

**SUBJECT:** Creating the Guardianship Advisory Board

**COMMITTEE:** Human Services — committee substitute recommended

**VOTE:** 9 ayes — Hilderbran, Naishtat, Chavez, Christian, Davila, Krusee, Maxey, McReynolds, Wohlgemuth

0 nays

**SENATE VOTE:** On final passage, April 3 — voice vote

**WITNESSES:** For — Colleen Colton, Senior Citizens Services; Alan Hardy, American Association of Retired Person; David Lattimer, Texas Association of Homes & Services for Aging; Mary Jo Magruder, Texas Planning Council for Developmental Disabilities; Barrett Markland, Advocacy Inc.; Jerry F. Jones

Against — None

On — Christy Fair, Texas Department on Aging

**DIGEST:** CSSB 586 would create the Guardianship Advisory Board to advise the Health and Human Services Commission (HHSC) in adopting standards for guardianship of mentally incapacitated adults and provisions for related services by guardianship programs, volunteer guardians, and private professional guardians. The standards would have to protect the interests of incapacitated persons.

With the advice of the board, HHSC would have to adopt and implement a plan to ensure assistance to each incapacitated individual in Texas needing a guardian or other less restrictive assistance to make personal welfare and financial decisions. The plan also would have to foster local volunteer guardianship programs. The commission would have to report on the plan to the governor and the Legislature by December 1, 1998.

The advisory board would be composed of a representative from each health and human services region, appointed by the majority vote of the statutory probate judges in each region. If a region did not have a probate court, the representative would be appointed by a majority of probate judges in the

state. Representatives would have to have experience working with a guardianship program, with a group that advocated on behalf of elderly or mentally retarded individuals or with incapacitated persons. Members would serve at the pleasure of the majority of the judges. State law requiring that advisory committees provide for balanced representations from industries and consumers would not apply to the Guardianship Advisory Board.

The presiding judge of the statutory probate courts could adopt any necessary rules for the operation of the advisory board. The board would have to develop policies to provide for public participation concerning issues under the board's jurisdiction. The commission could award grants to local guardianship centers to establish volunteer guardianship programs.

The bill would take effect on September 1, 1997.

NOTES:

The committee substitute authorized the commission to award grants and deleted sections regarding attorney ad litem and certification requirements for attorneys.

The 74th Legislature passed a similar bill, SB 103 by Moncrief, which was vetoed by the governor because it would have set up the Guardianship Advisory Board as a separate state agency with authority to create a nonprofit corporation.