

BILL ANALYSIS

H.B. 1286
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

In response to the projected increase in the need for guardianships in the future and recent assessments of the guardianship process, concerns have been raised regarding the continued risk of abuse in the guardianship process. Reports indicate there are billions of dollars in assets currently under court and guardian control in Texas, further highlighting a need to ensure that courts have sufficient support and resources to monitor these guardianships and safeguard against exploitation and abuse. H.B. 1286 seeks to address these concerns by creating a guardianship abuse, fraud, and exploitation deterrence program within the Office of Court Administration to assist courts with monitoring guardianships and help protect those under guardianship from abuse.

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 this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 1286 amends the Government Code to require the Office of Court Administration of the Texas Judicial System (OCA) to establish and maintain a guardianship abuse, fraud, and exploitation deterrence program. The program must be designed to provide additional resources and assistance to courts that have jurisdiction over guardianship proceedings by engaging guardianship compliance specialists to perform certain required duties and by maintaining an electronic database to monitor filings of inventories, appraisements, and lists of claims required to be filed by the guardian of an estate or required to be made and returned to a court by an applicable successor guardian; filings of annual reports required to be filed with a court by the guardian of a person; and filings of any other reports and accounts required of guardians under statutory provisions relating to the annual account and other exhibits and reports of a guardianship. The bill establishes that a court that is selected by OCA to participate in the program is required to participate, including allowing guardianship compliance specialists to conduct reviews and audits under the program. The bill authorizes a court to apply to the office in the manner and form prescribed by the office for participation in the program.

H.B. 1286 authorizes the administrative director of OCA 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 guardianship compliance specialist indicating a concern of potential abuse, fraud, or exploitation, including financial exploitation, committed against a ward and discovered as a result of the specialists' work under the bill's provisions constitutes

judicial misconduct.

H.B. 1286 requires OCA, not later than January 1 of each year, to submit a report to the legislature regarding the performance of the program that includes the number of courts involved in the program; the number of guardianships reviewed by guardianship compliance specialists; the number of reviewed guardianship cases found to be out of compliance with statutory reporting requirements; the number of cases reported to a court concerning potential abuse, fraud, or exploitation, including financial exploitation, committed against a ward; and the status of any technology developed to monitor guardianship cases for purposes of the program.

EFFECTIVE DATE

September 1, 2019.