

BILL ANALYSIS

Senate Research Center

S.B. 692
By: Zaffirini
Jurisprudence
5/24/2021
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Last session, the legislature passed S.B. 31 (2019) by Senator Zaffirini et al., which established the guardianship abuse, fraud, and exploitation deterrence program (GAFEDP). GAFEDP reviews court records of guardianship cases to identify reporting deficiencies by guardians, audit annual accountings, report their findings back to the judge, and report to the courts and other appropriate authorities any concerns of potential abuse, fraud, or financial exploitation of a person under guardianship.

The Texas Office of Court Administration has found that the lack of financial records and backup documentation is a significant obstacle to completing many audits. Currently, requests are made to the court, which then orders guardians or their representatives to provide the missing records. Guardianships in which fraud or exploitation are suspected, however, often are cases in which the guardian is not cooperative. The GAFEDP's ability to obtain financial records timely from sources other than the guardian is crucial in those instances.

S.B. 692 would allow GAFEDP to petition the court in which the guardianship is pending to order a financial institution to provide GAFEDP with access to financial records, including receipts, deposit and withdrawal records, and invoices, for purposes of conducting reviews and audits under the program. This change would improve GAFEDP's ability to fulfill its mission of protecting persons from guardianship abuse.

S.B. 692 amends current law relating to access to certain financial records by the guardianship abuse, fraud, and exploitation deterrence program.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 72.121, Government Code, by amending Subdivision (1) and adding Subdivisions (1-a), (1-b), and (3) to define "estate," "financial institution," and "ward" for Subchapter G (Guardianship Abuse, Fraud, and Exploitation Deterrence Program). Makes a nonsubstantive change.

SECTION 2. Amends Subchapter G, Chapter 72, Government Code, by adding Section 72.1221, as follows:

Sec. 72.1221. PROGRAM ACCESS TO FINANCIAL RECORDS. (a) Requires a financial institution or other person, as applicable, to the extent allowed and in the manner required by federal law, to on request provide the guardianship abuse, fraud, and exploitation deterrence program (program) with access to financial institution records, accounting records, and other financial records concerning a ward or the ward's estate, including receipts, records of deposits and withdrawals, invoices, bills, and any other records of transactions involving the money or assets of a ward or the ward's estate, for purposes of conducting reviews and audits under the program.

(b) Authorizes the program to request the court in which the guardianship is pending to order a financial institution or other person who possesses the records described by Subsection (a) to provide the records to the program.

(c) Authorizes a court, after notice and a hearing, to issue an order requiring the financial institution or other person to provide the records to the program under the conditions the court prescribes.

SECTION 3. Effective date: upon passage or September 1, 2021.