

SUBJECT: Providing information on a ward's health and residence to relatives

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Smithee, Farrar, Gutierrez, Hernandez, Laubenberg, Murr, Neave, Rinaldi, Schofield

0 nays

SENATE VOTE: On final passage, April 25 — 31-0

WITNESSES: No public hearing

BACKGROUND: Estates Code, sec. 1151.056 details a guardian's duty to inform certain relatives about a ward's health and residence.

Observers point out that certain notice requirements in guardianship law have resulted in significant time and resources spent by guardians to locate family members whose whereabouts are unknown and who have shown little interest in the ward.

DIGEST: SB 1709 would require that a citation to appear and answer an application for guardianship served on a proposed ward's parents or spouse contain a statement notifying the relative that, if a guardianship was created for the proposed ward, the relative would have to elect in writing to receive notice about the ward's health and residence.

The bill also would require a person filing an application for guardianship to give notice to each adult child and adult sibling of the proposed ward that, if a guardianship was created for the proposed ward, the relative would have to elect in writing in order to receive notice about the ward's health and residence.

Notice about a ward's health and residence would have to be given only to spouses, parents, siblings, and children who did not have a protective order issued against them to protect the ward, had not been found by a

court or state agency to have abused, neglected, or exploited the ward, and had elected in writing to receive the notice.

SB 1709 would require a guardian to provide notice as soon as possible, and no later than September 1, 2019, to a ward's spouse, parents, siblings, and children whose whereabouts were known or could reasonably be ascertained that they needed to elect in writing in order to receive notice about the ward's health and residence. This requirement would apply only to a guardianship created on or before the bill's effective date or created after the bill's effective date if the application for guardianship was pending at that time.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017, and would apply to a guardianship created before, on, or after that date.