

BILL ANALYSIS

Senate Research Center

C.S.H.B. 2951
By: Thompson (Ellis)
Jurisprudence
5-17-97
Committee Report (Substituted)

DIGEST

Currently, a duly appointed guardian of an incapacitated person may not voluntarily admit that person to a public or private inpatient psychiatric facility or to a residential facility for care and treatment should the person become ill. In order to have the person admitted for treatment, the guardian must apply for court-ordered mental health services. If the court finds that the person meets the criteria for court-ordered mental health services, the court may issue an order for mental health services which allows for the person to be involuntarily admitted to a psychiatric hospital for care and treatment. For the guardian's ward, this process can be stressful, time consuming, and expensive, resulting in a delay of needed treatment. C.S.H.B. 2951 establishes a procedure permitting the guardian of an incapacitated person who is ill enough to require hospitalized treatment, but who does not meet the criteria for court-ordered mental health services, to apply to the court for authority to voluntarily admit the person to a public or private inpatient psychiatric facility for care and treatment. The court, following a hearing, must only grant an application if the court finds that the admission would be in the person's best interest and the admission is medically necessary. This court procedure provides an avenue for obtaining needed hospital-based treatment for persons who have guardians, but who do not meet the criteria for involuntary mental health services.

PURPOSE

As proposed, C.S.H.B. 2951 establishes provisions regarding inpatient mental health services for certain incapacitated persons.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 770, Texas Probate Code, by amending Subsection (b), and adding Subsections (e) and (f), to authorize a guardian appointed under Section 693(b) of this code with limited powers who has the authority to make decisions on behalf of an incapacitated person, to apply to the court that granted the guardianship for authority to voluntarily admit the person to a public or private inpatient psychiatric facility (facility) for care and treatment if the incapacitated person is in agreement. Authorizes a guardian of a totally incapacitated person appointed under Section 693(a) of this code to apply to the court that granted the guardianship for authority to voluntarily admit the person to a facility for care and treatment. Establishes the conditions under which the court is required to issue an order approving or denying the application. Requires the person to be admitted if the court approves the application. Requires a licensed psychiatrist at a facility to make a determination as to whether an incapacitated person admitted to the facility is in need of court-ordered inpatient medical services, and sets forth the terms by which the person is required to be released from the facility if the psychiatrist determines that the person is not in need of those services. Requires a court to only grant an application if the court finds, by convincing evidence, based on the oral testimony of at least one licensed psychiatrist, that the admission is in the person's best interest and is medically necessary.

SECTION 2. Effective date: September 1, 1997.

SECTION 3. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 770, Texas Probate Code, to change the terms by which a guardian who has the authority to make decisions on behalf of an incapacitated person, may apply for authority to voluntarily admit the person to a psychiatric facility for care and treatment.