

## **BILL ANALYSIS**

S.B. 36  
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Judiciary & Civil Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Concerns have been raised about the difficulty certain individuals face when attempting to determine whether certain guardianship programs are legitimate enterprises that comply with certain minimum standards and the lack of regulatory authority the Judicial Branch Certification Commission has over these guardianship programs. S.B. 36 seeks to provide the commission with the additional authority to register and monitor guardianship programs and to make certain information regarding such programs available in a publicly accessible 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 Supreme Court of Texas in SECTION 4 of this bill.

### **ANALYSIS**

S.B. 36 amends the Government Code to require the Judicial Branch Certification Commission, in consultation with the Health and Human Services Commission (HHSC) and other interested parties, to adopt minimum standards for the operation of local, county, or regional programs that provide guardianship and related services to incapacitated persons, including minors, or other persons who need assistance in making decisions concerning the person's own welfare or financial affairs. The bill requires the certification commission to design the standards to monitor and ensure the quality of guardianship and related services provided by guardianship programs and requires those standards to be designed to ensure continued compliance by a guardianship program with applicable state law, including guardianship certification requirements. The bill prohibits a guardianship program from providing guardianship and related services to an incapacitated person or other person who needs assistance in making decisions concerning the person's own welfare or financial affairs unless the program is registered with and holds a certificate of registration issued by the commission. The bill requires the Supreme Court of Texas to adopt rules and procedures for issuing, renewing, suspending, or revoking such a registration certificate and sets out requirements relating to those rules. A guardianship program is expressly not required to hold a registration certificate until September 1, 2018. The bill requires the certification commission to make available on the commission's website a publicly accessible list of all registered guardianship programs and to update the list at least quarterly. The bill requires the list to contain certain information for each guardianship program provided by the program to the certification commission in its annual disclosure report and whether each guardianship program holds in good standing a registration certificate. The bill exempts guardianship and related services provided by a guardianship program under a contract with HHSC from these provisions relating to the regulation of guardianship programs.

S.B. 36 revises the requirement for the certification commission to adopt minimum standards for the provision of guardianship services or other similar but less restrictive types of assistance or services by guardianship programs to require those minimum standards to be adopted in relation to individuals employed by or contracting with guardianship programs to provide the assistance or services on behalf of the programs. The bill prohibits a guardianship program from employing an individual to provide guardianship and related services on the program's behalf if the individual's guardianship certification is expired or has been revoked and not been reissued or during the time an individual's certificate is suspended.

S.B. 36 amends the Estates Code to prohibit a guardianship program from being appointed guardian of a person or estate if the program is not registered as required under the bill's Government Code provisions, if the program's registration certificate is expired or has been revoked and not been reissued, or during the time the program's registration certificate is suspended. That prohibition expressly does not prevent the appointment, on the individual's own behalf, of an individual who is employed by or contracts with a guardianship program to provide guardianship and related services independently of the program.

**EFFECTIVE DATE**

September 1, 2017.