

THE NEW GUARDIANSHIP REQUIREMENTS: ALTERNATIVES TO GUARDIANSHIP AND SUPPORTS AND SERVICES

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Reforming Guardianship in Texas

The 84th Legislature passed four bills protecting the rights of persons with disabilities in the guardianship system:

- 1) HB 39 – Alternatives to Guardianship;
- 2) SB 1881 – Supported Decision-Making Agreement Act;
- 3) SB 1882 – Bill of Rights of Wards; and
- 4) HB 1438 (Section 10) – Court-Initiated Guardianships

[Note: All references are to the Estates Code and not the Bill provisions.]

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Significant Changes

- For the first time, the Texas legislature mandated that probate courts consider **alternatives to guardianships and supports and services** before a guardianship is created.
- Texas became the first state in the nation to codify **supported decision-making** in statute as an alternative to guardianship.

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ALTERNATIVES TO GUARDIANSHIP

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Alternatives to Guardianship: Texas Estates Code

Alternatives to guardianship include:

- 1) Medical Power of Attorney;
- 2) Durable Power of Attorney;
- 3) Declaration for Mental Health Treatment;
- 4) Representative Payee;
- 5) Joint Bank Account;

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Alternatives to Guardianship

- 6) Management Trust;
- 7) Special Needs Trust;
- 8) Designation of Guardian Before the Need Arises;
- 9) Alternate Forms of Decision-Making Based on Person-Centered Planning; and
- 10) Supported Decision Making Agreement.

Tex. Est. Code §§ 1002.0015 & 1357.001 et seq.

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Title search: The New Guardianship Requirements: Alternatives to Guardianship and Supports and Services

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