

BILL ANALYSIS

Senate Research Center
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H.B. 342
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Jurisprudence
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In December 2005, a Bexar County probate court granted a temporary guardianship request concerning 85-year-old Lillian Glasser, a New Jersey resident who vacationed yearly in Florida and Texas. Later, as the Texas guardianship proceeding over Glasser progressed, a New Jersey court began guardianship proceedings. However, there is no statutory mechanism under current law for a Texas court to suspend proceedings to determine which court would be the most proper forum. The proper venue for these proceedings is often unclear due to the differences in requirements, such as residency, between the states. As a result, millions of dollars in litigation costs occurred in determining which state was the most proper forum for the guardianship case.

H.B. 342 authorizes a Texas court to delay further action in the guardianship proceeding before the court when a foreign jurisdiction has begun a proceeding dealing with the same matter and venue in that foreign court is proper. This bill authorizes the Texas court to determine whether venue of the proceeding was more proper in Texas or the foreign jurisdiction, and to resume or transfer the proceeding accordingly. In addition, this bill authorizes the court to issue any necessary orders during the delay to protect the proposed ward or the proposed ward's estate.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subpart G, Part 5, Chapter XIII, Texas Probate Code, by adding Section 894, as follows:

Sec. 894. GUARDIANSHIP PROCEEDING FILED IN THIS STATE AND IN FOREIGN JURISDICTION. (a) Authorizes a court in which a guardianship proceeding is filed and in which venue of the proceeding (venue) is proper to delay further action in the proceeding in that court if another guardianship proceeding involving a matter at issue in the proceeding filed in the court is subsequently filed in a court in a foreign jurisdiction and venue in the foreign court is proper.

(b) Requires a court that delays further action in a guardianship proceeding under Subsection (a) (delays further action) to determine whether venue is more suitable in that court or in the foreign court. Authorizes the court to consider the interests of justice, the best interests of the ward or proposed ward, and the convenience of the parties, in making that determination.

(c) Authorizes a court that delays further action to issue any order it considers necessary to protect the proposed ward or the proposed ward's estate.

(d) Requires the court to resume the guardianship proceeding if the court determines that venue is more suitable in that court. Requires the court to transfer the proceeding to the foreign court, with the foreign court's consent, if the court determines that venue is more suitable in the foreign court.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2007.