

BILL ANALYSIS

Senate Research Center
84R9855 MAW-F

H.B. 634
By: Metcalf; Keough (Creighton)
Criminal Justice
5/17/2015
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Concerned parties have reported that they are aware, after speaking with certain local elected officials from Montgomery County, of situations in which court-appointed guardians were denied access to their wards in the criminal justice system. The parties explain that these situations were caused when the ward either failed to put the guardian on a visitor list or purposely excluded the guardian from the list. H.B. 634 seeks to address this problem along with other rights of a guardian of a person in the criminal justice system.

H.B. 634 amends current law relating to the rights of a guardian of a person in the criminal justice system.

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 Chapter 26, Code of Criminal Procedure, by adding Article 26.041, as follows:

Art. 26.041. PROCEDURES RELATED TO GUARDIANSHIPS. (a) Defines "guardian" and "letters of guardianship" in this article.

(b) Authorizes a guardian who provides a court with letters of guardianship for a defendant to:

- (1) provide information relevant to the determination of indigency; and
- (2) request that counsel be appointed in accordance with this chapter.

SECTION 2. Amends Section 501.010, Government Code, by amending Subsection (a) and adding Subsections (a-1) and (b-1), as follows:

(a) Defines "guardian" and "letters of guardianship" in this section.

(a-1) Creates this subsection from existing text and makes no further change.

(b-1) Requires that the uniform visitation policy:

- (1) allow visitation by a guardian of an inmate to the same extent as the inmate's next of kin, including placing the guardian on the inmate's approved visitors list on the guardian's request and providing the guardian access to the inmate during a facility's standard visitation hours if the inmate is otherwise eligible to receive visitors; and
- (2) require the guardian to provide the warden with letters of guardianship before being allowed to visit the inmate.

SECTION 3. Amends Section 507.030, Government Code, by amending Subsections (a) and (b) and adding Subsection (a-1), as follows:

(a) Defines "guardian" and letters of guardianship" in this section.

(a-1) Creates this subsection from existing text. Makes no further change to this subsection.

(b) Requires that the visitation policy:

(1) allow visitation by a guardian of a defendant confined in a state jail felony facility to the same extent as the defendant's next of kin, including placing the guardian on the defendant's approved visitors list on the guardian's request and providing the guardian access to the defendant during a facility's standard visitation hours if the defendant is otherwise eligible to receive visitors; and

(2) require the guardian to provide the director of the facility with letters of guardianship before being allowed to visit the defendant.

SECTION 4. Amends Section 511.009(a), Government Code, as follows:

(a) Requires the Commission on Jail Standards to:

(1)-(17) Makes no change to these subdivisions;

(18) Makes a nonsubstantive change;

(19) Makes no change to this subdivision; and

(20) adopt reasonable rules and procedures regarding visitation of a prisoner at a county jail by a guardian, as defined by Section 1002.012 (Guardian), Estates Code, that:

(A) allow visitation by a guardian to the same extent as the prisoner's next of kin, including placing the guardian on the prisoner's approved visitors list on the guardian's request and providing the guardian access to the prisoner during a facility's standard visitation hours if the prisoner is otherwise eligible to receive visitors; and

(B) require the guardian to provide the sheriff with letters of guardianship issued as provided by Section 1106.001 (Issuance of Certificate as Letters of Guardianship), Estates Code, before being allowed to visit the prisoner.

SECTION 5. Provides that not later than December 1, 2015:

(1) the Texas Department of Criminal Justice is required to revise visitation policies consistent with Sections 501.010 and 507.030, Government Code, as amended by this Act; and

(2) the Commission on Jail Standards is required to establish rules and procedures as required by Section 511.009(a)(20), Government Code, as added by this Act.

SECTION 6. Provides that Article 26.041, Code of Criminal Procedure, as added by this Act, applies to a defendant for whom indigency is at issue, regardless of whether the defendant is arrested before, on, or after the effective date of this Act.

SECTION 7. Effective date: September 1, 2015.