

SUBJECT: Revising protective and guardianship services for the elderly and disabled

COMMITTEE: Human Services — committee substitute recommended

VOTE: 7 ayes — Hupp, Eissler, J. Davis, A. Allen, Goodman, Paxton, Reyna

0 nays

2 absent — Gonzalez Toureilles, Naishtat

WITNESSES: None

BACKGROUND: Adult Protective Services (APS), administered by the Department of Family and Protective Services (DFPS) and housed under the Health and Human Services Commission (HHSC), investigates reports of abuse, neglect, and exploitation of elderly and disabled adults while making available protective services to alleviate and prevent the recurrence of such cases. The growing elderly population and heightened awareness of abuse dramatically have increased reports of adult abuse, neglect, and exploitation. In 2003, APS completed 61,342 investigations of maltreatment, of which 44,694 were confirmed.

The major components of APS include in-home investigations, mental health and mental retardation investigations, and guardianship services.

The in-home investigative department serves elderly adults (age 65 or older) and disabled adults who live in private homes, adult foster homes, and unlicensed board and/or long-term care homes. The mental health and mental retardation (MH/MR) section investigates reports involving persons receiving mental health or mental retardation services in settings such as state facilities, community centers and local authorities, and home and community-based services.

Human Resources Code, ch. 48 details the investigative procedures required for all cases involving elderly or disabled individuals. An investigation must begin within 24 hours of receiving a legitimate report of severe abuse, neglect, or exploitation. Investigations of cases that are reported to be less severe or urgent may begin later. APS must interview

the elderly or disabled person, if appropriate, and may interview other persons at its discretion.

If the investigation reveals evidence of criminal abuse, neglect, or exploitation, APS must submit a copy of the investigation to law enforcement. In addition, APS may petition a court to authorize emergency protective services if evidence of maltreatment suggests that the person's life or personal safety may be at risk. If the person is incapacitated and cannot protect his or her own well being, APS may petition a court to appoint a guardian for that person. Before the court can grant emergency protective services or guardianship, it must receive a medical report, signed by a doctor, indicating that the abuse threatened the health or life of the person and that the person is physically or mentally incapacitated.

APS may provide protective or guardianship services directly or may contract them out to another party. APS provides direct guardianship services as a last resort when no suitable guardian is available and only to resolve the maltreatment of the incapacitated adults.

Government Code, ch. 531 outlines the provisions and organization of HHSC. In determining caseload standards, the commissioner considers the recommendations of advisory committees that review professional standards and make minimum and maximum caseload recommendations. The commissioner must establish caseload standards based on actual duties of the caseworker while ensuring that the standards are reasonable, achievable, and consistent with existing professional caseload standards, the caseload standards of other state agencies, and the standards of other states.

In 2004, there were numerous accounts statewide of elderly individuals living under horrific conditions who had been visited and evaluated by APS. Motivated by these reports, Gov. Rick Perry issued an executive order directing HHSC to oversee the systemic reform of the APS program, limited strictly to the in-home investigation services. The study looked at all aspects of the department, including an independent review of cases.

HHSC's report, released in November 2004, found that caseworkers were not assessing client cases appropriately. The mental capacity assessment test was found to have been inconsistently applied and to have allowed the early closure of cases without intervention. The report outlined a \$34.1

million reformation plan for APS that would fund additional direct delivery staff and reduce caseloads, strengthen training and management, and deploy new technology to assist caseworkers in the field over the next three years.

DIGEST:

CSSB 6 would change Adult Protective Services (APS) through the transfer of guardianship services from DFPS to the Department of Aging and Disability Services (DADS). It also would extend the period during which a court could extend an order for emergency protective services and would allow a health professional other than a physician to sign a report indicating the physical and mental condition of the subject of such an order.

The bill would establish new risk assessment criteria for use by APS personnel in determining whether an elderly or disabled person required protective services. New employee qualification and recruitment requirements would seek to attract and retain high quality university graduates to APS, and training and evaluation requirements would attempt to improve skills and increase accountability.

HHSC would be required to implement a caseload reduction program, a pilot program to monitor and remediate certain unlicensed long-term care facilities, and a media campaign to educate the public and potentially prevent the mistreatment of elderly and disabled people.

These provisions would take effect September 1, 2005.

**Transfer of guardianship services to DADS**

CSSB 920 would transfer the state's guardianship program from DFPS to DADS. The general powers and duties of DADS would be amended to include serving as guardian of the person and/or estate for an incapacitated individual. APS/DFPS and DADS would enter into a memorandum of understanding detailing the roles and duties of each agency with regard to guardianship services.

The authority of APS to be appointed as a temporary or permanent guardian for individuals would be removed, and APS instead would be required to refer an individual to DADS for guardianship services if the individual was:

- a minor 16 years of age or older in the conservatorship of APS whom APS believed, because of a physical or mental condition, substantially would be unable to provide for himself or herself as an adult, or
- an elderly or disabled person whom APS believed was incapacitated and in a state of abuse, neglect, or exploitation.

If an appropriate, less restrictive alternative to guardianship existed, APS would be required to pursue it rather than making a guardianship referral to DADS.

To be appointed guardian of the person and/or estate of a minor person referred to the department by APS, DADS would have to file an application. DADS would have to evaluate the capacity of a minor and ensure that a less restrictive alternative to guardianship was not available. The guardianship created for a minor as a result of an application would not take effect before the minor's 18th birthday.

For an elderly or disabled person referred by APS to the department, DADS would have to conduct a thorough assessment of the conditions and circumstances of the person to determine whether a guardianship was appropriate. The resources and funds available to meet the needs of the individual could be considered by DADS in determining the appropriateness of a guardianship. If DADS determined that guardianship was appropriate, it would be required to file an application to be appointed guardian of the estate and/or person of the individual. If an appropriate, less restrictive alternative were identified, DADS would have to pursue it instead of applying for appointment as guardian.

APS could make a guardianship referral to a court with probate jurisdiction in the county where the individual lived or was found if the court had requested APS to notify it of any individuals who might be appropriate for a court-initiated guardianship proceeding. APS would be required to provide to the court all relevant and available information, but the court could not require APS to perform the duties of a guardian ad litem or court investigator or gather additional information not contained in APS' records.

A court could not require DADS to file an application for guardianship, and DADS could not be appointed guardian unless it filed an application or otherwise agreed to serve as the individual's guardian. If a court

requested the information, DADS would have to notify it of any guardianship referral made by APS to a probate court in the county where an individual who might be appropriate for a court-initiated guardianship proceeding lived or was found. If requested, DADS would have to provide to the court all relevant information in DADS' records relating to the individual. The court, however, could not require DADS to perform the duties of a guardian ad litem or court investigator, or gather additional information not contained in APS' records.

The bill would allow DADS to contract with a political subdivision of the state, a guardianship program, a private agency, or another state agency for the provision of guardianship services. DADS would have to develop or implement a quality assurance program for guardianship services, which would monitor any contracts DADS entered into to ensure the quality of the guardianship services.

DADS, a political subdivision of the state, or a state agency that DADS contracted with for guardianship services would not be responsible for posting a bond or paying any cost or fee associated with any bonds required by probate law in guardianship matters. DADS would not be responsible for any costs or fees associated with court proceedings or other services, or fees associated with the appointment of a guardian ad litem or attorney ad litem. DADS also would not be liable for funding services provided to a ward, including long-term care or burial expenses.

DADS would review all pending guardianship cases at least once a year to determine whether a more suitable person, guardianship program, or private professional guardian was willing and able to serve as successor guardian for a DADS ward. DADS would have to notify the court in which the guardianship was pending if it became aware of a possible successor guardian.

DADS would be required to refer a minor or elderly or disabled individual referred by DFPS/APS to a guardianship program, private professional guardian, or other person willing and able to provide guardianship services to the individual.

DADS would have access to all of the records or documents concerning an individual referred for guardianship services necessary to the performance of DADS' duties, including client-identifying information and medical, psychological, educational, or residential information. DADS could

petition the proper court for access to a necessary, but unobtainable, record or document. On good cause, the court could order the person or entity denying access to a record or document to disclose it. Access to, or disclosure of, a confidential record or other confidential information would not constitute a waiver of confidentiality for other purposes. All files, reports, and records developed by DADS in the assessment or provision of guardianship services to an individual would be confidential and could be released only as required by law, or as necessary to enable DADS to exercise its powers and duties. A court could order disclosure of confidential information only following a motion requesting release of the information and a hearing. Notice of the hearing would be served to DADS and all interested parties. After the hearing and an *in camera* review, the court would have to determine that disclosure was essential to the administration of justice and would not endanger the life or safety of an individual being assessed for guardianship services, a ward of DADS, or an individual providing services to a ward.

DADS would establish policy and procedures for the exchange of necessary information relating to a ward with another state agency or governmental entity, including a court, with a local guardianship program to which an individual was referred for services, or any other entity that provided services to a ward of DADS.

The bill would provide for the prosecuting attorney representing the state in criminal cases in county court to represent DADS in any proceeding unless this posed a conflict of interest, in which case the attorney general would represent DADS. If unable to serve, the attorney general could approve and deputize a private attorney or DADS-employed attorney to represent the agency. The prosecuting attorney representing the state in civil cases in Harris County would represent DADS in any proceeding in Harris County unless this posed a conflict of interest.

CSSB 6 would transfer all authority for guardianship services from DFPS and APS to DADS on September 1, 2005, and the HHSC commissioner would have to establish a plan to accomplish the transfer. The bill would amend the Human Resources Code and the Probate Code to note the transfer of guardianship services from DFPS to DADS. All matters involved in the provision of guardianship services would transfer from DFPS to DADS, including, but not limited to:

- DFPS employees who performed guardianship duties;
- HHSC rules and references in legal documents to DFPS or the Department of Protective and Regulatory Services; and
- money, appropriated funds, contracts, waivers, rights, obligations, property and records administered by or in the custody of DFPS.

Proceedings involving DFPS relating to guardianship services for incapacitated persons would continue in effect, continue until expired or lawfully terminated, and transfer without change in status to DADS. DADS would assume the position of DFPS in proceedings in which DFPS was a party. All public and private entities or any other person would be required to accept DADS as guardian in the same manner as it would have accepted DFPS' authority as guardian of a particular ward.

### **Provisions that apply to APS**

**Orders for emergency protective services.** APS would be required to petition the proper court for an emergency order authorizing protective services if APS determined that an individual was suffering from abuse, neglect, or exploitation in a manner that threatened the person's life or physical safety. A report containing the nature of the abuse, neglect, or exploitation could be signed by a physician assistant, registered nurse, advanced practice nurse, or licensed psychologist, in addition to a physician. It would have to state that the elderly or disabled person had suffered from abuse, neglect, or exploitation, which presented a threat to life or physical safety, and was incapable physically or mentally of consenting to services.

Following the receipt of a medical report signed by a physician, a court could render a one-time extension of an emergency order for an additional period of not more than 30 days past the initial 72-hour period allowed under current law. The report would have to be based on an examination the physician performed not earlier than the date the court granted the initial emergency order. After a hearing, the court also would have to find that the immediate danger to the health and safety of the person continued to exist. The court could shorten the term or terminate the emergency order on petition of APS, the elderly or disabled person, or a person interested in the elderly or disabled person's welfare.

Subject to the availability of funds, APS would provide protective services to elderly and disabled persons or contract for the provision of services,

particularly to persons residing in rural or remote areas of the state not previously served by APS and where APS did not have the resources for the direct provision of service.

**Risk assessment criteria.** The HHSC commissioner by rule would develop and maintain risk assessment criteria for use by APS personnel in determining whether an elderly or disabled person required protective services due to abuse, neglect, or exploitation. The criteria would have to provide for the comprehensive assessment of the person's environment, physical condition, medical and mental health condition, financial condition, and social interaction and support.

**Investigation unit.** The bill would require the creation of an investigation unit for APS. The unit would investigate reports of abuse and would contact the appropriate law enforcement agency if it determined that the subject of the report had suffered from abuse, neglect, or exploitation as a result of the criminal conduct of another person.

**Employee qualification and recruitment requirements.** When hiring employees whose duties relate to the provision of services directly to an elderly or disabled person, APS would, to the extent possible, hire staff with relevant professional credentials, including licensed master social workers or licensed professional counselors.

APS would be required to develop and implement a system to ensure that, to the greatest extent possible, abuse, neglect, or exploitation investigations that involved complex issues, such as identity theft, were assigned to experienced, trained personnel.

Subject to the availability of funds, the HHSC commissioner would develop, and DFPS would implement, a program designed to recruit and retain persons with professional credentials for employment in the APS division. An incentive program also would be created to encourage noncredentialed APS employees to obtain professional credentials that related to the provision of services directly to an elderly or disabled person.

DFPS would coordinate with the Texas Higher Education Coordinating Board (THECB) to:



- promote certificate or degree programs in the fields of social work and psychology for students in Texas universities; and
- ensure that graduates with bachelors or advanced degrees in social work or psychology had the knowledge and skills necessary for successful employment by APS in the provision of protective services.

**Training program.** APS would develop and implement a training program that each new employee would have to complete before:

- initiating an investigation of a report of alleged abuse; or
- providing protective services to elderly or disabled persons.

The training would have to provide the employee with information about such matters as:

- frequency and types of reports of abuse, neglect, and exploitation, including false reporting;
- the use and implementation of new risk assessment criteria and criteria designed to assess whether a person was incapacitated;
- legal procedures for the protection of individuals, including how to obtain a court order for emergency protective services;
- best practices for case management from intake to the provision of services, including referrals of individuals to appropriate public agencies or services;
- investigation of suspected identity theft and other forms of financial exploitation; and
- the establishment and maintenance of working relationships with community organizations and other local providers of services to elderly and disabled persons.

Employees would receive on-the-job training, which would require another APS caseworker with more experience to accompany and train the caseworkers in the field for a three-month period. At least once a year, APS would have to provide comprehensive case management training to supervisors of employees who conduct investigations.

APS employees who had completed initial training would have to meet annual continuing education requirements, which would focus on changes in APS policies and procedures and statutory changes affecting APS or persons served by the agency.

**Quality assurance (QA) program and performance review.** APS would develop and implement a quality assurance (QA) program based on client-centered outcome measures on the intake process, investigations, risk assessment determinations, and the delivery of protective services in the APS program. The QA program also would incorporate minimum job performance standards for APS personnel and work departments and periodic performance reviews associated with job performance standards. APS promptly would have to address the failure of an employee or department to meet the minimum standards by issuing a corrective action plan detailing necessary improvement measures or, if necessary, imposing stricter disciplinary action, including termination, for repeated failure to meet the standards. Annual performance evaluation would be required and disciplinary or other corrective action would follow against managers who failed to conduct the evaluations in a timely manner.

A summary of the findings from the QA program and performance reviews conducted under this section would be reported to APS regional directors and other senior management. APS would have to file a report with state leadership each fiscal quarter containing a comprehensive review of APS' overall performance during the preceding quarter, including performance on the client-centered outcome measures required by this section. DFPS would have to submit the initial report by February 1, 2006.

**Public awareness campaign.** APS would have to develop and implement a statewide campaign to educate the public and increase awareness about abuse, neglect, and exploitation of elderly or disabled persons and how to reduce or prevent such instances of maltreatment. APS could use radio and television, the Internet, publications, or other media and could partner with civic, philanthropic, and public service organizations in implementing the campaign.

**Technology.** HHSC would be required to improve the use of technology in providing guardianship services. Subject to available funding, HHSC would use technology whenever possible in connection with APS to reduce the staff time required for the collection of information necessary to evaluate program effectiveness. HHSC could consult with representatives from the private sector to determine appropriate technology for the APS program.

**Caseload management.** Subject to the availability of funds, the bill also would require the HHSC commissioner to develop and implement a plan to reduce caseloads for APS caseworkers. The caseload level could not exceed professional standards by more than five cases per caseworker and would have to include specific annual targets for caseload reduction to reach these goals by January 1, 2011. The commissioner would adopt rules to establish the plan by January 1, 2006, and a report on its implementation would have to be submitted to the state leadership not later than December 31 of each even-numbered year. The report would include an assessment of the plan's effectiveness and the funding required for its implementation.

**Pilot program.** HHSC would be required to implement a pilot program to monitor certain unlicensed long-term care facilities. Local task forces comprising health care providers and local government officials would identify persons operating unlicensed facilities or illegally providing personal care services or other care to elderly or disabled persons and would take action necessary to:

- report the facilities to the appropriate regulatory or law enforcement agencies;
- assist a long-term care facility, when possible, in obtaining the appropriate licensure or making the appropriate disclosures; and
- assist the facility or arrangement, when possible, in complying with the applicable regulatory requirements.

The commissioner would have to implement the pilot program in at least one rural area and one urban area of the state by January 1, 2006, and report on the status and progress of the program to state leadership by January 1, 2007.

**SUPPORTERS  
SAY:**

CSHB 920 would raise the bar for APS investigations and improve the quality of caseworkers that citizens depend on to safeguard the vulnerable adults of our state. It would provide for improved quality control measures and address key issues related to guardianship services, which are vital to preserving a good quality of life for individuals with reduced capacity.

Widespread problems have been documented in the state's existing systems for protecting elderly and disabled persons from abuse and neglect, and the state cannot depend on the agency to reform itself. The

reform measures prescribed by this bill would help prevent the tragedies that transpired in the last two years.

The state system to protect the elderly and disabled must respond to the needs of the people, a guiding principle that APS appears to have lost in a jumble of bureaucracy and a culture of inefficiency. CSHB 920 would make changes to APS programs that would improve care and strengthen the state's ability to protect to our elderly and disabled. Provisions in the bill would improve investigative practices concerning elder abuse and neglect, support quality casework, improve the effectiveness of ongoing services, reform the guardianship system, increase the coordination with and involvement of community organizations, and enhance agency accountability.

**Investigations and protective services.** New guidelines on how to act following reports of abuse are needed to ensure that elderly or disabled persons are not left unnecessarily in dangerous situations. By the admission of HHSC officials, APS employees in many instances have not performed quality casework, which has left individuals in jeopardy. Accountability for APS and its staff needs to be enhanced.

CSHB 920 would improve the training of direct delivery staff to improve incapacity determinations. Far too often state caseworkers have failed to notify the courts that their clients are in danger. There have been several high-profile cases in which people in APS care have been allowed to live in deplorable conditions. APS employees justified leaving people in such conditions, such as living in homes without running water and homes filled with garbage and human waste, by describing them as "lifestyle choices" under the current risk assessment test.

The current assessment test, consisting of a handful of questions, is ineffective, inconsistently applied, and allows cases to be closed early without intervention. APS must end practices that encourage premature closing of cases. In the past, if a person did not want APS service, they did not receive it. Under CSHB 920, if a person did not want services, APS would continue to investigate as best it could and present its findings to the court. The new test better would evaluate the mental capacity of an elderly individual by assessing their living conditions, financial status, physical and medical status, and social interaction and support. HHSC used research from other states, academia, and HHSC staff to evaluate the effectiveness of the new test. An ongoing validation study at the

University of Texas at Austin is checking the accuracy of the test by putting it into effect.

Financial exploitation is a major issue facing the elderly and disabled. Many senior citizens across the state are conned out of thousands of dollars every year. The bill would devote specialists to complex issues, including financial exploitation, to prevent and remedy such abuse.

APS caseworkers are overburdened with work because their ranks have been thinned by high turnover. Overwork, lack of support, and low pay are the primary reasons why caseworkers are leaving their jobs. A review of the agency has found inadequate training and poor communication between caseworkers and law enforcement agencies. Caseworkers not only are overworked and overwhelmed with caseloads, but they do not receive the proper training to deal with the issues they encounter. The lack of training occurs because caseworkers spend all their time in the field due to high caseloads. CSHB 920 would encourage the retention of effective caseworkers by providing better training and support for employees who provide protective services to the aged and disabled.

Raising caseworker recruitment standards and improving recruitment efforts would produce more higher education graduates with skills suited to APS work. The increased skill level of employees would improve APS's investigatory and protective services.

The bill would require APS to create a separate unit to investigate allegations of abuse, neglect, and exploitation, allowing other caseworkers to devote their time and efforts to addressing and improving the delivery of protective services. Such changes are necessary to manage and maintain caseload sizes. Higher caseloads result in employee burnout and high turnover. This in turn leads to more training costs and further affects caseloads, resulting in substandard investigations that place the agency at risk for liability. The caseload reduction plan mandated by the bill would help to maintain caseloads and increase the quality of investigations.

There is a need to improve the technology currently being utilized by APS. CSHB 920 would improve case management by increasing the use of technology for investigation and protective services. New technology would provide greater and quicker assessments, allowing for earlier decision-making.

A public education campaign would improve citizens' awareness of the abuse, neglect, and exploitation that face elderly and disabled persons. Most of the media attention has been devoted to the gross mismanagement of cases by Child Protective Services. The public must learn about, and be encouraged to help prevent, the mistreatment of the elderly and disabled.

Maintaining a statewide approach to providing all investigative and protective services would result in lower costs in administration, management, and delivery of services. Allowing counties and cooperatives to provide a localized approach to service would be less efficient and require strict and unrelenting oversight. Inadequate supervision could result in a local system being allowed to provide poor quality of care, which this bill seeks to prevent.

Allowing APS to contract with protective services agencies for the provision of direct services to elderly and disabled persons would ease the burden placed on APS while providing services to more people, especially those people in rural communities who otherwise might not receive services.

**Transfer of guardianship services to DADS.** CSHB 920 would improve state guardianship services by transferring responsibilities from DFPS to DADS. Currently there is a conflict of interest regarding placement of the guardianship program in APS because the agency also is responsible for reviewing and determining the necessity for guardianship. The agency that investigates should not be the same one handling guardianship duties. Individuals would be better served if the guardianship responsibilities were given to another agency.

The bill would keep all guardianship responsibility within DADS. Statewide implementation and management would allow for less expensive administration, management, and delivery of services than a localized approach. Authorizing local execution of guardianship services would require thorough supervision. A local system likely would provide an inferior quality of services to wards.

OPPONENTS  
SAY:

**Investigations and protective services.** CSHB 920 inappropriately would not allow counties to use state money to run their own adult protective service agencies. A local system could handle the cases better because local agencies and officials have more of an interest in what is occurring in their immediate areas. The current opt-out provision is essential because it

gives communities the ability to develop alternatives to substandard, inefficient responses from state agencies. Communities would have an incentive to provide adequate services because they would have to relinquish these responsibilities to the state if they failed.

APS should not contract with protective services agencies for the provision of direct services to elderly and disabled persons. The state should be responsible for the care of its citizens, and services offered by private protective services agencies might be inferior to those offered by the state, as well as more difficult to supervise.

**Transfer of guardianship services to DADS.** In 1998, APS consolidated guardianship authority in Austin. Before that time, counties had been allowed to provide guardianship services. Consolidation of services resulted in higher instances of cases involving abuse and neglect. CSHB 920 should allow counties once again to execute guardianship services. A local, judge-centered system can better handle the guardianship cases because local authorities have more of an interest in their own citizens. Auditing of the systems, as well as safeguards, would be implemented.

This option would give communities the ability offer alternative solutions to the often inadequate responses offered by state agencies. In addition, local governments would be less inclined to push obligations onto the state. Communities that failed to provide adequate services would have to relinquish responsibilities to the state. Currently, a local guardianship system is working well in El Paso county.

The bill fails to provide for more defined guardianship training standards. Abuse and neglect of wards could be reduced if more training standards for guardians were implemented.

OTHER  
OPPONENTS  
SAY:

CSHB 920 should require funding for technology uses, rather than base its implementation on the availability of funds. Currently, there is a critical lack of information circulating within the agency. Prior case information must be merged to provide better investigation and protective services. Maintaining a summary of all records related to investigations of reports in an electronic format would help avoid mismanagement.

The bill should provide for the creation of a second probate court in certain counties that face large and rising caseloads. Probate courts around

the state have struggled with their dockets due to a lack of resources to handle growing caseloads.

NOTES:

CSSB 920 is identical to the adult protective services provisions (Article 2) of CSSB 6 by Nelson (Hupp), which passed the House by 135-6-2 on April 20 and is now in conference committee.

The committee substitute modified the original version of HB 920 by:

- removing a requirement that DFPS establish a toll-free number for complaints;
- removing lower caseload requirement for new caseworkers;
- including use of technology by DFPS for caseworker information-gathering;
- including a caseload management reduction plan subject to the availability of funds;
- changing the reporting process used to secure an emergency protective order;
- expanding the number of healthcare or mental health professionals who could make a report used by the court to issue an emergency order;
- changing the requirement that APS make guardianship referrals to DADS, which provides assessment and provision of guardianship services;
- removing all provisions establishing DADS as a guardian of last resort only;
- exempting DADS from guardianship bonds, certain costs, fees, and expenses relating to its provision of guardianship services;
- requiring the executive commissioner to adopt rules DADS would have to follow in the determination of appropriateness of guardianship;
- requiring DADS to refer a person to local guardianship or private guardianship services if it becomes aware of the availability of such services;
- requiring DADS, if requested, to notify the court if a person referred by DFPS may be appropriate for court-initiated guardianship;
- including contracting with outside agencies for the provision of protective services;
- including conducting quality assurance activities concerning DADS



- provision of guardianship services;
- including that a DADS representative must take oath of guardianship;
- including that DADS would have all the powers granted and duties given to a guardian;
- providing for legal representation of DADS in civil or criminal proceedings;
- including the exchange of guardianship services information between state agencies, courts, and guardianship service providers;
- providing indemnification and immunity for employees and volunteers of DADS.

In the fiscal note, the LBB estimates that the incentive program for certain APS employees would cost approximately \$80,000 in fiscal 2006 and would rise by some \$16,000 each subsequent year. DFPS reports that additional FTEs would be needed to implement a new training program for APS employees at an approximate cost in all funds of \$500,000 in fiscal 2006 and \$700,000 each subsequent year.