

## **BILL ANALYSIS**

Senate Research Center

S.B. 586  
By: Moncrief  
State Affairs  
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As Filed

### **DIGEST**

Currently, local guardianship programs in certain areas of the state have successfully recruited volunteers to become guardians and protect the interest of mentally incapacitated adults in Texas. Many mentally incapacitated adults in Texas have no one to serve as their guardian and take responsibility for important life decisions since certain areas of the state are without such programs. This bill would create and establish guidelines for the Guardianship Advisory Board to encourage the establishment of local guardianship centers in those areas of the state in which they do not exist.

### **PURPOSE**

As proposed, S.B. 586 sets forth the creation and guidelines of the Guardianship Advisory Board and the establishment of local guardianship centers.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the presiding judge of the statutory probate courts in SECTION 1 (Section 531.122(e), Government Code) and to the Health & Human Services Commission in SECTION 1 (Section 531.124(a), Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 531, Government Code, by adding Subchapter D, as follows:

#### **SUBCHAPTER D. LOCAL GUARDIANSHIP CENTERS; GUARDIANSHIP ADVISORY BOARD**

Sec. 531.121. DEFINITIONS. Defines "advisory board," "council," "guardian," "guardianship program," "incapacitated individual," "local guardianship center," "private professional guardian," and "statutory probate court."

Sec. 531.122. ADVISORY BOARD; MEMBERSHIP AND DUTIES. Requires the Guardianship Advisory Board (board) to advise the Health & Human Services Commission (commission) in adopting standards under Section 531.124 and in administering the commission's duties under this subchapter other than Sections 531.126(a) and (b). Sets forth the composition of the board. Requires a statutory probate court judge to appoint an individual to the board who has demonstrated experience working with a guardianship program, an organization that advocates on behalf of or in the interest of elderly individuals or individuals with mental illness or mental retardation, or incapacitated individuals. Provides that a member of the board serves at the pleasure of the statutory probate court judge who appointed the member or the judge's successor. Authorizes the presiding judge of the statutory probate courts to adopt rules as necessary for operation of the advisory board. Provides that Articles 6252-33(2) and (8), V.T.C.S., do not apply to the advisory board.

Sec. 531.123. ADVISORY BOARD; OFFICERS AND MEETINGS. Requires the board to elect from its members a presiding officer and other officers considered necessary. Requires the board to hold meetings quarterly and authorizes additional meetings at the call of the presiding officer. Requires the board to develop and implement policies to provide the public with a reasonable opportunity to appear before the member and to speak on any issue

under the jurisdiction of the board.

Sec. 531.124. **ADOPTION OF STANDARDS.** Requires the commission to adopt certain minimum standards with the advice of the advisory board. Requires the commission to design the minimum standards to protect the interests of an incapacitated individual or other individual who needs assistance making decisions concerning the individual's own welfare or financial affairs. Sets forth the required procedures relating to a statutory probate judge that must be included in the rules adopted by the commission.

Sec. 531.125. **GUARDIANSHIP NETWORK COUNCIL.** Requires the Guardianship Network Council (council) to advise the commission in establishing local guardianship centers established under Section 531.126. Sets forth the composition of the council. Requires the council to elect from its members a presiding officer and any other officer considered necessary. Provides that a council member serves at the pleasure of the commissioner of health and human services (commissioner) or the commissioner's successor. Requires the council to hold meetings quarterly and authorizes the presiding officer to hold other meetings. Provides that Article 6252-33(8), V.T.C.S., does not apply to the council. Provides that the council is abolished and this section expires on the 90th day after the date on which the commission establishes at least one local guardianship center in each of the regions under Section 531.126.

Sec. 531.126. **ESTABLISHMENT OF LOCAL GUARDIANSHIP CENTERS.** Requires the commission to establish at least one guardianship center in each of the uniform regions established under Section 531.024. Authorizes the commission to select a guardianship program operating in a region as a guardianship center for the region. Requires the commission to consult and cooperate with the governing body of municipalities, counties, or nonprofit organizations in each of the regions concerning the development of or support for a guardianship center. Requires the commission to ensure to the extent possible that each incapacitated individual in this state who needs a guardianship or another less restrictive type of assistance to make decisions concerning the incapacitated individual's own welfare or financial affairs receives that assistance.

Sec. 531.127. **DUTIES OF LOCAL GUARDIANSHIP CENTER.** Sets forth the required duties, responsibilities, and conditions of a local guardianship center. Authorizes a local guardianship center to receive and monitor complaints relating to the provision of guardianship and related services through a toll-free number. Requires a local guardianship center to observe the rules adopted by the commission under Section 531.124.

SECTION 2. Amends Section 646, Probate Code, to provide that to be eligible for appointment as an attorney ad litem, a person must have the certification required by Section 647A, Texas Probate Code. Makes conforming changes.

SECTION 3. Amends Part 2E, Chapter XIII, Probate Code, by adding Section 647A, as follows:

Sec. 647A. **CERTIFICATION REQUIREMENT FOR CERTAIN ATTORNEYS.** Sets forth the certification guidelines a person who is licensed to practice law in this state is required to obtain from the State Bar of Texas in order to represent a proposed ward or guardian or other interested person at a hearing to appoint a guardian.

SECTION 4. Makes application of Sections 646 and 647A, Probate Code, of this Act prospective.

SECTION 5. Requires the statutory probate court to appoint the initial members of the board and the commissioner to appoint the initial members of the council no later than December 1, 1997.

SECTION 6. Effective date: September 1, 1997.

SECTION 7. Emergency clause.