

C-1-PB-21-000002

Administrative Order	§	In the Probate Court
2021-10	§	
	§	Number One
	§	
[Amending Administrative Order 2015-3, signed September 17, 2015; and Administrative Order 2019-7, signed October 7, 2019]	§	Travis County, Texas

**Administrative Order Requiring “Bill of Rights for Persons
under Guardianship” to Be Attached to the Personal Citation on
the Proposed Ward in all Applications to Appoint a Guardian**

On September 17, 2015, the undersigned presiding judge of Travis County Probate Court Number One found there was need to require additional information to be attached to the personal citation on the proposed ward when an application to appoint a guardian is filed. The Court found the following:

1. In Senate Bill 1882, the 2015 Legislature added Texas Estates Code Section 1151.351, Bill of Rights for Wards.
2. The purpose of this new Section is to set out rights that a person placed under a guardianship has unless specifically limited by a court or otherwise restricted by law.
3. All proposed wards should be informed about the Bill of Rights for Wards before any guardianship is put in place.

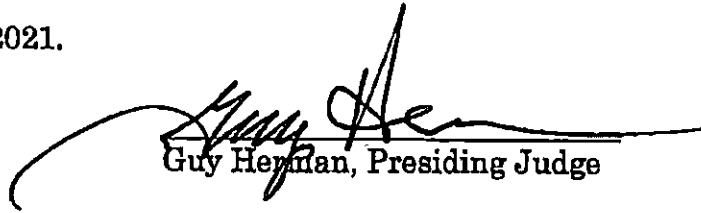
On October 7, 2019, the undersigned presiding judge of Travis County Probate Court Number One found that the Bill of Rights for Persons under Guardianship was modified by House Bill 4531 in the 2019 Legislative Session and thus this Administrative Order needed to be amended to include the revised version of the Bill of Rights for Persons under Guardianship.

On this day, the undersigned presiding judge of Travis County Probate Court Number One finds that the Bill of Rights for Persons under Guardianship was modified by Senate Bill 626 in the 2021 Legislative Session and thus this Administrative Order needed to be amended to include the revised version of the Bill of Rights for Persons under Guardianship.

It is therefore ordered that when an application for guardianship is filed, the Clerk must attach to each personal citation on a proposed ward issued under either Texas Estates Code §1051.103(a)(1) or Texas Estates Code §1251.005 the “Bill of Rights for Persons under Guardianship” that is attached to this Order, informing the

proposed ward of the proposed ward's rights if he or she is placed under a guardianship.

Signed on December 15, 2021.

A handwritten signature in black ink, appearing to read "Guy Herman", is written over a horizontal line. The signature is stylized with a large, sweeping initial "G".

Guy Herman, Presiding Judge

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 or guardian 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; and
- (25) to make decisions related to sexual assault crisis services, including consenting to a forensic medical examination and treatment, authorizing the collection of forensic evidence, consenting to the release of evidence contained in an evidence collection kit and disclosure of related confidential information, and receiving counseling and other support services.

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