

BILL ANALYSIS

Senate Research Center

H.B. 2951
By: Thompson (Ellis)
Jurisprudence
5-14-97
Engrossed

DIGEST

Currently, a duly appointed guardian of an incapacitated person may not voluntarily admit that person to a public or private inpatient psychiatric facility or to a residential facility for care and treatment should the person become ill. In order to have the person admitted for treatment, the guardian must apply for court-ordered mental health services. If the court finds that the person meets the criteria for court-ordered mental health services, the court may issue an order for mental health services which allows for the person to be involuntarily admitted to a psychiatric hospital for care and treatment. For the guardian's ward, this process can be stressful, time consuming, and expensive, resulting in a delay of needed treatment. H.B. 2951 establishes a procedure permitting the guardian of an incapacitated person who is ill enough to require hospitalized treatment, but who does not meet the criteria for court-ordered mental health services, to apply to the court for authority to voluntarily admit the person to a public or private inpatient psychiatric facility for care and treatment. The court, following a hearing, may authorize the guardian to voluntarily admit the person to an inpatient psychiatric facility if the court finds that the admission would be in the person's best interest and the person does not object to the hospital admission. This court procedure provides an avenue for obtaining needed hospital-based treatment for persons who have guardians, but who do not meet the criteria for involuntary mental health services.

PURPOSE

As proposed, H.B. 2951 establishes provisions regarding inpatient mental health services for certain incapacitated persons.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 770, Texas Probate Code, by amending Subsection (b), and adding Subsection (e), to authorize a permanent guardian of an incapacitated person to apply to the court that granted the guardianship for authority to voluntarily admit the person to a public or private inpatient psychiatric facility for care and treatment if the person does not meet the criteria for court-ordered mental health services under Chapter 574, Health and Safety Code. Requires the court to appoint an ad litem for the incapacitated person, hold a hearing, and issue an order approving or denying the application within 72 hours of the time the application is filed with the court. Requires the court to grant the application and authorize the guardian to voluntarily admit the person to an inpatient psychiatric facility for care and treatment if the court finds that the admission would be in the person's best interest; the person does not object to being placed in the facility; and the court finds that the admission is medically necessary based on the testimony or written submission of a psychiatrist.

SECTION 2. Effective date: September 1, 1997.

SECTION 3. Emergency clause.