

Form 3-16

[Caption. See § 3 of the Introduction in this manual.]

Motion to Create Texas Property Code Section 142 Trust

This Motion to Create a Texas Property Code Section 142 Trust for the benefit of [name of minor or incapacitated person] is brought by [name of movant], Movant, as [next friend/guardian ad litem] of [name of minor or incapacitated person], who shows in support:

Select the following if judgment is not yet entered.

1. This Court is about to enter its final judgment in the above-entitled and -numbered cause, and [name of minor or incapacitated person] will be awarded \$[amount]. At that time, such funds will be subject to being paid into the registry of this Court because [name of minor or incapacitated person] is [a minor/an incapacitated person].

Select the following if judgment is already entered.

1. On [date] this Court entered its final judgment in the above-entitled and -numbered cause, and [name of minor or incapacitated person] was awarded \$[amount], free and clear of all costs, expenses, and fees. The funds were then paid into the registry of this Court.

Select the following if the beneficiary is a minor.

2. [Name of minor] was born on [date] and is a minor, age [age] as of the filing of this motion. [Name of minor] currently resides at [address]. Movant is the [next friend/guardian ad litem] for [name of minor]. There is no court-ordered guardianship pending with respect to [name of minor] at this time. Movant is of the opinion that it would be in the best interests of [name of minor] to have the amount awarded to [him/her] held in trust for [his/her] benefit in accordance with section 142.005 of the Texas Property Code, until [he/she] attains age [age]. It is the opinion of Movant that [name of minor] will not have sufficient maturity to properly

manage and invest that sum of money on attaining [his/her] majority at age eighteen. Moreover, it is the opinion of Movant that such a large amount of money should be invested and managed by a corporate trustee, which is in the business of managing large amounts of money, rather than allowing the money to remain in the Court's registry.

Select the following if the beneficiary is an incapacitated person.

2. **[Name of incapacitated person]** was born on **[date]** and is an incapacitated person as defined by section 142.007 of the Texas Property Code, inasmuch as [he/she] lacks sufficient understanding or capacity to make or communicate responsible decisions concerning [his/her] financial affairs. **[Name of incapacitated person]** currently resides at **[address]**. Movant is the [next friend/guardian ad litem] for **[name of incapacitated person]**. Movant is of the opinion that **[name of incapacitated person]** will not have sufficient capacity to properly manage and invest such an amount of money until [he/she] regains capacity. Moreover, it is the opinion of Movant that such a large amount of money should be invested and managed by a corporate trustee, which is in the business of managing large amounts of money, rather than allowing the money to remain in the Court's registry.

Continue with the following.

3. Movant has asked **[name of proposed trustee]** to act as trustee of the trust if this Court agrees that such a trust should be created. Movant understands that **[name of proposed trustee]** is willing to act as trustee.

4. Movant and **[name of proposed trustee]** have agreed on the terms of such a trust, and a proposed trust agreement reflecting those terms accompanies this motion.

[Name of movant] prays that this Court create a Texas Property Code section 142.005 trust for the benefit of **[name of minor or incapacitated person]** in accordance with the terms and provisions of the trust agreement filed with this motion. Movant prays for all further relief to which Movant may be entitled.

Respectfully submitted,

[Name]
Attorney for Movant
State Bar No.:
[Email address]
[Address]
[Telephone]
[Telecopier]

Certificate of Service

I certify that a true copy of this [title of document] was served in accordance with rule 21a of the Texas Rules of Civil Procedure.

SIGNED on _____

[Name of attorney]

Attach proposed trust agreement along with proposed trustee's fee schedule.

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