

Allowing county public guardian offices to be created; other guardianship changes

SB 667 by Zaffirini (S. Thompson)

Digest

SB 667 would have allowed a county's commissioners court to provide certain guardianship services to incapacitated persons by creating a public guardian office or by entering into an agreement with a person operating a nonprofit or private professional guardianship program. Qualified public guardians would have been appointed to determine a proposed ward or estate's guardianship eligibility and would have received compensation as set by the commissioners court.

SB 667 also would have made various changes to the law of guardianships, including revising the definition of matters related to a guardianship proceeding and rules relating to attorneys ad litem, notice, court costs, management trusts, nonresident creditors, and qualifying guardians.

Governor's reason for veto

"Senate Bill 667 would make a number of improvements to the law governing probate and guardianship matters, but they unfortunately cannot take effect this session because of a section of the bill that would create new public guardianship offices controlled by counties. It has not been shown that it is necessary to add permanent county offices dedicated to this function. Private attorneys are capable of handling these cases without the expense of this new bureaucracy."

Response

Sen. Judith Zaffirini, the bill's author, said, "Without a public guardian of last resort, the state of Texas is exposing our most vulnerable population to considerable risk. In many cases, there are no family members or friends who are qualified and available to spend decades as guardians for persons who cannot care for themselves or their property. Due to the severity

of the person's disability and inability to pay, or the potential guardian's own lack of resources, potential guardians may be unwilling or unable to serve.

"The Texas Health and Human Services Commission and current guardianship programs lack the capacity and resources to handle these cases throughout the state. Relying on attorneys, including those who are not necessarily trained or qualified to take care of persons with disabilities, to provide this service, either pro bono or at their customary hourly rate, is not an adequate solution. In fact, that unacceptable option would create a dire situation in which the judge could become desperate enough to appoint someone despite his or her shortcomings — and to the detriment of the person in need of assistance. In 1992 I served on the Senate Interim Committee on Health and Human Services that adopted the Guardianship Laws and Practices in Texas report and recommended a public guardian system in our state. Count me among those who will continue to try to make recommendation a reality in 2021 — almost 30 years later."

Rep. Senfronia Thompson, the House sponsor, said, "Judges at times have made decisions in establishing a guardianship when there is no family member or friend qualified to serve as a guardian. Finding a qualified person who is willing to serve has left a gap in protecting Texans who are unable to care for themselves or their property. SB 667 would have allowed counties to establish local Offices of Public Guardians or contract with nonprofit guardianship programs to fill the need in taking care of our most vulnerable population. Although I am disappointed that this bill was vetoed, I look forward in assisting Sen. Zaffirini in our efforts to look after those who cannot look after themselves."

Notes

The HRO analysis of [SB 667](#) appeared in Part Three of the May 20 *Daily Floor Report*.