separate real property will be owned outright by decedent's child[ren] or other descendants when surviving spouse dies.

C. Decedent's share of community property when all surviving children and descendants of deceased are also children or descendants of surviving spouse. (EC § 201.003(b)(2))

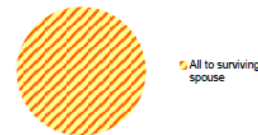


C. Decedent's share of community property when there are children or other descendants from outside of the existing marriage on the date of decedent's death (or if decedent died before September 1, 1993) (EC § 201.003(c))

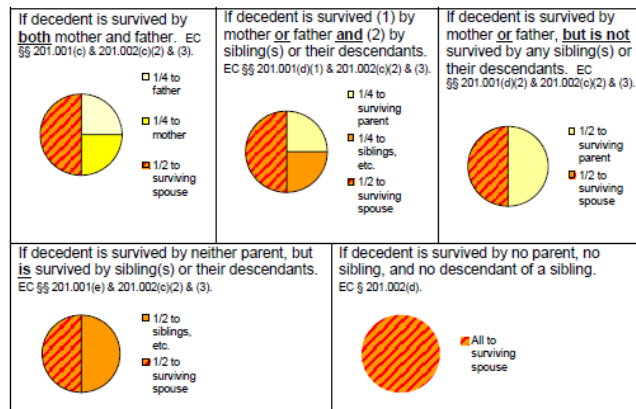


2. Married Person with No Child or Descendant

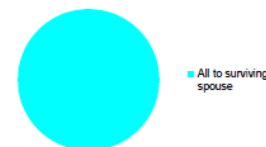
A. Decedent's separate personal property (all that is not real property) (EC § 201.002(c)(1))



B. Decedent's separate real property (EC § 201.002)

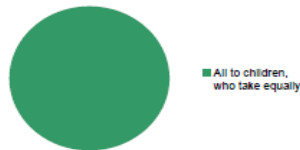


C. Decedent's share of community property (EC § 201.003(b)(1))



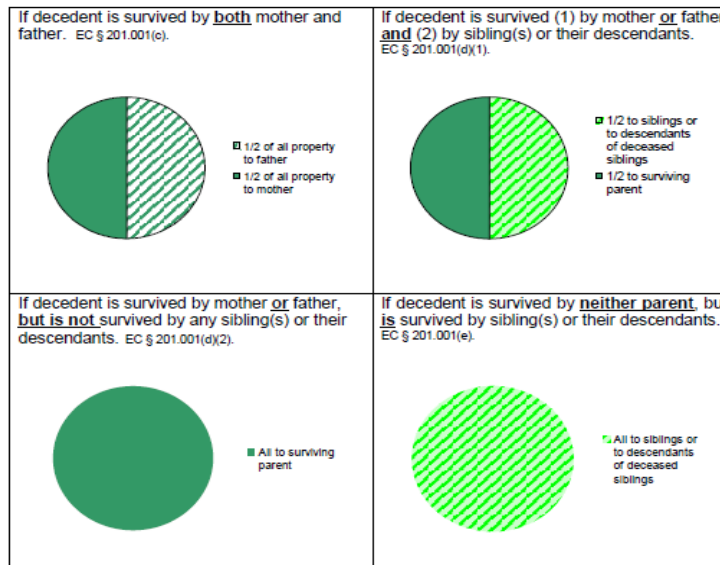
Heirship Issues – Intestate Succession (Judge Guy Herman, Travis County) Cont'd

3. Unmarried Person with Child[ren] or Other Descendants (EC § 201.001(b))



4. Unmarried Person with No Child or Descendant

All property passes depending on who survived the decedent:¹



¹ If none of the four situations above applies, see EC § 201.001(f)-(h).

Heirship Issues – Tarrant County Probate Website Resources

The screenshot displays the website for Tarrant County Probate Court No. 1. At the top is a blue header with the text "TARRANT COUNTY, TEXAS" and a navigation menu: ONLINE SERVICES, GOVERNMENT, RESIDENTS, VISITORS, BUSINESS, and EMPLOYMENT. Below the header, a breadcrumb trail shows "Probate Courts" and "PROBATE COURT NO. 1". The main content area is divided into two columns. The left column, titled "I WANT TO...", contains a search bar and a list of links: "Probating a Will", "Mental Health Commitments", "Getting a Guardianship", and "County Clerk". The right column, titled "CONTACT", provides the phone number "817-884-1200", the address "100 W. Weatherford, Room 260A, Fort Worth, Texas 76196", and the hours "Monday - Friday, 8 a.m. - 4:30 p.m.". Below these columns are four orange buttons with right-pointing arrows: "THE AD LITEM MANUAL", "ABOUT GUARDIANSHIP", "THE INTESTACY MANUAL", and "LISTS OF ATTORNEYS AD LITEM, GUARDIANS AD LITEM, MEDIATORS AND GUARDIANS PURSUANT TO CHAPTER 37 TEXAS GOVERNMENT CODE". At the bottom, another breadcrumb trail shows "Probate Courts" and "PROBATE COURT NO. 1". Below this is a section titled "General Information" with an orange button that says "LEARN MORE ABOUT PROBATE COURT". To the right of the button is a large information icon (a lowercase 'i' inside a circle). Navigation arrows are visible on the left and right sides of the bottom section.

TARRANT COUNTY, TEXAS

ONLINE SERVICES GOVERNMENT RESIDENTS VISITORS BUSINESS EMPLOYMENT

Probate Courts
PROBATE COURT NO. 1

I WANT TO...

Get information on
Search for

Probating a Will
Mental Health Commitments
Getting a Guardianship
County Clerk

CONTACT

817-884-1200
100 W. Weatherford, Room 260A
Fort Worth, Texas 76196
Monday - Friday, 8 a.m. - 4:30 p.m.

THE AD LITEM MANUAL ▶

ABOUT GUARDIANSHIP ▶

THE INTESTACY MANUAL ▶

LISTS OF ATTORNEYS AD LITEM, GUARDIANS AD LITEM,
MEDIATORS AND GUARDIANS PURSUANT TO CHAPTER 37
TEXAS GOVERNMENT CODE ▶

Probate Courts
PROBATE COURT NO. 1

General Information

LEARN MORE ABOUT PROBATE COURT ▶

Heirship Issues – Ad Litem Cross Examination and Report (Judge King, Tarrant County)

Appendix Aa: Suggested Cross-Examination Questions for the Ad Litem

Guardianship

DON'T DO THIS: "If I asked you the same questions that you were just asked, would your answers be any different?"

If you are directly examining a corroborative (second) witness, then it saves time to ask:
"You have just heard the questions that were asked of the other witness. If I asked you the same questions that I just asked the first witness, would your answers be the same?"

Unless you are doing a comedy routine (see Abbott & Costello, "Who's on First?" www.baseball-almanac.com/humor4.shtml), it makes little or no sense to listen to a direct examination by another attorney and then ask the witness if they could manage to answer the same questions the same way a second time.

Appropriate Topics:

1. Do you remember when I spoke with you about the guardianship for _____?
2. Do you remember when we discussed – suitability/ incapacity/ living arrangements
3. Ward's presence in courtroom would not be of any assistance to court.
4. This guardianship for minor not just for qualification for school
5. Explanation of family dynamics that judge needs to know about
 - discuss any sore spots that might be a problem later
 - visitation money management by spouse/sibling
 - medication issues / driving / voting / marriage
 - property disputes you anticipate will crop up

Have you fully disclosed all of the assets of the ward?
6. Standing (adverse interest) "a position that does not promote the well-being of the ward."
7. Disqualification issues of other family members ("driving nails in the coffin lid")
 - minors / notoriously bad conduct / incapacity / party to a lawsuit affecting proposed ward's welfare / indebted to proposed ward / having a claim adverse to the property or person of the proposed ward / incapable of prudently managing estate (lack of experience, education, or other good reason) / one found unsuitable by the court / one expressly disqualified under §679 / a nonresident without a designation of resident agent.

Sometimes an oblique question will get a more nearly honest answer:
Instead of asking: Have you ever been convicted of a felony involving moral turpitude?
Ask: Have you ever been in trouble with the law?
8. Cross-examination of proposed Guardian when you still have doubts that money or property will be managed correctly - commit future guardian to course of action while under oath and in front of judge.
9. Less Restrictive Alternatives & Supports and Services (Appendices D, D-1)- Have you considered?
10. Changed Circumstances: Is there anything that has changed since I last spoke to you?

Heirship See **DON'T DO THIS:** (*supra*)

Appropriate Topics:

1. Are you aware of any relationships the Deceased had for more than one year?
2. Do you know if any of these relationships resulted in the birth of a child?
3. Are you aware of any claims of paternity or paternity actions brought in court against the Deceased?
4. Are you aware of any legitimization claims / court proceedings for legitimization brought against the Deceased?
5. Do you have any direct knowledge of paternity / of marriage / of children?
6. Do you recall any discussions/ have any direct knowledge regarding deceased siblings / nieces / nephews?
7. Do you recall any discussions/ have any direct knowledge of the Deceased admitting to being the father of _____
8. Since we last spoke, is there anything that you recall regarding the Decedent that you did not tell me at that time?

Appendix Ao. No. _____
ESTATE OF _____ PROBATE COURT
NUMBER ONE
DECEASED TARRANT COUNTY, TEXAS

Report of Attorney Ad Litem in Heirship Proceeding

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes _____, appointed by this Court as Attorney Ad Litem for the interests of heirs whose names or locations are unknown or who are incapacitated in this cause of the above-referenced Decedent and makes this report as follows:

1. ☐ I am of the opinion that the listing of the heirs of the Decedent, as shown in the Application, is true, correct and complete.
☐ I am of the opinion that the listing of the heirs of the Decedent, as shown in the Application, is NOT true, correct and complete.
2. Below is, in my opinion, the correct distribution of the shares of the Estate of the Decedent.
Pearlie Harbour Kent (Decedent)
Born December 7, 1941, Honolulu, HI to Safe Harbour and Tokyo Rose Lee
Died February 23, 2015, Fort Worth, Tarrant County, Texas

Married	Community Property	Separate Personal Prop	Real Prop
1. John Wayne (predeceased)			
A. John Wayne (predeceased) (1/5)			
1. Wayne Wayne (Grandchild) (Address)	½	½ of 1/3	½ of 1/3 plus a remainder in ½ of 1/3, subject to the life estate of the surviving spouse
2. Jane Wayne (Grandchild) (Address)	½	½ of 1/3	½ of 1/3 plus a remainder in ½ of 1/3, subject to the life estate of the surviving spouse
2. Clark Kent (Address)	0 100 %	1/3 100 %	1/3 life est 100 %

3. I reviewed the Application for Determination of Heirship (*or as appropriate*), together with all other documents on file in this matter and met with the attorney for the Applicant herein.
4. I filed my Answer on behalf of the unknown heirs on _____.
5. I contacted the following persons to obtain or verify the Decedent's personal history and family background and to determine the existence and location, as applicable, of any unknown heirs of the Decedent.
 - A. _____ (relation to Decedent)
 - B. _____ (relation to Decedent, if any) Etc.

Issues Raised in Heirship Cases

- Common Law Marriage – requirements under Family Code.
 - Requires Court Order to establish.
- Equitable Adoption – statutorily recognized equitable action based on common law estoppel.
- Establishing Paternity.
 - Presumption of Paternity
 - Voluntary written acknowledgement
 - Court Orders, in paternity action, adoption or utilizing statutory procedure for genetic testing.

Small Estate Affidavits

- When Small Estate Affidavits can and cannot be used
- Requirements for a successful filing
 - Judge Lincoln Monroe Checklist
- Potential pitfalls with the Small Estate Affidavit

Small Estate Affidavit – Dallas County Checklist (Judge Lincoln Monroe)

SMALL ESTATES AFFIDAVIT SECT. 205	
In Re Estate of SE-_____	Date App. Filed _____
Applicant _____	
Atty: _____	
Date of Death _____	
205.001	D dies intestate AND Court has jurisdiction
205.001(2)	No Petition for appt. of PR is pending or has been granted
205.001	Thirty (30) days lapsed since D/O/D
205.001(3)	Value of estate (excluding homestead/EXEMPT prop.) less than \$75,000
205.001(3)	Assets (excluding homestead/EXEMPT prop.) <u>exceed</u> known liabilities Not including liabilities secured by homestead/EXEMPT prop.
205.002(1)A, b, c	Sworn affidavit of two (2) DISINTERESTED witnesses AND all Distributes, natural guard./guard of inc. pers. Showing: All facts above; Lists <u>ALL</u> known assets, <u>separate</u> & <u>community</u> liabilities *names/addresses of distrib., relevant family history showing heirship and right to receive; Conforms to terms of this sec and approves affidavit
205.002(a)(3)(C)	No (other) children born/adopted or brought into home to raise
205.002(a)(3)(C)	D surviving spouse, if any
205.002(a)(3)(C)	D mother & father and their address, if living
205.002(a)(3)(C)	D siblings and their addresses, if living
205.002(a)(3)(A)	Listing of Assets and Liabilities
EXEMPT=	TPC§42
HEIRS =	TFC§160.204 Presumptions of Paternity
HOMESTEAD=	Texas Constitution Article 16 § 52
205.008	Effect:
	1. Certified Copy of Affidavit is evidence of ownership.
	2. Does not affect distributions if there is a will or other testamentary docu. Except homestead can be transferred by filing and recording cer. Copy of affidavit in deed records of county.
	3. Bono fide purchaser may rely on affidavit, but remains subject to creditors.
	4. Heir not named in affidavit can recover from other distributes.
	5. If refused property upon presentation of affidavit, a suit may be brought.

Muniment of Title

- Requirements for Probate of a Will as a Muniment of Title Only.
 - Local Guidelines - Dallas County Probate Practice Manual
 - Verification of debt Status
 - MERP Issues
- Probate of Will more than 4 years after death as a Muniment of Title –procedural issues.

Muniment of Title – Dallas County Probate Practice Manual Guidelines

F. Muniment of Title					
1.	Will the Court waive the filing of a sworn affidavit regarding the fulfillment of the terms of the Will?	Yes, if the applicant is the sole distributee. However, the waiver <u>must</u> be included in the Order admitting the Will into probate.	Yes, when the applicant is the sole heir, or when the evidence clearly and convincingly establishes that all heirs are aware of the terms of the will and that it is being probated.	Yes, if facts support.	Yes, if applicant is sole devisee or other beneficiaries have filed waivers.
2.	Will the Court waive the filing of a sworn affidavit regarding the fulfillment of the terms of the Will in cases where there is more than one distributee?	PC1 and PC2: Yes, in certain circumstances where all devisees are applicants or all devisees consent. PC3: Yes, in certain circumstances where all devisees are applicants.	Yes, when the evidence clearly and convincingly establishes that all heirs are aware of the terms of the will and that it is being probated.	Yes, if the facts support such waiver.	Yes, if other beneficiaries file waivers prior to hearing.
3.	In cases where more than four years have elapsed since the death of a testator, will the Court require a showing of no default on the part of the applicant prior to admitting a will to probate as a muniment of title?	Yes. The Court will also require notice pursuant to Estates Code Chapter 258 Subchapter B.	Yes. The Court will also require notice pursuant to Estates Code Chapter 258 Subchapter B. [I do not construe §258.051 as requiring service on intestate heirs who take the same under a will as they takes in the event of intestacy.]	Yes. §256.003 and §§258.051-053 are required.	Yes. The Court will also require notice pursuant to Estates Code Chapter 258 Subchapter B.

Court Created Independent Administration

- Consider advantages and disadvantages of Dependent v. Independent Administration under the circumstances.
- When Available:
 - Intestate Estates by Agreement of all heirs with heirship determination
 - Wills not providing for Independent Administration by agreement of all Distributees
- Guidelines in Dallas County Probate Courts.
- Other Alternatives that might be ordered if all interested persons are in agreement.
 - Waiver of bond
 - Powers of Sale

Dallas County Probate Website – Court Created Independent Administration Guidelines

POLICY GUIDELINES AND REQUIREMENTS FOR APPLICATION FOR COURT CREATED INDEPENDENT ADMINISTRATIONS PURSUANT TO TEXAS ESTATES CODE §§401.002 AND 401.003 (formerly Texas Probate Code 145(c), 145(d) AND 145(e))

Except under special circumstances, the Court will not grant a TEC §401.002 or §401.003 (formally TPC §145(c), (d), or (e)) if a minor or incapacitated adults are among the distributees or heirs-at-law. In individual situation where the Court may grant an independent administration when minors or incapacitated adults are among the distributees or heirs-at-law, the Court will require a bond.

The Daily Commercial Record will not return published notice to the probate clerk unless and until they receive payment, and, for lack of jurisdiction, the Court cannot proceed with a hearing until published notice is returned and filed with the court records.

A. APPLICATION:

The application should be filed by an interested person [as defined in §22.018 of the Texas Estates Code (formally §3(r) of the Texas Probate Code)] and shall set forth the following information:

1. The distributees, legatees and/or heirs have agreed it is in the best interest of the estate to have an Independent Executor/Administrator, and designate the person so designated in the application to be appointed Independent Executor/Administrator.
2. The value of every asset of the estate and specifically listing:
 - a. Each asset;
 - b. The Decedent's interest in each asset;
 - c. The value of each asset; and
 - d. The basis of valuation of each asset.
3. The amount of all debts of Decedent and specifically listing:
 - a. The name and address of each creditor;
 - b. The amount of each debt; and, if known;
 - c. The date each debt was incurred and whether there is any mortgage or security agreement securing any debt with details.
4. A statement that a necessity exists for an administration of the estate.
5. Whether there is a will, and, if so, the names and addresses of each distributee, their ages and whether or not they are incapacitated. If Decedent died intestate,

the names, addresses, ages, and capacity of all heirs-at-law. (Please see TEC §202.051, §202.052, §202.053, §202.054, §202.055, and §202.056 (formally TPC §50 - Notice requirements) NOTE: A Determination of Heirship proceeding will be required either before or simultaneously with the hearing to establish a Court Created Independent Administration. An ad litem will be appointed upon the return of published notice to unknown heirs. *Publisher will NOT return the published notice until they are paid in full.*

6. A statement requesting no other action shall be had by the Probate Court other than the filing and approval of an Inventory, Appraisement and List of Claims.
7. A statement that all distributees, legatees and/or heirs request an exception from bond.

B. FILING:

When the application for Court Created Independent Administration is filed, the following procedure should be followed:

1. The application for a TEC §401.002 or §401.003 (formally TPC §145(c), 145(d), or 145(e)) should be sent to the designated Court.
This is the attorney's responsibility to see this is done.
2. The application will be reviewed for compliance with the Policy Guidelines and Procedures as soon as reasonably convenient and prior to the hearing. If any deficiencies are found or modifications required, the attorney will be notified and required to file an amended or supplemented application.

If, and when, the application is sufficient, and in the case of TEC §401.003 (formally TPC §145(e)) matters, the published notice is published and returned and the ad litem has been appointed, the attorney may set the matter for a special hearing to be heard in open court before the Presiding Judge.

C. AD LITEM APPOINTMENTS:

In intestacies, an ad litem appointment for unknown heirs must be made by the Court prior to the hearing.¹ Appointments will not be made until published notice is returned to the probate clerk.² A separate ad litem will be appointed for known heirs whose whereabouts are unknown or for any incapacitated heir as required by law and prior to the hearing establishing an Independent Administration.

Dallas County Probate Website – Court Created Independent Administration Guidelines (cont'd)

D. MATTERS PRIOR TO HEARING:

Prior to the date of the hearing, the following items must be filed with the probate clerk:

1. Sworn waivers of notice and consents of all distributees, legatees and/or heirs-at-law and their agreement to the establishment of a Court Created Independent Administration naming the individual seeking the appointment as Independent Executor/Administrator. Additionally, if it is sought to have the Court waive the bond, the distributees, legatees and/or heirs-at-law must specifically request the Court to do so.¹
2. Perfected service and/or published notice must be in the file.² *[It is the attorney's responsibility to insure all required notice(s) have been published and/or posted correctly.]*

E. REQUIRED TESTIMONY AT SPECIALLY SET HEARING:

At the hearing, the attorney should be prepared to prove the following:

1. If Decedent died intestate, the Court must hear clear and convincing proof of heirship offered by two (2) disinterested witnesses with the testimony given in open Court, reduced to writing and sworn to before the Court.
2. All TEC §256.151, §256.152, §256.153, §256.154, §256.155, §301.151, §301.152, §301.153, and §301.154 (formally TPC §84 and §88) proof.
3. Testimony establishing the value of Decedent's estate including all assets and debts. *(May be proven by documentary evidence such as income tax returns, ad valorem tax statements and/or recent appraisals, and current invoices).*
4. Testimony that all persons before the Court agree to the establishment of a Court created Independent Administration, to the appointment of person seeking appointment as Independent Executor/Administrator, that such creation and appointment is in the best interest of the estate, and, if requested, that the Court waive any bond.¹
5. Testimony that no intervenors have filed an objection.
6. Any additional testimony or evidence that is sufficient to the Court to determine the necessity of or waiver from a bond.

The Court will determine on a case-by-case basis whether a Court Created Independent Administration is in the best interest of the estate, whether it should be bonded and the amount of such bond. At the written consent of all the heirs and devisees of an estate, and at their request for a waiver of bond, the applicant seeks to administer the estate independently and free of court supervision. The Court has the authority to grant this request, but will do so only when all heirs have filed, prior to or at the hearing, a sworn consent to the appointment of the applicant and a

request for no bond. The attorney and his client should be aware that the remedy available for closing a Court Created Independent Administration is the filing of an affidavit pursuant to TEC §405.005 or §405.006 (formally TPC §151) which, when filed, automatically releases the sureties on a bond from all liability for the future acts of the principal. In no case will a TEC §401.002 or §401.003 (formally TPC §145(c), (d) or (e)) be granted where the estate of Decedent is insolvent.

¹Except under special circumstances, the Court will not grant a TEC §401.002 or §401.003 (formally TPC §145(c), (d), or (e)) if a minor or incapacitated adults are among the distributees or heirs-at-law. In individual situation where the Court may grant an independent administration when minors or incapacitated adults are among the distributees or heirs-at-law, the Court will require a bond.

²The Daily Commercial Record will not return published notice to the probate clerk unless and until they receive payment, and, for lack of jurisdiction, the Court cannot proceed with a hearing until published notice is returned and filed with the court records.

Whys and Wherefores of Corporate Surety Bonds

- When Bond is Required
- How Bond is Determined
- Qualification of Personal Representative with Bond required within 21 days
- When Bond may need to be increased or decreased.
- Requirement to keep premiums current and verify in accountings

Show Cause Practice and Procedure (With Forms)

- Duty to recover possession of the estate
- Uses of Show Cause relief
 - Forms for Motion, Order and Order on Order
 - Potential pitfalls
- Using Show Cause procedures as corrective relief against Personal Representatives.
 - Independent Administrations
 - Dependent Administrations
 - Guardianships

Show Cause Practice & Procedure – Motion to Show Cause

Cause No. 1234-P

NO. 1234-P

IN RE: ESTATE OF

JOHN SMITH,

DECEASED

www.elsevier.com/locate/jmb

IN THE PROBATE COURT

OF

DALLAS COUNTY, TEXAS

MOTION FOR ISSUANCE OF SHOW CAUSE ORDER TO JANE SMITH

_____, Independent Executor of the Estate of John Smith, Deceased ("Movant"), files this Motion for Issuance of Show Cause Order to Jane Smith ("Jane Smith") and, in support thereof, would respectfully show the Court as follows:

1. John Smith ("Decedent") died on October 1, 2003, survived by his fourth wife, Jane Smith, and his two natural children and two step-children. The Last Will and Testament of John Smith (the "Will"), was admitted to probate in this cause, and Movant was appointed Independent Executor of the Estate of John Smith (the "Estate").

2. Disputes have arisen among the beneficiaries of the Estate regarding the ownership and/or character of certain property as being the Decedent's separate property of the community property of Decedent and Jane Smith.

3. All records relating to Decedent's separate property and the community property of Decedent and Jane Smith jointly controlled during their marriage, Decedent's personal memorabilia and separate property as well as the community personal property of Decedent and Jane Smith (the "Items"), are in the possession, custody and/or control of Jane Smith or her agents. As the Independent Executor, Movant is entitled to possession of these Items. Despite having the legal right to possession of the Items, Movant has made many attempts to work out a fair and mutually agreeable arrangement to give the Estate and all the beneficiaries equal and unrestricted access to the Items, but all such attempts have been either rejected or ignored by Jane Smith. Jane Smith has refused, and continues to refuse, to deliver the Items to Movant.

4. Jane Smith resides at _____. Movant requests the Court to order Jane Smith to appear at a time and place to be set by the Court and Show Cause why she should not deliver, or cause to be delivered, to Movant all of the Items described above; and to account for the Items that are no longer in her possession, custody and/or control.

5. Due to the actions of Jane Smith, it has been necessary for Movant to incur attorney's fees and expenses. Movant requests that the Court order Jane Smith to pay Movants' reasonable and necessary attorney's fees and costs incurred to obtain the records described herein.

WHEREFORE, PREMISES CONSIDERED, the Independent Executor of the Estate of John Smith, Deceased, requests the Court to order Jane Smith to appear at a time and place set by the Court and show cause why she should not deliver, or cause to be delivered, to Movant all Items described above, to account for the Items that are no longer in her possession, custody and/or control, and for any other further relief, at law or in equity, to which they may show themselves to be justly entitled.

Respectfully submitted,

Attorneys for Independent Executor

Show Cause Practice & Procedure – Order to Show Cause

NO. 1234-P

IN RE: ESTATE OF § IN THE PROBATE COURT
JOHN SMITH, § OF
DECEASED § DALLAS COUNTY, TEXAS

ORDER TO JANE SMITH TO SHOW CAUSE

ON THIS day came on to be considered the Motion for Issuance of Show Cause Order to Jane Smith filed by the Independent Executor of the Estate of John Smith, Deceased ("Movant"), and the Court, after considering said Motion, is of the opinion that the Motion should be GRANTED.

IT IS, THEREFORE, ORDERED that Jane Smith appear before this Court at _____ o'clock, ____ a.m. on the ____ day of _____, 2004, and Show Cause why she should not deliver, or cause to be delivered, to Movant all records relating to John Smith's separate property and the community property of John Smith and Jane Smith jointly controlled during their marriage, John Smith's personal memorabilia and separate personal property, as well as the community personal property of John Smith and Jane Smith that are in the possession, custody and/or control of Jane Smith or her agents, and to account for such items that are no longer in her possession, custody and/or control.

IT IS, FURTHER, ORDERED, that the Clerk of this Court issue Notice to be personally served on Jane Smith at _____, Dallas Texas, together with a copy of the Motion for Issuance of Show Cause Order to Jane Smith and a copy of this Order, by any Sheriff or Constable of the State of Texas or by any other person who is not a party and is not less than eighteen (18) years of age, directing and requiring that Jane Smith appear in the Courtroom of the Probate Court of Dallas County, Texas at ____ o'clock, at ____m, on the _____ day of _____, 2004, to Show Cause why she should not deliver, or cause to be delivered, to Movant all records relating to John Smith's separate property and the community property of

John Smith and Jane Smith jointly controlled during their marriage, John Smith's personal memorabilia and separate personal property, as well as the community personal property of John Smith and Jane Smith that are in the possession, custody and/or control of Jane Smith or her agents, and to account for such items that are no longer in her possession, custody and/or control.

Signed this ____ day of _____, 2004.

JUDGE PRESIDING

Show Cause Practice & Procedure – Order on Order to Show Cause

NO. 1234-P

IN RE: ESTATE OF	§	IN THE PROBATE COURT
JOHN SMITH	§	OF
DECEASED	§	DALLAS COUNTY, TEXAS

ORDER ON ORDER TO SHOW CAUSE

On the ____ day of _____, 2004 at a regular term of court pursuant to Order to Jane Smith to Show Cause and to appear before the court on _____, 2004, Jane Smith appeared in person and by and through her attorney of record, and _____, Independent Executor of the Estate of John Smith, Deceased, appeared in person and by and through her attorney of record, and the Court proceeded to call the matter on the Court's docket, and the parties announced in open court that an agreement had been reached in regard to certain matters addressed in the Order to Jane Smith to Show Cause; and the Court having sworn Jane Smith and _____ as witnesses inquired of each of them whether the agreement that had been reached was in fact their agreement and based upon such agreement the court makes the following orders.

IT IS ORDERED that Jane Smith make available, on or before _____, 2004, the premises known as _____, Dallas, Texas for inventorying and appraising the personal property located in such premises as well as the premises at a storage facility in Dallas for inventorying and appraising such property located in such storage unit and to deliver the property in such storage unit to _____, Independent Executor of the Estate of John Smith, Deceased; and

IT IS FURTHER, ORDERED that Jane Smith deliver a _____ automobile and _____ owned by the Estate of John Smith, Deceased to _____, Independent Executor of the Estate immediately; and

Cause No. 1234-P

IT IS FURTHER, ORDERED that this matter be continued on the court's docket on further orders of the Court.

SIGNED this ____ day of _____, 2004.

JUDGE PRESIDING

Creditors and Notices – Notification and Processing Claims

- Types of Notices to Creditors
 - Required Notices – must file proof to Court
 - Permissive notices - shorten statute of limitations
- Presentation of Authenticated Claims
- Acceptance or rejection of Claims
 - Dependent Administrations
 - Independent Administrations
- Order Approving and Classification of Claims

Creditors and Notices – Required Notices

FORM NO. 1

NO. _____

ESTATE OF _____ § IN THE PROBATE COURT
 _____ §
 DECEASED § NO. _ OF
 § DALLAS COUNTY, TEXAS
 §

NOTICE TO CREDITORS

IN RE: Estate of _____, Deceased

Notice is hereby given that Letters Testamentary (Letters Of Administration) of the Estate of _____, Deceased, were granted to the undersigned on _____, 2013, by Probate Court No. _ of Dallas County, Texas. All persons having claims against said Estate are hereby required to present the same to _____, Independent Executor (Administrator) of the Estate of _____, Deceased, within the time prescribed by law. Claims should be mailed to: _____, Independent Executor (Administrator) of the Estate of _____, Deceased, (address).

_____, Independent Executor (Administrator)
 of the Estate of _____, Deceased

FORM NO. 2

_____, 2014

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

In re: Cause No. _____; Estate of _____, Deceased
 Probate Court No. _ of Dallas County, Texas
 Your Client: _____
 Client Reference #: _____

Dear Sir or Madam:

I represent the Estate of _____, Deceased. Please be advised that _____ has been appointed as the Independent Executor/Executrix of the above-referenced Estate by the Probate Court of _____ County, Texas in the above-referenced cause number. Letters Testamentary were issued by the Court on _____. I have enclosed a copy of Letters Testamentary for your file.

It has come to our attention that the Decedent may have been indebted to you at the time of his/her death. You may also find that one of the obligors on the note, is the surviving spouse of Decedent, _____. Please consider this your formal notice under Section 308.053 of the Texas Estates Code. Also, please forward to me copies of the promissory note, any security agreements executed by the decedent and/or _____, a statement declaring the balance as of _____, the Decedent's date of death, and information concerning whether the note is current.

If you have any questions or comments, please feel free to call.

Sincerely yours,

 Attorney for Dependent Administrator

Enclosure
 cc: _____

Creditors and Notices – Permissive Notice with 121 Day Statute of Limitations

FORM NO. 3

_____, 2013

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

In re: Cause No. _____; Estate of _____, Deceased
Probate Court No. _ of Dallas County, Texas
Your Client: _____
Client Reference #: _____

Dear Sir or Madam:

Please be advised that Letters of Administration upon the Estate of _____, Deceased, were granted to _____ as Dependent Administrator of the Estate of _____, Deceased, on the ____ day of _____, 2013, in Probate Court No. _ of Dallas County, Texas. All persons having claims against said Estate are required to present the same to _____ in the time prescribed by law. Claims should be addressed to _____ as follows:

_____, Dependent Administrator
Of the Estate of _____, Deceased
c/o _____, Attorney for Dependent Administrator
(Address)

All claims must be presented before the 121st day after the date of the receipt of this notice or the claim is barred. All claims must comply with the requirements of the Texas Estates Code.

Sincerely yours,

Attorney for Dependent Administrator

FORM NO. 4

_____, 2013

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

In re: Cause No. _____
Estate of _____, Deceased
In Probate Court No. _ of Dallas County, Texas
Account No. _____

Dear Sir or Madam:

Please be advised that Letters Testamentary upon the Estate of _____, Deceased, were granted to _____ as Independent Executor of the Estate of _____, Deceased, on the ____ day of _____, 2013, in the Probate Court No. _ of Dallas County, Texas. All persons having claims against said Estate are required to present the same to _____ in the time prescribed by law. Claims should be addressed to _____ as follows:

_____, Independent Executor
of The Estate of _____, Deceased
c/o (Attorney)
Attorney for Independent Executor
(Address)

All claims must be presented before the 121st day after the date of the receipt of this notice or the claim is barred. All claims must comply with the requirements of the Texas Estates Code. A claim may be effectively presented by only one of the methods prescribed by §403.056 of the Texas Estates Code.

Sincerely yours,

Attorney for Independent Executor

Creditors and Notice – Authenticated Claims

FORM NO. 5

NO. _____

IN THE ESTATE OF _____

DECEASED

§
§
§
§
§

IN THE PROBATE COURT
NO. ____ OF
DALLAS COUNTY, TEXAS

AUTHENTICATED UNSECURED CLAIM

COMES NOW, _____ ("Claimant"), the owner of an unsecured claim against the Estate of _____, Deceased, in the sum of \$ _____. This claim is founded upon the following:

1. Claimant advanced funds in payment of Decedent's _____ in the total amount of \$ _____.
2. A breakdown (by claimant and by category) of all expenses described above is attached hereto as Exhibit "A" and incorporated herein by reference for all purposes. Additionally, true and correct copies of receipts and statements evidencing all such payments above are attached hereto as Exhibit "B" and incorporated herein by reference for all purposes.
3. Claimant requests that the claim be allowed and approved as a Class _ Claim in this Estate.

Respectfully submitted,

_____, Claimant

ATTORNEY FOR CLAIMANT

STATE OF TEXAS §
COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, on this day personally appeared _____, and after being duly sworn by me, stated that the foregoing unsecured claim is just and that all legal offsets, payments and credits known to Claimant have been allowed.

SWORN TO AND SUBSCRIBED before me on the ____ day of _____, 2013, by _____.

NOTARY PUBLIC, STATE OF TEXAS

Creditors and Notice – Memorandum of Allowance and Order Approving

FORM NO. 6

NO. _____

IN THE ESTATE OF _____
DECEASED

§ IN THE PROBATE COURT
§ NO. ____ OF
§ DALLAS COUNTY, TEXAS

MEMORANDUM OF ALLOWANCE

The Authenticated Unsecured Claim of _____ in the amount of \$_____ was presented to me on the ____ day of _____, 2013. After examining the claim, I hereby ALLOW the claim in full, as a matured claim to be paid in the due course of administration.

SIGNED this ____ day of _____, 2013.

_____, Administrator of the Estate
of _____, Deceased

FORM NO. 7

NO. _____

IN THE ESTATE OF _____
DECEASED

§ IN THE PROBATE COURT
§ NO. ____ OF
§ DALLAS COUNTY, TEXAS

ORDER APPROVING CLAIM

On this ____ day of _____, 2013, came on to be examined the Authenticated Unsecured Claim of _____ for the sum of \$_____ filed with the Clerk on _____, 2013, said claim having been duly presented and allowed by the representative of this Estate and entered upon the claims docket for a period of at least ten (10) days, is hereby approved in full as a Class _____ Claim against the Estate.

SIGNED this ____ day of _____, 2013.

JUDGE PRESIDING

Creditors and Notice – Application and Order Authorizing Payment

FORM NO. 8

NO. _____

IN THE ESTATE OF _____	§	IN THE PROBATE COURT
	§	
	§	NO. ____ OF
DECEASED	§	DALLAS COUNTY, TEXAS

APPLICATION FOR AUTHORITY TO PAY CLAIM

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW _____, Administrator of the Estate of _____, DECEASED, and files this Application for Authority to Pay Claim, and would respectfully show the Court:

I.

An Authenticated Unsecured Claim of _____ for _____ was filed with this Court, and allowed by Administrator on _____, 2013, in the amount of \$ _____. An Order approving the Authenticated Unsecured Claim of _____ for _____ was entered upon the claim docket and classified by this Court as a Class _____ claim on _____, 2013.

II.

Sufficient funds are on hand to pay this claim.

WHEREFORE, PREMISES CONSIDERED, _____, Administrator, prays that the Court authorize the payment of the claim in the amount of \$ _____ for _____, and, that the Court enter such further orders as deemed necessary.

Respectfully submitted,

FORM NO. 9

NO. _____

IN THE ESTATE OF _____	§	IN THE PROBATE COURT
	§	
	§	NO. ____ OF
DECEASED	§	DALLAS COUNTY, TEXAS

ORDER AUTHORIZING PAYMENT OF CLAIM

On this ____ day of _____, 2013, came on to be considered the Application for Authority to Pay Claim of _____, Administrator of the Estate of _____, DECEASED, for the payment of the claim set out in the Application and the Court finds that the Application should be granted.

IT IS, THEREFORE ORDERED, ADJUDGED AND DECREED that _____, Administrator, is authorized to pay the sum of \$ _____ to _____ in satisfaction of the Authenticated Unsecured Claim of _____ for _____.

SIGNED AND ORDERED entered this ____ day of _____, 2013.

JUDGE PRESIDING

Creditors and Notices – Paying Claims & Protecting Rights

- Abatement of Bequests
- Potential Liability for failing to properly and timely handle claims and certain obligations
- Exempt Property Set Asides
- Family Allowance

Medicaid Estate Recovery Program – hhs.texas.gov/MERP

How can I get more information on Medicaid estate recovery?

hhs.texas.gov/MERP
merp@hhsc.state.tx.us

HHS contracts with Health Management Systems, Inc. (HMS) for the administration of the Medicaid Estate Recovery Program. For information regarding a specific case, call HMS toll-free at 800-641-9356.

Upon receipt of a clearance letter from HMS, estate representatives of deceased Medicaid recipients should contact HHS Long-term Care Provider Services by calling 512-438-2200, option 4. Long-term Care Provider Services determines if there are other outstanding Medicaid claims against the estate that may be recoverable through other assets and if HHS is the residual beneficiary of the assets. Examples of assets potentially payable to HHS include trusts, annuities, torts (such as injury lawsuits, legal settlements or awards) and non-Medicaid insurance coverage.

If you have a problem or complaint you should first discuss it with the MERP program. Many times they can explain specific policies or correct the problem immediately. If your problem or complaint is not resolved to your satisfaction, you can contact the HHS Office of the Ombudsman by calling 1-877-787-8999 or by making an online submission at hhs.texas.gov/ombudsman.

Issues Raised by an Inventory, Appraisement and List of Claims in a Probate Case

- Requirements of an Inventory, Appraisement and List of Claims
 - Timely filing or extending
 - Characterization of Property
 - Sufficient Identification of Property
 - Valuations of Property
 - Handling Non-Probate Property
- Potential Pitfalls for Personal Representatives

Less Restrictive Alternatives to Guardianships of the Person and Estate

- State policy on independence and least restrictive alternatives.
 - Statutory list of alternatives
 - Other resources for supports and services and less restrictive alternatives to consider
- Duty to investigate and report to the Court on alternatives and supports and services considered
 - Carefully assess the capacity of your client
- Duty to Report financial and other forms of elder abuse
 - Avoid inadvertent participation in financial abuse

Dallas County Probate Court Website – Resources - Forms

The screenshot displays the Dallas County Probate Court website. The header features the Dallas County logo and navigation links. The main content area is titled 'Probate Court Forms' and includes a sidebar with a menu. The 'Courts and Judges' menu item is highlighted. The main content area lists various forms and resources, including a list of 'Court Specific Forms'.

Dallas County Texas Est. 1846

Probate Court Forms

Home

Probate Legacy

Courts and Judges

Guardianship

Elder Financial Safety Center

Probate FAQ's

Probate Forms

Probate Local Rules

Pro Se Policy

Directions and Parking

Juror Information

Alternative Dispute Resolution

Veterans Court Program

Affidavit of Inability to Pay

Affidavit of No Debts

Agreement Concerning Deposits

Amendment/Supplement to Pleadings in Open Court

Appointment of Resident Agent

Civil Case Information Sheet

Court Created Independent Administration Guidelines

Descent and Distribution Chart

Due Process Cover Sheet

Receipt and Waiver of Notice

Small Estate Affidavit

Small Estate Affidavit Checklist

Court Specific Forms:

The Probate Court:

Probate Court No. 2:

Probate Court No. 3:

- Bond Specifications for Probate Court No. 3

For Guardianship forms, please click here.

Guardianships – Dallas County Probate Website Forms

DALLAS COUNTY Texas Est. 1846

Home | Courtroom | County and District Courts | Probate Courts | Guardianship

Information & Forms for Attorneys

Home

Guardianship Home

Court Visitor Program

FAQs

General Information for the Public

Information & Forms for Guardians

Information & Forms for Attorneys

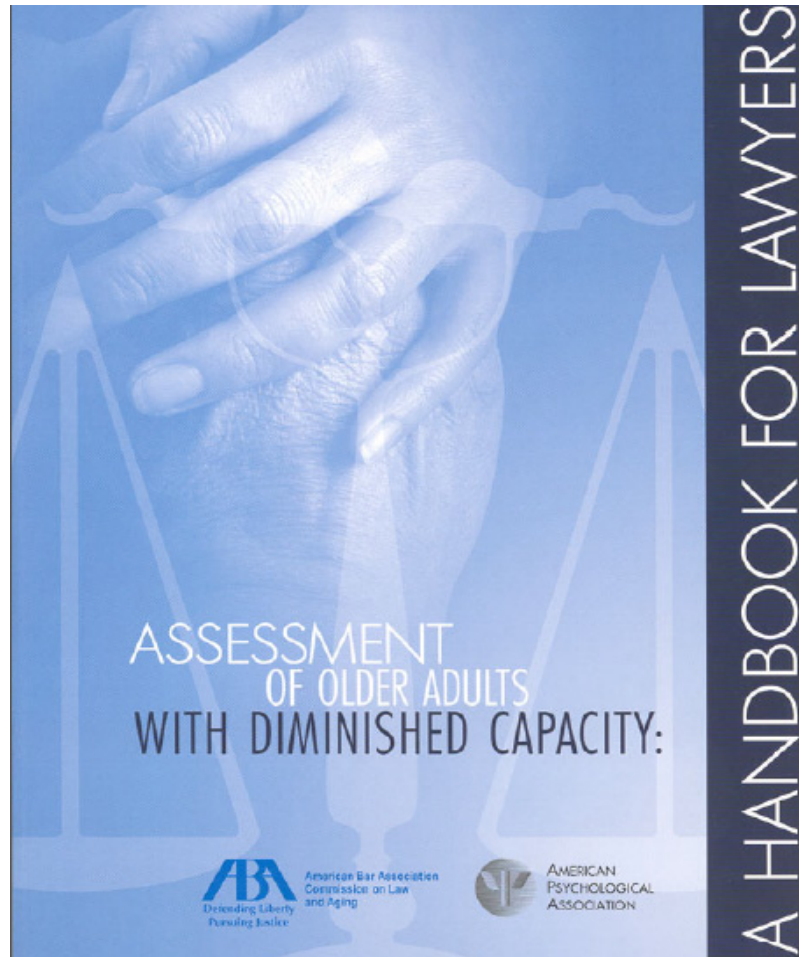
Sources of Assistance

Staff

RIGHT CLICK TO DOWNLOAD AND SAVE A FORM TO YOUR COMPUTER

- Check Case Status
- Fees associated with Guardianship
- Affidavit of Inability to Pay
- Annual Report Form (English)
- Annual Report Form (Spanish)
- Bill of Rights for Persons Under Guardianship (English)
- Bill of Rights for Persons Under Guardianship (Spanish)
- Certificate of Medical Exam (aka Doctor's Letter)
- Civil Case Information Sheet
- Due Process Cover Sheet
- Guardianship and Mental Illness – Is Guardianship the Answer?
- Education Power of Attorney
- Guardianship Case Information Sheet
- Guardianship Questionnaire
- Guide for Guardian of the Person
- Safekeeping or "Freeze" Agreement
- The Ad Litem Manual
- Dallas Bar Association – Probate, Trust & Estates Section

Guardianships/Capacity - ABA Handbook for Lawyers on Diminished Capacity



ASSESSMENT OF OLDER ADULTS
WITH DIMINISHED CAPACITY:
A HANDBOOK FOR LAWYERS

AMERICAN BAR ASSOCIATION
COMMISSION ON LAW
AND AGING
740 Fifteenth Street, NW
Washington, DC 20005-1022

State Bar of Texas
21st ANNUAL ADVANCED
ESTATE PLANNING STRATEGIES
April 9-10, 2015
Santa Fe

CHAPTER 4.4

Resources - National Guardianship Association (NGA)



The term "guardian" includes all court-appointed fiduciaries. These Ethical Standards are reflected throughout the National Guardianship Association's Standards of Practice. Guardians should look to the Standards for guidance on ways to carry out these ethical principles, with specific reference to the highlighted standards.


Download NGA's Standards of Practice for free at www.guardianship.org.

©2016 National Guardianship Association

National Guardianship Association Ethical Principles

1. A guardian treats the person with dignity (Standard 3)
2. A guardian involves the person to the greatest extent possible in all decision making. (Standard 9)
3. A guardian selects the option that places the least restrictions on the person's freedom and rights. (Standard 8)
4. A guardian identifies and advocates for the person's goals, needs, and preferences. (Standard 7)
5. A guardian maximizes the self-reliance and independence of the person. (Standard 9)
6. A guardian keeps confidential the affairs of the person. (Standard 11)
7. A guardian avoids conflicts of interest and self-dealing. (Standard 16)
8. A guardian complies with all laws and court orders. (Standard 2)
9. A guardian manages all financial matters carefully. (Standard 18)
10. A guardian respects that the money and property being managed belong to the person. (Standard 17)

Dallas County Probate Court Website – Elder Financial Safety Center



DALLAS

Texas

COUNTY

Est. 1846

ABOUT US

DEPARTMENTS

GOVERNMENT

SERVICES

Home

Elder Financial Safety Center Home

Who We Are

What We Do

Why We're Here

Financial Quiz

The Senior Source
PREVENTION

Probate Courts
PROTECTION

DA's Office
PROSECUTION

ELDER FINANCIAL SAFETY CENTER

A public safety project made possible by the W. W. Crensh, Jr. Foundation at Communities Foundation of Texas

3810 Harry Hines Boulevard | Dallas, TX 75219 | Phone: 214.525.6130 or 214.823.5700
E-mail Us: efsc@theseniorsource.org

The Senior Source
PREVENTION

Probate Courts
PROTECTION

DA's Office
PROSECUTION

ELDER FINANCIAL SAFETY CENTER

A unique, first of its kind center designed to address all aspects of an older adult's financial security.

THREE Dallas County entities

- The Senior Source
- Probate Courts
- District Attorney's Office

have come together to ensure the financial security of older adults in a comprehensive and systematic manner.

Financial safety is the "gateway" issue to public safety for older adults. It affects housing, health choices, transportation, property crime, fraud and exploitation. The Elder Financial Safety Center ensures the safety of older adults through:

PREVENTION: Financial safety services including money management, fraud advocacy, budgeting, benefits and insurance counseling and employment services.


PROTECTION: Guardianship services for those requiring assistance and annual in-home monitoring of care.

PROSECUTION: Investigation and prosecution of elder financial abuse and exploitation, and education and training for law enforcement.

If you are an older adult seeking help to increase your income or decrease your expenses, or you have been the victim of financial fraud or exploitation, or you know of an incapacitated older adult in need of guardianship protection, the Elder Financial Safety Center can help.

45

© Gray Reed & McGraw LLP

 **GRAY REED**
ATTORNEYS & COUNSELORS

Highlighted Ethical Issues Present in Probate and Guardianship Matters

- Attorney Competence to handle the matter
- Establishing and defining attorney client relationship and scope of work
- Candor to the Tribunal
- Fiduciary duties of attorney and of clients in a fiduciary role
- Careful assessment of potential or actual conflicts of interest
- Confidentiality of client communications
- Written communication clarifying non-representation to non-clients involved in the matter
- Duty to report financial and physical abuse

Thank you!

Speakers

Hon. Brenda Hull Thompson

Senior Probate Judge of Dallas County, Texas

Gregory W. Sampson

Senior Counsel, Gray Reed & McGraw LLP

Barkley T. Miller

Attorney & Counselor at Law

Sponsors

Dallas Volunteer Attorney Program and
Probate Trusts and Estates Section of the
Dallas Bar Association

Appendix

Texas Lawyer's Creed

State Bar of Texas



The Texas

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A Man

IN HIS

FESSIONALISM AND CIVILITY. State Bar of Texas President **Buck Files** worked with the Texas Supreme Court and Texas Court of Criminal Appeals to have both courts reaffirm the Texas Lawyer's Creed. In March 2013, members of both courts signed the creed to remind Texas attorneys of the professional standards that should be upheld when working with clients, judges, and other lawyers.

In conjunction with the reaffirmation, TexasBarCLE is making a free library of ethics articles available on its website, **TexasBarCLE.com**. More than 1,400 articles will be included, almost all of which are written by working Texas lawyers from a practical, rather than academic, perspective. All articles are word-searchable and downloadable. To access the library, click on the link "Free Ethics Articles" on the home page of the website. The library will be accessible beginning May 1.

ABOVE: Texas Supreme Court Chief Justice Wallace B. Jefferson, State Bar of Texas President Buck Files and Texas Court of Criminal Appeals Presiding Judge Sharon Keller.

435 Texas Bar Journal • May 2013

texasbar.com

I am a lawyer. I am entrusted by the People of Texas to preserve and improve our legal system. I am licensed by the Supreme Court of Texas. I must therefore abide by the Texas Disciplinary Rules of Professional Conduct, but I know that Professionalism requires more than merely avoiding the violation of laws and rules. I am committed to this Creed for no other reason than it is right.

I. Our Legal System

A lawyer owes to the administration of justice personal dignity, integrity, and independence. A lawyer should always adhere to the highest principles of professionalism.

1. I am passionately proud of my profession. Therefore, "My word is my bond."
2. I am responsible to assure that all persons have access to competent representation regardless of wealth or position in life.
3. I commit myself to an adequate and effective pro bono program.
4. I am obligated to educate my clients, the public, and other lawyers regarding the spirit and letter of this Creed.
5. I will always be conscious of my duty to the judicial system.

II. Lawyer To Client

A lawyer owes to a client allegiance, learning, skill, and

legal transactions and in litigation as quickly and economically as possible.

3. I will be loyal and committed to my client's lawful objectives, but I will not permit that loyalty and commitment to interfere with my duty to provide objective and independent advice.
4. I will advise my client that civility and courtesy are expected and are not a sign of weakness.
5. I will advise my client of proper and expected behavior.
6. I will treat adverse parties and witnesses with fairness and due consideration. A client has no right to demand that I abuse anyone or indulge in any offensive conduct.
7. I will advise my client that we will not pursue conduct which is intended primarily to harass or drain the financial resources of the opposing party.
8. I will advise my client that we will not pursue tactics which are intended primarily for delay.
9. I will advise my client that we will not pursue any course of action which is without merit.
10. I will advise my client that I reserve the right to determine whether to grant accommodations to opposing counsel in all matters that do not adversely affect my client's lawful objectives. A client has no right to instruct me to refuse reasonable requests made by other counsel.

11. I will advise my client regarding the availability of mediation, arbitration, and other alternative methods of resolving and settling disputes.

III. Lawyer To Lawyer

A lawyer owes to opposing counsel, in the conduct of legal transactions and the pursuit of litigation, courtesy, candor, cooperation, and scrupulous observance of all agreements and mutual understandings. Ill feelings between clients shall not influence a lawyer's conduct, attitude, or demeanor toward opposing counsel. A lawyer shall not engage in unprofessional conduct in retaliation against other unprofessional conduct.

1. I will be courteous, civil, and prompt in oral and written communications.
2. I will not quarrel over matters of form or style, but I will concentrate on matters of substance.
3. I will identify for other counsel or parties all changes I have made in documents submitted for review.
4. I will attempt to prepare documents which correctly reflect

12. I will promptly submit orders to the Court. I will deliver copies to opposing counsel before or contemporaneously with submission to the Court. I will promptly approve the form of orders which accurately reflect the substance of the rulings of the Court.
13. I will not attempt to gain an unfair advantage by sending the Court or its staff correspondence or copies of correspondence.
14. I will not arbitrarily schedule a deposition, Court appearance, or hearing until a good faith effort has been made to schedule it by agreement.
15. I will readily stipulate to undisputed facts in order to avoid needless costs or inconvenience for any party.
16. I will refrain from excessive and abusive discovery.
17. I will comply with all reasonable discovery requests. I will not resist discovery requests which are not objectionable. I will not make objections nor give instructions to a witness for the purpose of delaying or obstructing the discovery process. I will encourage witnesses to respond to all deposition questions which are reasonably understandable. I will neither encourage nor permit my witness to quibble about words where their meaning is reasonably clear.
18. I will not seek Court intervention to obtain discovery

improper criticism and attack. Lawyers and judges are equally responsible to protect the dignity and independence of the Court and the profession.

1. I will always recognize that the position of judge is the symbol of both the judicial system and administration of justice. I will refrain from conduct that degrades this symbol.
2. I will conduct myself in Court in a professional manner and demonstrate my respect for the Court and the law.
3. I will treat counsel, opposing parties, the Court, and members of the Court staff with courtesy and civility.
4. I will be punctual.
5. I will not engage in any conduct which offends the dignity and decorum of proceedings.
6. I will not knowingly misrepresent, mischaracterize, misquote, or miscite facts or authorities to gain an advantage.
7. I will respect the rulings of the Court.
8. I will give the issues in controversy deliberate, impartial, and studied analysis and consideration.
9. I will be considerate of the time constraints and pressures imposed upon the Court, Court staff, and counsel in efforts to administer justice and resolve disputes.

texasbar.com/tbj

Vol. 76, No. 5 • Texas Bar Journal 436

Bill of Rights for Persons Under Guardianship

(TEC Sec. 1151.351)

Printed from Dallas County Probate Courts Website

Bill of Rights for Persons under Guardianship

From Texas Estates Code Section 1151.351

A guardianship application has been filed alleging that you are an incapacitated person as defined by the Texas Estates Code. If you are placed under guardianship by the court, certain rights of yours will be removed; however, you will maintain the rights expressed in the Bill of Rights for Wards, which are listed below.

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

Unless limited by a court or otherwise restricted by law, a person under guardianship has the following rights:

- (1) to have a copy of the guardianship order and letters of guardianship and contact information for the probate court that issued the order and letters;
- (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, consideration, and recognition of the ward's dignity and individuality;
- (4) to reside and receive support services in the most integrated setting, including home-based or other community-based settings, as required by Title II of the Americans with Disabilities Act (42 U.S.C. Section 12131 et seq.);
- (5) to consideration of the ward's current and previously stated personal preferences, desires, medical and psychiatric treatment preferences, religious beliefs, living arrangements, and other preferences and opinions;
- (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;
- (7) to receive timely and appropriate health care and medical treatment that does not violate the ward's rights granted by the constitution and laws of this state and the United States;
- (8) to exercise full control of all aspects of life not specifically granted by the court to the guardian;
- (9) to control the 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 the guardian, conflicts of interest between the guardian and service providers, or a violation of any rights under this section;
- (11) to receive notice in the ward's native language, or preferred mode of communication, and in a manner accessible to the ward, 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 regarding whether the guardianship should be continued, modified, or terminated;
- (12) to have a court investigator, guardian ad litem, or attorney ad litem appointed by the court to investigate a complaint received by the court from the ward or any person about the guardianship;

- (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;
- (14) to self-determination in the substantial 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, or management of clothing, furniture, vehicles, and other personal effects;
- (15) to personal privacy and confidentiality in personal matters, subject to state and federal law;
- (16) to unimpeded, private, and uncensored communication and visitation with persons of the ward's choice, except that if the guardian determines that certain communication or visitation causes substantial harm to the ward:
 - (A) the guardian may limit, supervise, or restrict communication or visitation, but only to the extent necessary to protect the ward from substantial harm; and
 - (B) the ward may request a hearing to remove any restrictions on communication or visitation imposed by the guardian under Paragraph (A);
- (17) to petition the court and retain counsel of the ward's choice who holds a certificate required by Subchapter E, Chapter 1054 of the Texas Estates Code, to represent the ward's interest for capacity restoration, modification of the guardianship, the appointment of a different guardian, or for other appropriate relief under this subchapter, including a transition to a supported decision-making agreement, except as limited by § 1054.006 of the Texas Estates Code;
- (18) to vote in a public election, marry, and retain a license to operate a motor vehicle, unless restricted by the court;
- (19) to personal visits from the guardian or the guardian's designee at least once every three months, but more often, if necessary, unless the court orders otherwise;
- (20) to be informed of the name, address, phone number, and purpose of Disability Rights Texas, an organization whose mission is to protect the rights of, and advocate for, persons with disabilities, and to communicate and meet with representatives of that organization;
- (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 representatives from these agencies and organizations;
- (22) to be informed of the name, address, phone number, and purpose of the Judicial Branch Certification Commission and the procedure for filing a complaint against a certified guardian;
- (23) to contact the Department of Family and Protective Services to report abuse, neglect, exploitation, or violation of personal rights without fear of punishment, interference, coercion, or retaliation; and
- (24) to have the guardian, on appointment and on annual renewal of the guardianship, explain the rights delineated in this subsection in the ward's native language, or preferred mode of communication, and in a manner accessible to the ward.

This bill of rights does not replace or repeal other remedies you have under the law.

Capacity Determinations

10 Signs of Dementia – Alzheimer’s Association

alzheimer's association®

KNOWthe
10 SIGNS
EARLY DETECTION MATTERS

Have you noticed any of these warning signs?

Please list any concerns you have and take this sheet with you to the doctor.

Note: This list is for information only and not a substitute for a consultation with a qualified professional.

____ 1. **Memory loss that disrupts daily life.** One of the most common signs of Alzheimer’s, especially in the early stages, is forgetting recently learned information. Others include forgetting important dates or events; asking for the same information over and over; relying on memory aides (e.g., reminder notes or electronic devices) or family members for things they used to handle on their own. **What’s typical?** Sometimes forgetting names or appointments, but remembering them later.

____ 2. **Challenges in planning or solving problems.** Some people may experience changes in their ability to develop and follow a plan or work with numbers. They may have trouble following a familiar recipe or keeping track of monthly bills. They may have difficulty concentrating and take much longer to do things than they did before. **What’s typical?** Making occasional errors when balancing a checkbook.

____ 3. **Difficulty completing familiar tasks at home, at work or at leisure.** People with Alzheimer’s often find it hard to complete daily tasks. Sometimes, people may have trouble driving to a familiar location, managing a budget at work or remembering the rules of a favorite game. **What’s typical?** Occasionally needing help to use the settings on a microwave or to record a television show.

____ 4. **Confusion with time or place.** People with Alzheimer’s can lose track of dates, seasons and the passage of time. They may have trouble understanding something if it is not happening immediately. Sometimes they may forget where they are or how they got there. **What’s typical?** Getting confused about the day of the week but figuring it out later.

____ 5. **Trouble understanding visual images and spatial relationships.** For some people, having vision problems is a sign of Alzheimer’s. They may have difficulty reading, judging distance and determining color or contrast. In terms of perception, they may pass a mirror and think someone else is in the room. They may not recognize their own reflection. **What’s typical?** Vision changes related to cataracts.

Capacity Determinations

10 Signs of Dementia – Alzheimer’s Association

____ **6. New problems with words in speaking or writing.** People with Alzheimer’s may have trouble following or joining a conversation. They may stop in the middle of a conversation and have no idea how to continue or they may repeat themselves. They may struggle with vocabulary, have problems finding the right word or call things by the wrong name (e.g., calling a watch a “hand clock”). **What’s typical?** Sometimes having trouble finding the right word.

____ **7. Misplacing things and losing the ability to retrace steps.** A person with Alzheimer’s disease may put things in unusual places. They may lose things and be unable to go back over their steps to find them again. Sometimes, they may accuse others of stealing. This may occur more frequently over time. **What’s typical?** Misplacing things from time to time, such as a pair of glasses or the remote control.

____ **8. Decreased or poor judgment.** People with Alzheimer’s may experience changes in judgment or decision making. For example, they may use poor judgment when dealing with money, giving large amounts to telemarketers. They may pay less attention to grooming or keeping themselves clean. **What’s typical?** Making a bad decision once in a while.

____ **9. Withdrawal from work or social activities.** A person with Alzheimer’s may start to remove themselves from hobbies, social activities, work projects or sports. They may have trouble keeping up with a favorite sports team or remembering how to complete a favorite hobby. They may also avoid being social because of the changes they have experienced. **What’s typical?** Sometimes feeling weary of work, family and social obligations.

____ **10. Changes in mood and personality.** The mood and personalities of people with Alzheimer’s can change. They can become confused, suspicious, depressed, fearful or anxious. They may be easily upset at home, at work, with friends or in places where they are out of their comfort zone. **What’s typical?** Developing very specific ways of doing things and becoming irritable when a routine is disrupted.

If you have questions about any of these warning signs, the Alzheimer’s Association recommends consulting a physician. Early diagnosis provides the best opportunities for treatment, support and future planning.

For more information, go to alz.org/10signs or call 800.272.3900.

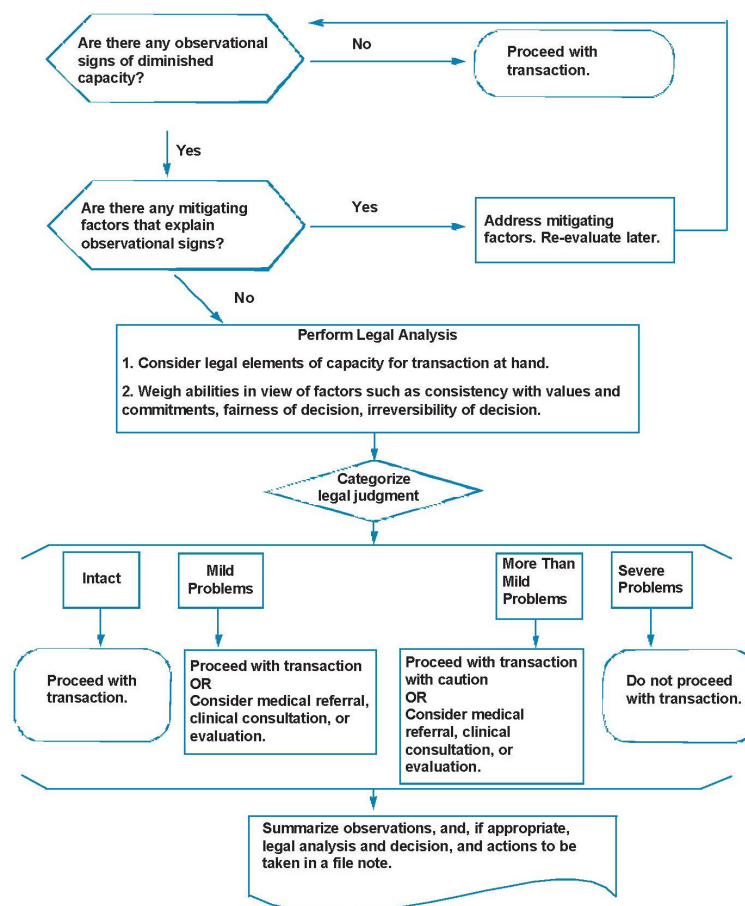
This is an official publication of the Alzheimer’s Association but may be distributed by unaffiliated organizations or individuals. Such distribution does not constitute an endorsement of these parties or their activities by the Alzheimer’s Association.

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Capacity Determinations

Decision Tree for Lawyers

Appendix 1: Capacity Assessment Algorithm for Lawyers





THE PROBATE COURTS of Dallas County

[Home](#) [About Us](#) [County Government](#) [Departments](#) [How Do I...](#) [Records](#) [Services](#) [Transparency](#)



Probate Home

Probate Legacy

Courts and Judges

Guardianship

Elder Financial Safety Center

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Alternative Dispute Resolution

Veterans Court Program

Guardianship – Sources of Assistance

Adult Protective Services	1-800-252-5400	www.dfps.state.tx.us
Aging & Disability Services	512-438-3011	www.dads.state.tx.us
Aging Texas Well		www.dads.state.tx.us/services/agingtexaswell
Alzheimer's Association	1-800-272-3900	www.alz.org/greaterdallas
The Arc of Dallas	214-634-9810	www.arcDallas.org
Attorney General of Texas	1-800-621-0508	www.oag.state.tx.us
Autism Society of America	1-800-328-8476	www.autism-society.org
Dallas Area Rapid Transit (DART)	214-979-1111	www.dart.org
Dallas Lighthouse for the Blind	214-821-2375	www.dallaslighthouse.org
Dallas Metrocare	214-333-7000	www.metrocareservices.org
Deaf Action Center	214-521-0407(V) and 214-377-1898 (VP)	www.dactexas.org
Disability Rights/Texas	1-800-252-9108	www.disabilityrightstx.org
Governor's Ombudsman Helpline	1-800-843-5789	www.governor.state.tx.us
Legal Aid of Northwest Texas	214-748-1234	lanwt.org
Legal Hotline for Elder Texans	1-800-622-2520	www.ltsc.org
Long Term Care Ombudsman	1-800-252-2412	www.dads.state.tx.us
Long Term Care Regulatory Nursing Home Investigation	1-800-458-9858	www.dads.state.tx.us
Medicare	1-800-633-4227	www.medicare.gov
Medicaid Hotline	1-800-252-8263	www.medicaid.gov
Metro Dallas Homeless Alliance		www.mdhadallas.org
National Guardianship Association	1-877-326-5992	www.guardianship.org
Parkland Hospital	214-590-8000	www.parklandhospital.com
Diabetes Clinic	214-590-5645/ 214-590-5196	
Geriatrics Program Info	214-590-8369	
Senior House Calls	214-590-0409	
Senior Source	214-823-5700	www.theseniorsource.org
Texas Department of Health Consumer Advocate for Nursing Home Residents	1-800-252-8016	
Texas Guardianship Association	254-399-9115	www.texasguardianship.org
Texas Regulatory Services Credentialing Department		www.dads.state.tx.us/providers/NF/credentialing
Employee Misconduct Registry	512-438-5495	www.dads.state.tx.us/providers/NF/credentialing
Nurse Aide Training & Competency Evaluation	512-438-2017	www.dads.state.tx.us/providers/NF/credentialing

Guardianship Service Organizations

Texas Department of Family & Protective Services (DFPS)



It's Everyone's Business!
adult abuse & exploitation

Download full kit | 1: APS | 2: Publicity | 3: Issues | 4: Caregivers

DFPS 

NEWS RELEASES

2015 EVENTS

FACTS ABOUT ABUSE

OVERVIEW

DOWNLOADS

HOW TO HELP

REPORT ABUSE

CONTACT US

EXTERNAL RESOURCES

EN ESPAÑOL

DFPS > APS > Everyone's Business > This Page



Get Involved to Stop Elder Abuse & Neglect

May is Elder Abuse Prevention Month. It's a good reminder for all Texans to look out for and to help those in our communities who are elderly or have disabilities. After all, it's everyone's business to stop adult abuse, neglect, and exploitation.

In May, APS joins with many community, civic, and professional groups to raise awareness and understanding about adult abuse and neglect through conferences, presentations, and other events.

Read More: [Stopping Elder Abuse is Everyone's Business](#)

Read the [Governor's proclamation](#).

If It's Not Your Money, It's A Crime.

It's everyone's business to protect those who are elderly or have disabilities from financial exploitation.

Financial exploitation is the illegal or improper use of another person's money or property for personal profit or gain. Financial exploitation of adults who are elderly or disabled is an increasing problem and protecting them from becoming victims is everyone's business.

Each year in October, Adult Protective Services and its partners focus on building awareness and understanding of financial exploitation

Read the [news release](#) for more information on stopping financial exploitation.

Spread the Word


The Texas Department of Family and Protective Services (DFPS) Adult Protective Services (APS) Program created this site for anyone interested in getting involved.

Please feel free to copy the files on this site. If you would like to use the information, please credit DFPS by citing: "Provided by the Texas Department of Family and Protective Services, Adult Protective Services."

Guardianship Service Organizations

Texas Department of Aging & Disability Services (DADS)

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Fact Sheets & FAQs

[Frequently Asked Questions](#)

▼ **Fact Sheets**

[Adult Foster Care](#)

Area agencies on aging

[Area agencies on aging transportation](#)

[Assisted living facilities](#)

[Community Attendant Services](#)

[Community Living Assistance and Support Services](#)

[Consumer Directed Services](#)

[Consumer Managed Personal Assistance Services](#)

[Day Activity and Health Services](#)

[Deaf Blind with Multiple Disabilities](#)

[Emergency Response Services](#)

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[Home and Community-based Services](#)

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[Hospice](#)

[Intermediate Care Facilities for Persons with an Intellectual Disability](#)

[In-home and Family Support](#)

[Local authorities](#)

[Medically Dependent Children](#)

[Nursing facility](#)

[Pre-admission Screening and Resident Review](#)

[Primary Home Care](#)

[Program of All-inclusive Care for the Elderly](#)

[Promoting Independence](#)

[Residential Care](#)

[State supported living centers](#)

[Special Services to Persons with Disabilities](#)

[Special Services to Persons with Disabilities 24-hour Shared Attendant Care](#)

[Texas Home Living](#)

[To Learn More](#)

[Help for Texans Home](#)

HELP FOR OLDER ADULTS & PEOPLE WITH DISABILITIES

1-855-937-2372

• ONE FREE CALL

• TALK TO A TRAINED PROFESSIONAL

Area agencies on aging

The 28 local area agencies on aging (AAA) contract with the Texas Department of Aging and Disability Services (DADS) to help people 60 and older and their caregivers find the information they need to locate and access community services.

What services are provided?

- Benefits counseling/legal assistance
- Care coordination
- Information, referral and assistance
- Legal awareness
- Ombudsman Program

Who can get services?

You must be 60 or older, with priority for services given to:

- People with low incomes
- People who live in rural areas
- People with limited English proficiency
- People with Alzheimer's disease and related disorders
- People at risk of being placed in a long-term care facility

Family members and/or other caregivers who are younger than 60 may receive support services on behalf of the person for whom they provide care.

How do I apply for services?

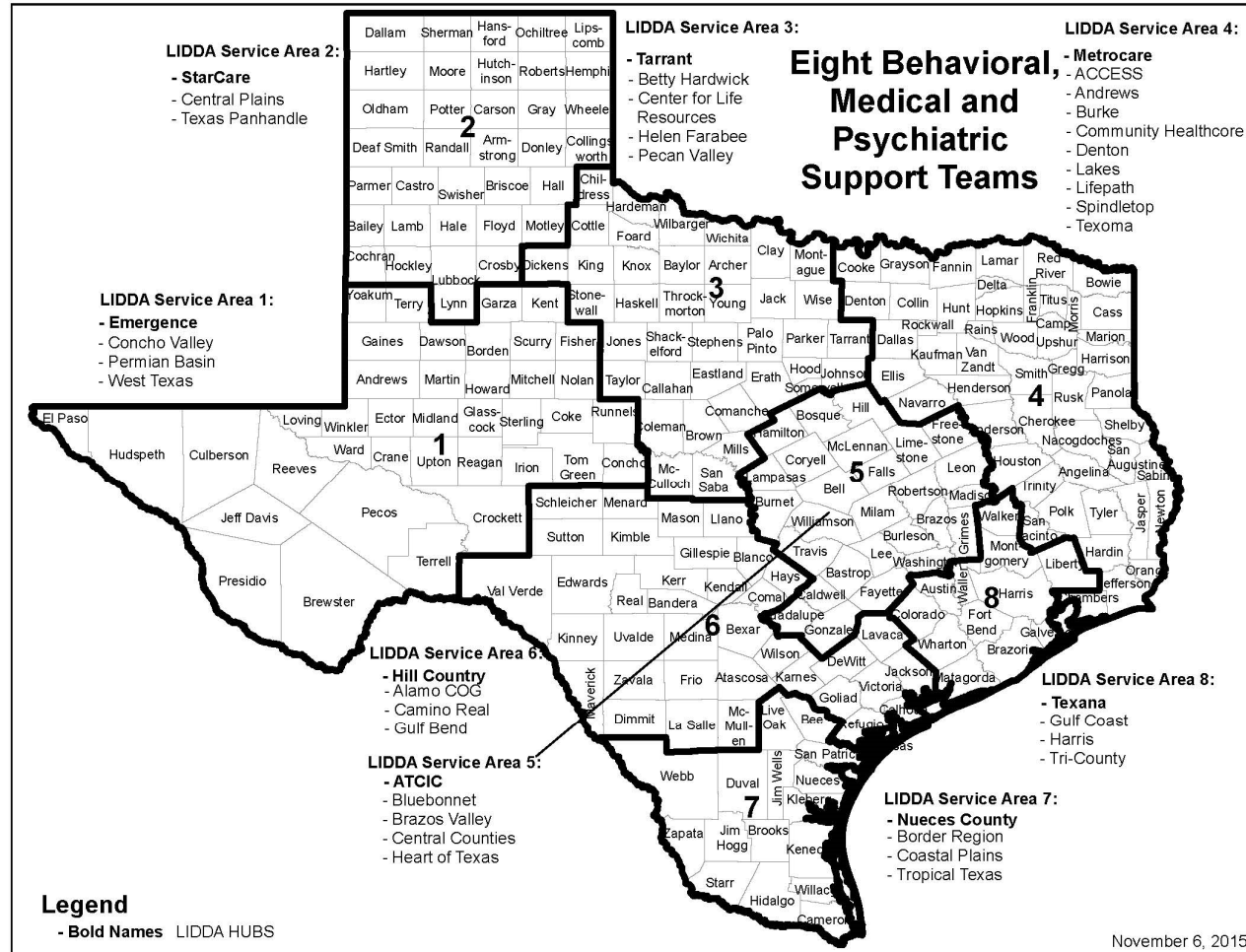
Contact your AAA by calling 1-800-252-9240.

[too of page](#)

Updated: November 20, 2015

Guardianship Service Organizations

DADS/IDD – Local Intellectual & Developmental Disability Authorities (LIDDA)



Guardianship Service Organizations

Local Authority Dallas County - Metrocare

CRISIS & EMERGENCY


FOR LIFE-THREATENING EMERGENCIES, INCLUDING THREAT OR INJURY TO SELF OR OTHERS, CALL 911 IMMEDIATELY

CALL US TOLL FREE AT 1.877.283.2121

METROCARE - MIDWAY
at Midway & Keller Springs


Careers News Room Events Join The Auxiliary Newsletter Subscription


HOME ABOUT METROCARE SERVICES LOCATIONS RESOURCES CONTACT US DONATE



DID YOU KNOW?

6.4 million Texans have a mental illness and would benefit from treatment





Home > Services > Adult

Adult

Mental Health Services provides a wide array of services and programs including outpatient clinics, community-based support and rehabilitative programs, housing and homeless services, 24-hour emergency services, hospital liaison services, intensive family services, and long-term support services. MH staff also identify individuals determined to have both Mental Retardation and Mental Illness and refer them for appropriate services.

Individuals, ages 18 or older, with severe and persistent mental illness (such as schizophrenia, major depression, bipolar disorder, or other severely disabling disorders requiring crisis resolution or ongoing and long-term support and treatment) have priority for receipt of adult services. Intensive services are targeted at children and adolescents with severe emotional disturbance and their families.

Services are available to members of NorthSTAR (a state-sponsored plan for managed health care), the Children's Health Insurance Plan, or Medicare; to individuals with private insurance; or to private pay patients, on a sliding fee scale based on the person's ability to pay. Free services are not available.

"The Metrocare Plan" is an abbreviated set of services offered at a discounted rate for clients who do not qualify for public assistance. [Click here for The Metrocare Plan details.](#)


Intellectual Developmental Disabilities Services provides a wide array of services and programs for individuals with mental retardation, autism, and/or other pervasive developmental disorders. The Mental Retardation Authority (MRA) serves as the entry point for residents of Dallas County for eligibility and determination in accordance with state law and the Department of Aging and Disability Services. The Service Coordination unit provides assistance for an individual in accessing medical, social, educational, and other appropriate services and supports. External and Internal Provider services are contracted and monitored by the MRA.

Provider services and supports may include community support, respite, specialized therapies, employment assistance, supported employment, behavioral support, vocational training, day habilitation, in home family support and Home Community Based Services (HCS)/Texas Home Living Services.


For an appointment, contact **Metrocare Services** at (214) 743-1200.

Related Documents

[Transitional Housing](#)
[Employment](#)
[Outpatient](#)
[Inpatient](#)



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NEWSLETTER

58

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ATTORNEYS & COUNSELORS

Guardianship Service Organizations

Local Authority Dallas County - Metrocare



HIPAA AND PRIVACY
LAWS
PATIENTS
RIGHTS/VIOLATIONS

[HOME](#) [GETTING STARTED](#) [LEARN MORE](#) [SERVICES](#) [CARE FACILITIES](#) [GLOSSARY](#)



Services

Service Coordination

Service coordination helps people access medical, social, educational, and other appropriate services and supports that will help them achieve an acceptable quality of life and community participation. Service coordination is provided by LIDDA staff person who is typically referred to as a service coordinator.

Services

Community support: Community supports are individualized activities that are consistent with the person-directed plan and provided in the person's home and at community locations, such as libraries and stores. Supports may include

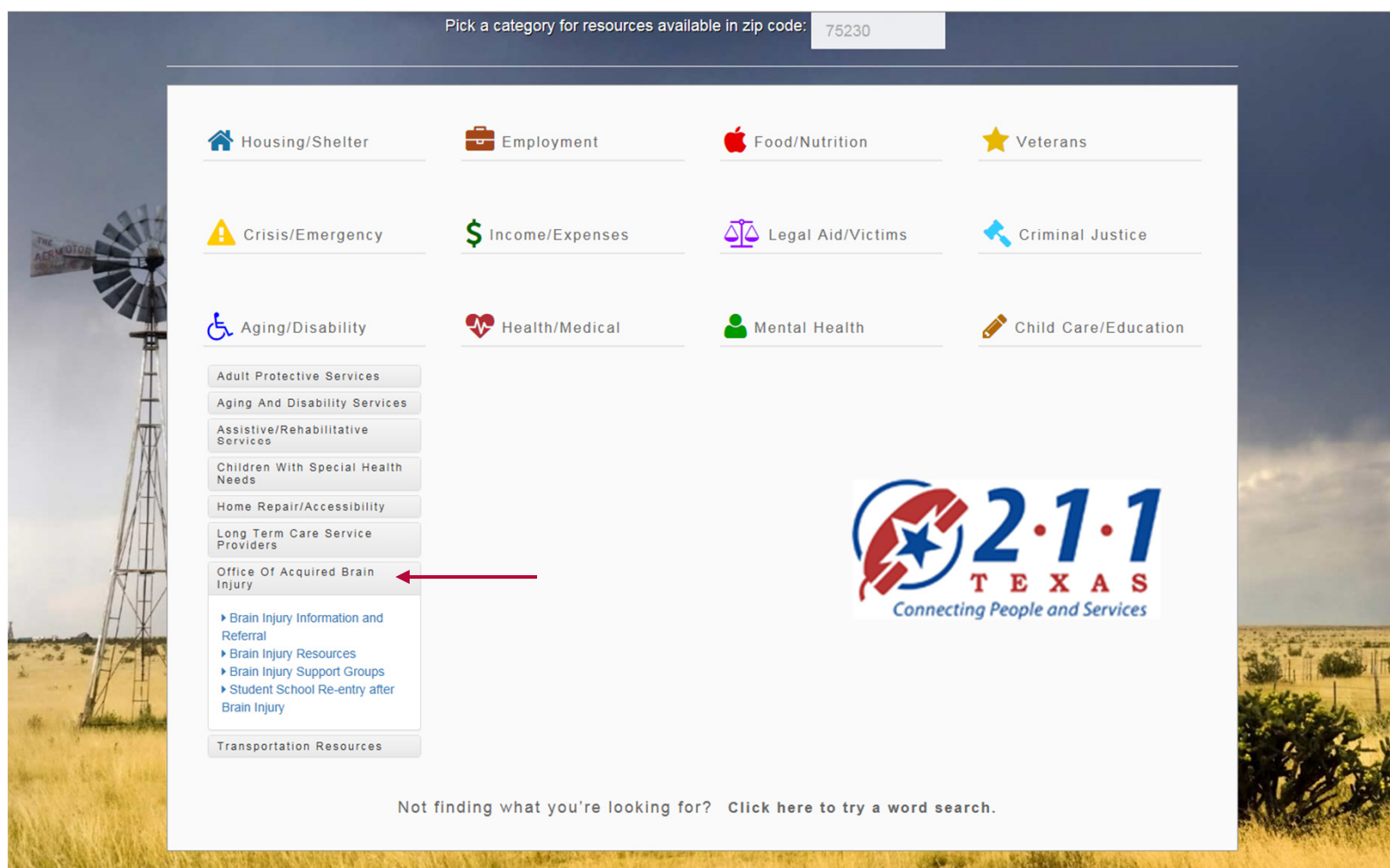
- habilitation and support activities that foster improvement of, or facilitate, the person's ability to perform daily living activities;
- activities for the person's family that help preserve the family unit and prevent or limit out-of-home placement of the person;
- transportation for the person between home and his or her community employment site or day habilitation site; and
- transportation to facilitate the person's employment opportunities and participation in community activities.

Respite: Respite is either planned or emergency short-term relief provided to the person's unpaid caregiver when the caregiver is temporarily unavailable. Respite is provided by trained staff in the person's home or another location. If enrolled in other services, the person continues to receive those services as needed during the respite period.



Online Resources

211Texas.org – Services Locator



Online Resources

211Texas.org – Brain Injury

The screenshot displays the Texas Health and Human Services Commission website. The header features the state of Texas logo, the text "TEXAS Health and Human Services Commission", a "En Español" link, and social media icons for Facebook, YouTube, and Twitter. A navigation bar includes links for "Find Services", "News & Information", "Rules & Statutes", and "Business Information". A left sidebar lists various services such as "Home", "About the Office", "Advisory Council", "Local Brain Injury Coalitions", "Signs and Symptoms of Brain Injury", "Education and Training", "Materials", "Support Groups", "Resources", "General Resources", "Resource and Services Directory", "Resources for Older Adults", "Resources for Children", "Resources for Veterans", "Student Re-entry to Schools", "Disaster and Emergency", "Preparedness", "Wallet ID Card", and "Insurance". The main content area lists several online resources: "2-1-1" (Provides information about state and local human services resources, including food, housing, utility assistance, counseling and other services.), "Disability Rights Texas" (To advocate for, protect and advance the legal, human and service rights of people with disabilities.), "ABLEDATA" (Provides information about assistive technology products and rehabilitation equipment.), "Brain Injury Association of Texas" (Develops programs for public awareness and education, supports research and rehabilitation and provides family guidance.), "Brain Injury Association of America", "Brain Injury Online" (A comprehensive source of information for survivors, families, associations and organizations about living with an injured brain. Managed and maintained by Beth and Larry Jameson, a survivor and spouse.), "BrainLine" (A national multimedia project offering information and resources about preventing, treating, and living with brain injury. BrainLine is funded by the Defense and Veterans Brain Injury Center.), "Centers for Disease Control" (Prevention tips, publications, research information, and other resources.), "Medline Plus" (Features information from National Library of Medicine, the National Institutes of Health, and other government agencies and health-related organizations.), "Sittercity" (An online source for in-home caregivers with over 1 million nationwide caregiver profiles (Department of Defense funded).), "Texas Department of Assistive and Rehabilitative Services" (Administers programs that help people with disabilities live independent and productive lives.), "Independent Living Services" (Promotes self-sufficiency and independence for people with disabilities.), "Comprehensive Rehabilitation Services" (Helps people with brain or spinal cord injury be more independent in their homes and communities.), "Vocational Rehabilitation for Persons with Physical and Mental Disabilities" (Helps people who have physical or mental disabilities find or keep employment.), and "Rehabilitation Technology Resource Center" (Assists in finding equipment, explaining how).

Guardianship Service Organizations

Alzheimer's Association

alzheimer's  association®

THE BRAINS BEHIND SAVING YOURS.®

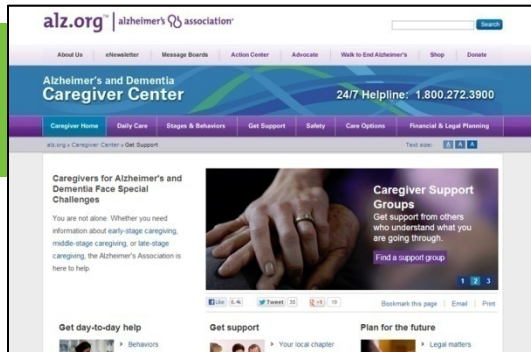
alz.org/greaterdallas



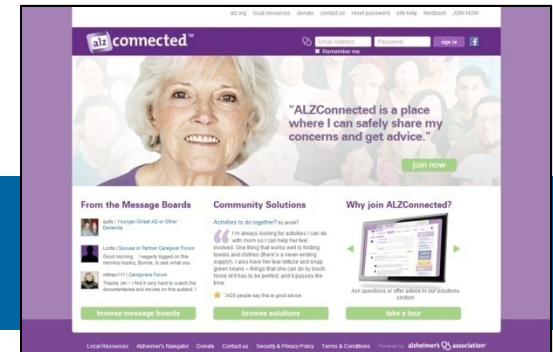
Guardianship Service Organizations

Alzheimer's Association

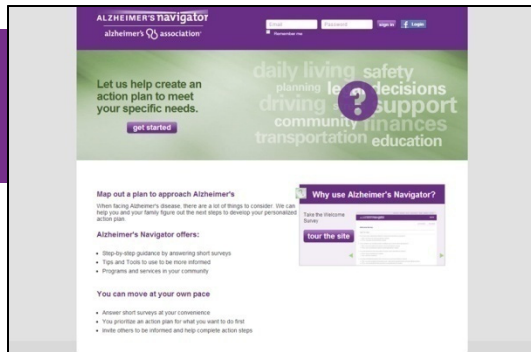
Alzheimer's & Dementia Caregiver Center
alz.org/care



ALZConnected
alzconnected.org



Alzheimer's Navigator
alzheimersnavigator.org



Community Resource Finder
communityresourcefinder.org





Map out a plan to approach Alzheimer's

When facing Alzheimer's disease, there are a lot of things to consider. Alzheimer's Navigator helps guide Caregivers to answers by creating a personalized action plan and linking you to information, support and local resources. View a [sample Action Plan](#).

Sign In

For Existing Action Plans:

sign in

[Reset Password](#)

What do you want to know?

Choose one of these topics to develop a personalized action plan.



Working with Your
Doctor



Symptoms



Safety



Legal Planning



Knowledge



Financial Planning



Caregiver Support



Care Options



Daily Living

Featured Topic



Driving

General Assessment

Not sure where to start?

Complete an overall assessment to help you start your Action plan.



[Welcome](#)



Welcome

Page **1** of 2

1. Do you have a basic understanding of Alzheimer's disease or related dementias and how the disease may progress?
 - a. ☐ No, I do not know very much about Alzheimer's disease or related dementias.
 - b. ☐ I know a little bit about it, but want to learn more.
 - c. ☐ Yes, I know quite a bit about Alzheimer's disease or related dementias.
2. Are you confident in your knowledge about the most effective ways to care for a person with dementia?
 - a. ☐ I'd like to be more confident in my ability to provide care.
 - b. ☐ I have a lot of confidence in my ability as a caregiver.
 - c. ☐ I'm not the person who provides the day to day care.
3. Do you feel overwhelmed by the responsibilities of caring for a person with dementia?
 - a. ☐ Yes. I feel overwhelmed as a caregiver more days than not.
 - b. ☐ Some days I'm handling things pretty well and some days, I feel overwhelmed.
 - c. ☐ No. I rarely feel overwhelmed.
 - d. ☐ I am not the person who provides day to day care.



Legal Planning

Page **1** of 1


1. Planning for the future involves attending to legal issues related to Alzheimer's disease. Please check the statement that best describes your situation.
 - a. ☐ I have a good understanding of legal issues and the documents that need to be in place.
 - b. ☐ I have some documents in place, but not all of them.
 - c. ☐ I feel lost when it comes to getting legal plans in place.
2. Have you talked about preferences regarding treatment and care, including end-of-life wishes?
 - a. ☐ Yes
 - b. ☐ No
3. Please rate your level of comfort in finding and completing legal forms on your own.
 - a. ☐ Very uncomfortable
 - b. ☐ Uncomfortable
 - c. ☐ I think I could do it if the instructions are clear
 - d. ☐ Comfortable
 - e. ☐ Highly confident
4. Are there disagreements among family members about legal or financial issues?
 - a. ☐ Never
 - b. ☐ Sometimes, but we always work them out
 - c. ☐ Yes, and it creates difficulty in making legal and financial plans for the person with dementia

Action Steps ?

Knowledge of Alzheimer's

☐ Take the online Brain Tour.

I am finished

 [Add Notes](#)

Learning how Alzheimer's affects the brain will give you a better understanding of why memory, personality and physical capabilities are affected by the disease. Click [here](#) to take the online [Brain Tour](#).

Knowledge of Alzheimer's

☒ Learn about the facts of Alzheimer's disease.

My needs changed

Completed 12/01/2015 by Liz  [Add Notes](#)

Click [here](#) to learn about the facts of Alzheimer's disease.

Knowledge of Alzheimer's

☐ Sign up for eNews.

I am finished


 [Add Notes](#)

Stay up-to-date on the latest news and advances in Alzheimer's treatments, care and research. Get tips for living with Alzheimer's as well as simple ideas on how you can support the fight to end Alzheimer's. Click [here](#) to learn more.

Knowledge of Alzheimer's

☐ Read the "Basics of Alzheimer's Disease" brochure.

I am finished

 [Add Notes](#)

As we age, most of us eventually experience some slowed thinking and have trouble remembering certain things. However, serious memory loss, confusion and other major changes in the way our minds work are not a typical part of aging. Read the [Basics of Alzheimer's Disease](#) brochure to learn more.

Guardianship Service Organizations

Guardianship/Money Management/Senior Companion Programs

Senior Source
Dallas County
Private Nonprofit Agency
www.theseniorsource.org

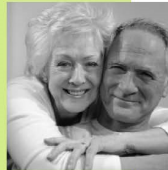


THE SENIOR SOURCE®



**The best thing
about aging in Dallas
since 1961.**

For more than 50 years,
The Senior Source has
worked to improve the
quality of life for older
adults in the greater Dallas
area through protection,
eldercare, financial security,
advocacy, volunteerism
and employment services.



What do we do?

- Counseling & casework
- Money management
- Job search assistance
- Geriatric care management
- Nursing home advocacy
- Financial security guidance
- In-home companions
- Guardianship services
- Senior issues education
- Volunteer opportunities



www.TheSeniorSource.org

214.823.5700

3910 Harry Hines Boulevard • Dallas, Texas 75219

A United Way Service Provider

Services that ASSIST older adults

ELDER SUPPORT PROGRAM Eldercare specialists assist and counsel older adults and their caregivers.

ELDERCARE PARTNERS Our licensed professionals provide geriatric care management solutions for those caring for an older adult.

SENIOR COMPANION PROGRAM Seniors provide in-home companion services to the elderly.

Services that PROTECT older adults

ELDER FINANCIAL SAFETY CENTER Prevention, protection and prosecution services are collaboratively offered through The Senior Source, Dallas County District Attorney's Office and Probate Courts to promote financial security that affects all arenas of public safety for older adults.

GUARDIANSHIP & MONEY MANAGEMENT PROGRAM Trained volunteers and staff help manage the personal and financial affairs of vulnerable elderly.

LONG-TERM CARE OMBUDSMAN PROGRAM Certified volunteers and agency staff advocate for nursing home and assisted living facility residents.

Services that CONNECT older adults

SENIOR EMPLOYMENT PROGRAM Mature job seekers receive job search assistance and support, computer training and are connected to job opportunities.

AGE (ADVOCACY GROUP FOR ELDERS) Community members work together to address issues affecting older people.

FOSTER GRANDPARENT PROGRAM Older adults are paired with children with special needs.

RSVP This is *THE* clearinghouse for volunteer activities and opportunities for older adults.

TSS 5-15



ElderCare Partners

Our unique geriatric care management program provides in-depth personalized services for older adults and their families through:

- Crisis Intervention
- Situation Assessment
- Care Plan Development and Implementation
- Ongoing Care Monitoring

Objective, third-party licensed professionals have evaluated the circumstances and are assisting with the overwhelming details associated with:

- In-Home Caregiving services
- Housing Needs
- Family Mediation
- Medication Management
- Safety concerns
- Medicare/Insurance Issues
- Home Modifications
- Transition to the Next Level of Care

Guardianship Service Organizations

Guardianship/Money Management/Senior Companion Programs



Harris County Protective Services for Children & Adults
Harris County
www.hc-ps.org



Guardianship Services, Inc.
Tarrant County
www.guardianshipservices.org



Catholic Charities
Bexar County
www.ccaosa.org/guardianship

Guardianship Service Organizations

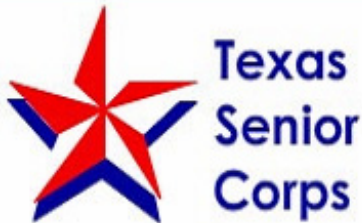
Guardianship/Money Management/Senior Companion Programs



Family Eldercare
Travis County
www.familyeldercare.org



Friends for Life
McLennan County
Also includes Abilene, Corpus Christi, San Antonio, Temple,
Texas City & Tyler
www.friendsforlife.org



Texas Senior Corps Association | Senior Companion Programs
Statewide
www.texasseniorcorps.org/projects



Achieve with us. **IDD Resources**

Helpful Links Related to Guardianship and Alternatives to Guardianship:

The Arc of Texas www.thearcoftexas.org, Information on Guardianship
http://www.thearcoftexas.org/site/PageServer?pagename=services_transition_guardianship

Education Decision Making When Your Child Turns 18- Information about the requirement for schools to transfer decision making authority from the parent to the student at Age 18.
http://www.thearcoftexas.org/site/PageServer?pagename=services_transition_further_education


The Arc of Texas Master Pooled Trust is a special needs trust for individuals with disabilities that allows them to have money in the trust that can be used for their supplemental needs and will not effect their eligibility for Medicaid, Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI).
<http://www.thearcoftexas.org/trust/index.php>

The Arc of the Capital Area, <http://www.arcofthecapitalarea.org/guardianship.php> ,
Helps under-resourced families to establish guardianship of children with developmental disabilities who have recently reached or will soon reach adulthood (age 18)

The Arc of Dallas <http://www.arcdallas.org/what-we-do/client-services/guardianship->

Online Resources

American Association of Retired Persons (AARP)



CAREGIVING

NOW READING: 12 Resources Every Caregiver Should Know About

Here's a list of key resources to help you in your caregiving role. Bookmark this page or print copies for your home and office.

Sign up for the AARP Health Newsletter.

AARP Online Community

Discuss issues with other caregivers in the online community.

Alzheimer's Association

www.alz.org

800-272-3900

Information and support for people with Alzheimer's disease and their caregivers. Operates a 24/7 helpline and care navigator tools.

Alzheimers.gov

www.alzheimers.gov

The government's free information resource about Alzheimer's disease and related dementias.

ARCH Respite Network

www.archrespite.org

Find programs and services that allow caregivers to get a break from caring for a loved one.

Eldercare Locator


www.eldercare.gov

800-677-1116

Connects caregivers to local services and resources for older adults and adults with disabilities across the United States.

Family Caregiver Alliance

www.caregiver.org



Keep this list of important resources for caregivers handy: bookmark page or print copies for your home and office. — Photo by Getty Images

state OFFICE

AARP Texas
 98 San Jacinto Boulevard
 Suite 750
 Austin, TX 78701
 Phone: 866-227-7443
 Fax: 512-480-9799
 8:30 am – 4:30 pm M – F
[Local Map](#)

WHAT: AARP TX - Caregiving Connections Event, Dallas, TX 4/27/16

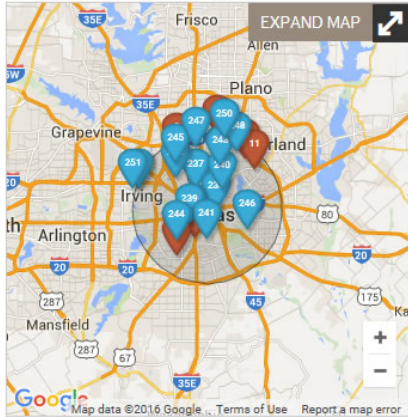
Every day more than 3 million Texans perform a great labor of love: caring for older parents, spouses, and other loved ones so they can live independently at home. If you are feeling the weight of the time, money, and stress involved in this labor of love, join AARP and other family caregivers to discuss the challenges you face and learn about resources available to you.

Capacity: 120

Contact: Texas, AARP

Email: txaarp@aarp.org

In My City



[SEE ALL LOCAL >](#)

Related

Caregiving Resource Center

Share your caregiving story

[Join AARP Today](#) — Receive access