

BILL ANALYSIS

H.B. 3424
By: Smithee
Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Some individuals suffering from mental illness have conditions so severe that they are deemed legally incapacitated and are put under guardianship. These individuals may be physically healthy, yet have mental incapacities that impede their ability to cooperate with caretakers or even cause them to take actions counter to their own health and safety. Often, in the case of a problematic event involving a mentally incapacitated person, emergency service providers such as police or hospital personnel are the first on the scene of the event, but may find it difficult to provide the requisite care and may be unable to determine the person's identity or the identity of the person's guardian. Concerned parties contend that there is no statewide database of information regarding incapacitated persons and their legal guardians and that such a database made available to emergency service providers would enhance the speed and ability of these providers to assess and address the needs of an incapacitated individual. H.B. 3424 seeks to create such a database.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the public safety director of the Department of Public Safety in SECTION 2 of this bill.

ANALYSIS

H.B. 3424 amends the Estates Code to require the clerk of a county court exercising its probate jurisdiction, a court created by statute and authorized to exercise original probate jurisdiction, or a district court exercising original probate jurisdiction in a contested matter, to compile and provide to the Department of Public Safety (DPS) the names of incapacitated persons who are at least 18 years of age and who have a guardian appointed under the Estates Code and the name of and contact information for the guardian appointed for each incapacitated person.

H.B. 3424 amends the Government Code to require DPS to develop and maintain a computerized central database accessible only to emergency service providers that contains, to the extent the information is available to DPS, the names of incapacitated persons and, for each incapacitated person, the name of the guardian appointed for that person and contact information for the guardian. The bill makes information contained in the database confidential and not subject to disclosure under state public information law. The bill requires the public safety director of DPS to adopt rules as necessary to implement and maintain the database.

H.B. 3424 defines "incapacitated person" as an adult who has a guardian appointed under the Estates Code and who, because of a physical or mental condition, is substantially unable to

provide food, clothing, or shelter for himself or herself, to care for the person's own physical health, or to manage the person's own financial affairs.

EFFECTIVE DATE

September 1, 2015.