

- SUBJECT:** Creation of the Guardianship Resource Board
- COMMITTEE:** State Affairs — favorable, without amendment
- VOTE:** 15 ayes — Seidlits, S. Turner, Alvarado, Black, Bosse, Carter, Craddick, Danburg, Hilbert, Hochberg, B. Hunter, D. Jones, McCall, Ramsay, Wolens
0 nays
- SENATE VOTE:** On final passage, April 18 — voice vote
- WITNESSES:** None
- BACKGROUND:** A guardian is a person lawfully invested with the power and charged with the duty of managing the property and rights of another person, who, for defect of age, understanding or self-control, is incapable of administering his or her own affairs.
- DIGEST:** SB 103 would create the Guardianship Resource Board, which would be authorized to establish and govern a nonprofit center. The center would be charged with developing a state plan to ensure that each person who needs a guardian receives assistance. The center would consult with units of government and other nonprofit corporations concerning the development of a guardianship program, provide technical assistance and training for guardians, provide information and referral services for guardianship, and adopt minimum standards for the provision of guardianship and related services.
- If there was no guardianship program to provide assistance, the center could contract with another person or entity to be appointed as a guardian of the estate or person, or both, of an incapacitated person or provide assistance to a person who needed assistance other than a guardianship to make a decision concerning the person's own welfare or financial affairs.
- The board would be composed of seven members appointed by the governor, two members appointed by the presiding judge of the statutory probate courts and five nonvoting ex officio members from the five state agencies needing and interested in guardianship services for their clients:

Department of Human Services, Department of Aging, Department of Health, Department of Protective and Regulatory Services and the Texas Department of Mental Health and Mental Retardation.

A person would not be eligible for appointment to the board if the person or person's spouse used or received a substantial amount of tangible goods, services or funds from the board. An officer, employee or paid consultant of an association — other than a guardianship program or a nonprofit association — that had as its primary interest the provision of guardianship services could not be a member or employee of the board.

Board members would serve six-year staggered terms and would be entitled to reimbursement for actual and necessary expenses in the performance of their duties.

The board would be authorized to appoint an executive director who could hire up to seven employees, establish personnel policies for those employees, and prepare and submit to the board a biennial budget.

The budget would include an estimate of all funds the board would receive, including all federal funds that might be allocated to the state for the center's purposes. To the extent other funds, if any, were insufficient for the center to carry out its duties, the executive director would submit a request to the board for an appropriation from the Legislature. The board may also accept and solicit gifts or grants of money or property from public or private sources to carry out its duties.

SB 103 would also establish a community trust in the form of a pooled income trust made up of contributions on behalf of the trust's beneficiaries. The trust would be within the center and would provide guardianship services and manage resources and expenditures for beneficiaries of the community trust. The trust beneficiaries would be disabled persons who have had full guardianships established over their estates and who have qualified as members of the community trust. Upon the death of the trust beneficiary, the center would receive the balance of the deceased's trust account for the purpose of providing funding for the performance of the general functions assigned to the center.

SB 103 would provide that a portion of an estate not demanded from the estate's executor or administrator within six months after court approval of the report on the division of the estate or six months after settlement of the final account of the executor or administrator would be remitted to the Guardianship Resource Board rather than the state treasurer. SB 103 makes provisions for payment of creditors prior to estate funds being remitted to the board.

The bill would take effect September 1, 1995.

**SUPPORTERS
SAY:**

No state agency now has statutory responsibility for coordinating guardianship in the state. The Department of Protective and Regulatory Services, through the adult protective services program, provides some guardianship services, and a few private programs also exist to coordinate guardianship. However, no specific authority exists to coordinate, educate or provide resources for those programs.

Following the Senate Interim Committee on Health and Human Services' recommendation that a Guardian Resource Board be established, SB 103 would establish such a board as an agency of the state. The board would provide guardianship services and a pooled income trust for incapacitated persons as well as develop a plan to ensure that each person who needs a guardian receives assistance.

SB 103 is needed because the need for guardianship services continues to grow due to people living longer, and parental rights being terminated more often and because people with mental disabilities are surviving at higher rates due to advances in medical technology and health care. Currently, 15,000 to 20,000 people need guardianship services but do not receive them.

**OPPONENTS
SAY:**

No apparent opposition.

NOTES:

A contingency rider in the appropriations bill would fully fund the Guardian Resource Board.