



By P. Keith Staubus

8401 N. Central Expressway, Ste.210
Dallas, Texas 75225
214-691-3411
Fax: 214-691-3454
pks@srllp.com

“HELPING CLIENTS WHO DON’T WANT HELP”

PRESENTED TO NATIONAL PLACEMENT AND REFERRAL ALLIANCE

PROBATE COURT OPTIONS CHECKLIST

1. Application for Guardianship
 - a) Standing: Any person interested in the welfare of an incapacitated person
 - b) Venue: In the county where the person resides or is located
 - c) Jurisdiction: Larger counties – statutory Probate Courts
 - d) Temporary Guardianship
 - Imminent danger standard
 - Personal service on the proposed Ward
 - Court Investigator visits
 - Attorney Ad Litem appointed
 - Hearing within 10 days
 - Lasts 60 days, or if contest filed, when contest over
 - e) Permanent Guardianship
 - Physician’s Certificate of Medical Examination
 - Incapacitated Person

- An adult who because of a physical or mental condition is substantially unable to:
 - Provide food, clothing or shelter for himself or herself;
 - Care for the person's own physical health; or
 - Manage the person's own financial affairs.

f) For more information, download my Powerpoint

"Survivor: Probate Court/How to More Than Survive Opening a Guardianship"

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2. Informal Informational Letters to Probate Court

(Estates Code § 1102.003)

- Any interested person
- If written by family member, must be sworn to before a Notary
- Can lead to appointment of Guardian Ad Litem

3. Mental Illness System

- Why? A guardian may not voluntarily admit an adult ward to an inpatient psychiatric facility;
- Governed by Texas Mental Health Code (Health & Safety Code);
- District Attorney's Office/Mental Health Division handles the case
- Emergency Detention Order (Health & Safety Code 573.011)
 - Legal Basis:
 - Applicant has reason to believe person suffering from a mental illness;
 - Substantial risk of serious harm to self or others;
 - Recent overt acts/threats
 - Where to initiate a warrant:
 - Mental illness court office;
 - Magistrate's office;
 - Local Justice of the Peace;

- “APPOW” – Apprehension by a police officer without a warrant (if there is not enough time to obtain a warrant).
- Probable Cause hearing;
- Order outpatient or inpatient mental health services
 - Finding that the person suffers from mental illness and is likely to cause serious harm to himself or others; or
 - Experiencing substantial mental or physical deterioration in their ability to function independent, exhibited by an inability to provide basic needs including food, clothing, and health or safety, and unable to make a rational and informed decision as to whether to submit to treatment.