

SUBJECT: Appointing court investigators for guardianships in certain probate courts

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Smithee, Farrar, Gutierrez, Laubenberg, Murr, Neave, Rinaldi, Schofield

0 nays

1 absent — Hernandez

SENATE VOTE: On final passage, May 4 — 31-0, on Local and Uncontested Calendar

WITNESSES: No public hearing

BACKGROUND: Government Code, sec. 25.0025 requires the judge of a statutory probate court to appoint a court investigator.

Estates Code, sec. 1102.001 provides that if a court has probable cause to believe that a person living or found in the county in which the court is located is an incapacitated person, and the person does not have a guardian in the state, the court shall appoint a guardian ad litem or court investigator to investigate the person's conditions and circumstances.

Some have called for state law to be amended to permit courts other than statutory probate courts to employ a court investigator to fulfill duties under the Estates Code relating to guardianship proceedings.

DIGEST: SB 1016 authorizes the judge of a county court exercising its probate jurisdiction or a court created by statute and authorized to exercise original probate jurisdiction, other than a statutory probate court, to appoint a court investigator if the appointment was authorized by a commissioners court.

The commissioners court could authorize additional court investigators for a county if necessary, and the commissioners court would set the salary of

the court investigator.

The appointment of a court investigator by the judge of a statutory probate court would be governed by Government Code provisions relating to court investigators.

The bill would take effect September 1, 2017.