

The Ad Litem Manual 2022 (The Role of the Ad Litem)

PRESENTED BY THE HONORABLE JUDGE GUY HERMAN
PRESIDING JUDGE, TRAVIS COUNTY PROBATE COURT NO. 1
PRESIDING STATUTORY PROBATE JUDGE OF TEXAS

Ward's Bill of Rights

TEXAS ESTATES
CODE § 1151.351

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A ward has 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 a right is limited by a court or otherwise restricted by law, a ward has the right:

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;

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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;

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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;

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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, 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 Section 1054.006;
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;

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