

- SUBJECT:** Establishing a guardianship compliance and monitoring program
- COMMITTEE:** Judiciary and Civil Jurisprudence — favorable, without amendment
- VOTE:** 8 ayes — Smithee, Farrar, Gutierrez, Hernandez, Laubenberg, Neave, Rinaldi, Schofield
- 0 nays
- 1 absent — Murr
- SENATE VOTE:** On final passage, April 3 — 30-1 (Huffines)
- WITNESSES:** *On House companion bill, HB 3631:*  
For — Terry Hammond, Texas Guardianship Association; (*Registered, but did not testify:* Tim Morstad, AARP; Kyle Piccola, the Arc of Texas, Jeff Miller, Disability Rights Texas; Debby Salinas Valdez, Elderly People of Disabilities, Belinda Carlton, Guardianship Reform and Supported Decision-Making Workgroup; Gyl Switzer, Mental Health America of Texas; Will Francis, National Association of Social Workers - Texas Chapter; Greg Hansch, National Alliance on Mental Illness - Texas; Linda Litzinger)
- Against — None
- On — David Slayton, Texas Judicial Council, Office of Court Administration
- BACKGROUND:** The 84th Texas Legislature in 2015 provided funding for the Office of Court Administration to establish the Guardianship Compliance Project pilot program. Current funding is through August 2017.
- Estates Code, ch. 1163 requires guardians of the estate of a ward to file detailed annual financial and property accounting.
- DIGEST:** SB 667 would require the Office of Court Administration (OCA) to

establish and maintain a Guardianship Compliance Program. The program would provide resources and assistance to courts handling guardianship cases by engaging guardianship compliance specialists and by maintaining an electronic database to monitor the required filings and annual reports by guardians.

Under the program, the guardianship compliance specialists would be required to:

- review guardianships and identify reporting deficiencies;
- audit required annual filings;
- coordinate with courts to develop best practices in managing guardianship cases; and
- report to the appropriate court any concerns relating to a ward's well-being or to the existence of potential financial exploitation.

Courts would participate in the program in one of two ways, either by OCA choosing them to participate or by applying. If OCA chose a court, it would be required to participate. If a participating court acted, or failed to act, on a guardian compliance specialist's report of concern and the office had reason to believe that such action, or non-action, was judicial misconduct, the OCA's administrative director could notify the State Commission on Judicial Conduct.

The bill would require OCA to submit a performance report on the program to the Legislature by January 1 of each year, which would include:

- the number of courts involved in the program and the number of guardianships reviewed;
- the number of guardianships found to be out of statutory compliance;
- the number of cases reported to a court because of concerns about ward well-being or potential financial exploitation; and
- the status of monitoring technology developed for the program.

The bill would take effect September 1, 2017.

**SUPPORTERS  
SAY:**

SB 667 would implement a 2016 recommendation of the Texas Judicial Council's Elders Committee to expand the Office of Court Administration's (OCA's) Guardianship Compliance Project to cover more of the 244 counties without statutory probate courts. OCA's pilot program revealed deficiencies in courts without sufficient resources to effectively monitor guardianship cases.

By expanding the program, the bill would help protect a growing population of vulnerable Texans. Currently, guardians in Texas manage about \$5 billion in assets. Only 10 counties have statutory probate judges who are specialists in the Estates Code and guardianship filings. In the remaining counties, most courts cannot afford to hire staff dedicated to guardianship cases and may not have expertise in such matters.

Making the program available to more courts across the state would provide resources and assistance to judges in overseeing a guardian's compliance with statutory requirements and would bring attention and expert technical assistance to situations as needed.

**OPPONENTS  
SAY:**

SB 667 would create an unnecessary layer of government and a new bureaucratic entity that would require a diversion of resources. Guardianship issues can be settled between the court and the guardians.

**NOTES:**

The Legislative Budget Board's fiscal note estimates SB 667 would have a negative impact to general revenue related funds of \$7.2 million through fiscal 2018-19 in staffing costs to implement the program.

A companion bill, HB 3631 by Smithee, was considered in a public hearing of the House Committee on Judiciary and Civil Jurisprudence on May 2 and left pending.