

CHAPTER 881

H.B. No. 746

An Act relating to the payment of certain claims owed to persons for whom no guardian has been appointed, to the termination of certain guardianships, and to the disposition of guardianship assets.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subsections (a) and (b), Section 144, Texas Probate Code, are amended to read as follows:

(a) *Terminated Guardianship Assets and Payments to* ~~[[Fe]]~~ Residents. Whenever a resident minor, ~~[or whenever]~~ a resident person legally adjudged to be of unsound mind or a ~~[to be an]~~ habitual or common drunkard, *or the former ward of a guardianship terminated under Section 404(c) of this code*, all sometimes referred to in this Section as "creditor," being without a legal guardian of his person or estate, shall be entitled to money in an amount not exceeding *Fifteen* ~~[[Ten]]~~ Thousand Dollars, the right to which is liquidated and is uncontested in any pending lawsuit, the debtor may pay same to the County Clerk of the county in which such creditor resides in this state, for the account of such creditor, giving his name, the nature of his disability, and if a minor his age, and his post-office address, and the receipt for such money signed by the clerk shall be forever binding on such creditor as of the date and to the extent of such payment. *The clerk shall, by letter mailed to the address given by the debtor, apprise the creditor of the fact that the deposit was made.* Upon receipt of such payment by the clerk, he shall forthwith call same to the attention of the court and shall invest such money as authorized by the Probate Code pursuant to the orders of the court in the name and for the account of such minor other person entitled to same; ~~and by letter mailed to the address given by the debtor, shall apprise such creditor of the fact that such deposit has been made~~. Any increase, dividend or income from such investments shall be credited to the account of such minor or other person entitled to such investment. Any money heretofore deposited under the terms of this section which has not been paid out shall within thirty (30) days after the effective date of this Act be subject to the provisions of this Act as amended.

Within sixty (60) days from the first day of each calendar year the clerk of the court shall make a report to the court in writing of the status of such investments. Such report shall contain the following:

- (1) The amount of the original investment or the amount of the investment at the last annual report, whichever is later.
- (2) Any increase, dividend or income from such investment since the last annual report.
- (3) The total amount of the investment and all increases, dividends or income at the date of the report.
- (4) The name of the depository or the type of investment.

The father or mother or unestranged spouse of such creditor, priority being given to such spouse, residing in this state or if there be no such spouse and both father and mother be dead or nonresidents of this state, then the person residing in this state who has actual custody of such creditor, may as custodian, upon filing with such clerk written application and bond approved by the County Judge of such county, withdraw such money from the clerk for the use and benefit of such creditor, such bond to be in double the amount of said money and to be payable to the judge or his successors in office and to be conditioned that such custodian will use said money for the benefit of such creditor under directions of the court and that he will, when legally called upon to do so, faithfully account to such creditor, his heirs or legal representatives for such money and any increase thereof upon removal of the disability to which such creditor is subject, or upon his death or the appointment of a guardian. No fees or commissions shall be allowed to such custodian for taking care of, handling or expending such money so withdrawn by him.

When such custodian shall have expended such money in accordance with directions of the court or shall have otherwise complied with the terms of his bond by accounting for said money and any increase, he shall file with the County Clerk of said county his sworn report of his accounting, the filing of which report, when approved by the court shall operate as a discharge of said person as custodian and his sureties from all further liability under said bond. The court shall satisfy itself that the report is true and correct and may require proof as in other cases.

(b) *Payments to* ~~[[Fe]]~~ Non-Resident. Whenever a non-resident minor, ~~[or whenever]~~ a non-resident person duly adjudged by a court of competent jurisdiction to be of unsound mind or to be an habitual drunkard, *or the former ward of a guardianship terminated under Section 404(c) of this code*, having no legal guardian qualified in this state, is entitled to money in an amount, not exceeding *Fifteen* ~~[[Ten]]~~ Thousand Dollars owing as a result of transactions within this state, the right to which is liquidated and is uncontested in any pending lawsuit in this state, the debtor in this state may pay such money to the guardian of such creditor duly qualified in his domiciliary jurisdiction or to the county clerk of any county in this state in which real property owned by such non-resident person is situated. If such person is not known to own any real property in any county in this state such debtor shall have the right to pay such money to the county clerk of the county of this state in which the debtor resides. In either case, such payment to the clerk shall be for the use and benefit and for the account of such non-resident creditor, and the receipt

for such payment signed by the clerk, reciting the name of such creditor and his post-office address, if known, shall be forever binding against such creditor as of the date and to the extent of such payment. Such money so paid to such clerk shall be handled by him in the same manner as above provided for in cases of payments to the clerk for the accounts of residents of this state, and all applicable provisions of Subsection (a) above shall apply to the handling and disposition of money or any increase, dividend, or income herefrom so paid to the clerk for the use, benefit, and account of such non-resident creditor.

SECTION 2. Section 404, Texas Probate Code, is amended to read as follows:

Sec. 404. CLOSING ADMINISTRATION OF ESTATES OF DECEDENTS AND GUARDIANSHIP OF WARDS OR THEIR ESTATES. (a) Administration of the estates of decedents and guardianship of the persons and estates of wards shall be settled and closed:

(1) when ~~[(a) Estates of Decedents. When]~~ all the debts known to exist against the estate of a deceased person have been paid, or when they have been paid so far as the assets in the hands of an administrator or executor of such estate will permit, and when there is no further need for administration; [-]

(2) when a ~~[(b) Persons and Estates of Wards.~~

~~[1. Of a Minor. When the]~~ minor ward dies, or becomes an adult by becoming eighteen years of age, or by removal of disabilities of minority according to the law of this state, or by marriage; [-]

(3) when an incompetent ~~[2. Of Incompetents. When the]~~ ward dies, or is decreed as provided by law to have been restored to sound mind or sober habits, or, being married, when his or her spouse has qualified as survivor in community; [-]

(4) when a ward entitled to funds from a governmental source ~~[3. Of a Person Entitled to Funds From Any Governmental Source. When the ward]~~ dies, or when the court finds that the necessity for the guardianship of that person has ended; [-]

(5) when ~~[4. Exhaustion of Estate. When]~~ the estate of a ward becomes exhausted; or [-]

(6) when ~~[5. When Income Negligible. When]~~ the foreseeable income accruing to a ward or to his estate is so negligible that maintaining the guardianship in force would be burdensome.

(b) In a case arising under Subsection (a)(6) of this section, ~~[such ease]~~ the court may authorize the ~~[such]~~ income to be paid to a parent, or some other person who has acted as guardian, to assist as far as possible in the maintenance of the ward, and without liability to account to the court for the ~~[such]~~ income.

(c) *When the estate of a minor ward consists only of cash or cash equivalents in an amount of not more than \$15,000, the guardianship of the estate may be terminated and the assets paid to the county clerk of the county in which the guardianship proceeding is pending, and the clerk shall manage the funds as provided by Section 144(a) of this code.*

SECTION 3. The section heading of Section 144, Texas Probate Code, is amended to read as follows:

Sec. 144. PAYMENT OF CLAIMS WITHOUT GUARDIANSHIP AND ADMINISTRATION OF TERMINATED GUARDIANSHIP ASSETS

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on April 4, 1985, by a non-record vote; passed by the Senate on May 17, 1985, by the following vote: Yeas 30, Nays 0.

Approved: June 15, 1985

Effective: August 26, 1985