

BILL ANALYSIS

Senate Research Center

S.B. 667
By: Zaffirini et al.
State Affairs
6/8/2017
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The population of Texans age 65 and older is projected to double in size by 2030 to almost six million. Many of these persons may become incapacitated as they grow older and, depending on the nature or degree of incapacity, may require the appointment of a guardian or other form of assistance. What's more, data indicate that the number of active guardianships in Texas already has increased significantly in the last four years, and there currently is \$5 billion in assets under court and guardian control in Texas. This dramatic increase, coupled with the potential for more guardianship needs in the future, suggests it is imperative that Texas take steps to ensure courts have sufficient support and resources to monitor these guardianships. Without sound monitoring, this population would be at high risk for exploitation or neglect.

Legal guardians, under court supervision, are trusted with ensuring the physical and financial well-being of persons under their care. Accordingly, guardians are required by law to file with the court for the court's approval a bond to cover one year of revenue to the estate, plus the value of the person with a guardian's personal property; an initial inventory detailing the assets in the estate; an annual report of the person with a guardian's well-being; and an annual accounting detailing financial transactions. In 2014, the Texas Judicial Council recommended the establishment of a guardianship compliance pilot project to provide assistance to probate courts throughout the state without sufficient resources to monitor guardians' compliance with these statutory requirements. The 84th Legislature provided partial funding for the pilot project, and preliminary findings show that there is a high risk of exploitation and neglect in this area. Accordingly, the Senate State Affairs Interim Committee Report and a Texas Judicial Council 2016 resolution recommended that the legislature expand this project statewide. S.B. 667 would expand the Guardianship Compliance Program statewide to provide courts with needed assistance in monitoring guardianship cases.

S.B. 667 amends current law relating to establishing a guardianship compliance program.

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 72, Government Code, by adding Subchapter G, as follows:

SUBCHAPTER G. GUARDIANSHIP COMPLIANCE PROGRAM

Sec. 72.121. DEFINITIONS. Defines "guardianship proceeding" and "program."

Sec. 72.122. ESTABLISHMENT OF PROGRAM. (a) Requires the Texas Office of Court Administration (OCA) to establish and maintain a guardianship compliance program (program) to provide additional resources and assistance to courts that have jurisdiction over guardianship proceedings by engaging guardianship compliance specialists (specialists) who are required to perform certain tasks and maintaining an electronic database to monitor certain filings.

(b) Requires a court to participate in the program, including allowing specialists to conduct reviews and audits under the program, if the court is selected by OCA to participate in the program.

(c) Authorizes a court to apply to OCA in the manner and form prescribed by OCA for participation in the program.

Sec. 72.123. NOTIFICATION OF STATE COMMISSION ON JUDICIAL CONDUCT. Authorizes the appointed administrative director of the courts to notify the State Commission on Judicial Conduct in writing if OCA has reason to believe that a judge's actions or failure to act with respect to a report received from a specialist indicating a concern constitutes judicial misconduct.

Sec. 72.124. ANNUAL REPORT. Requires OCA, not later than January 1 of each year, to submit a report to the legislature regarding the performance of the program and requires that the report include certain information.

SECTION 2. Effective date: September 1, 2017.