

- SUBJECT:** Expanding who may request an accounting under powers of attorney
- COMMITTEE:** Judiciary and Civil Jurisprudence — favorable, without amendment
- VOTE:** 9 ayes — Smithee, Farrar, Gutierrez, Hernandez, Laubenberg, Murr, Neave, Rinaldi, Schofield
- 0 nays
- SENATE VOTE:** On final passage, March 8 — 31-0
- WITNESSES:** No public hearing
- BACKGROUND:** Powers of attorney are legal documents that allow a person, known as the principal, to authorize someone else, known as the agent or attorney-in-fact, to act or make certain decisions on the principal's behalf.
- Estates Code, sec. 751.104 allows a principal to demand an accounting by the attorney in fact or an agent of the principal's property and specifies what must be included in the accounting. Observers have noted that incapacitated individuals, who can be particularly vulnerable to financial exploitation, may be unable to or unaware of their ability to call for an accounting.
- DIGEST:** SB 41 would extend the principal's right to demand an accounting under the Durable Power of Attorney Act to other persons if the principal was unable to demand an accounting because of the principal's mental or physical condition. The persons would include:
- a guardian or spouse of the principal;
 - a person named as a successor attorney in fact or agent in the durable power of attorney;
 - an agent of the principal authorized to make health care decisions on the principal's behalf by a medical power of attorney;
 - an attorney who represented the principal; or

- any other family member of the principal who the court, for good cause shown, found had standing to demand an accounting.

A statutory form for durable powers of attorney would be changed to reflect the persons who could call for an accounting.

The right to demand an accounting would extend to all durable powers of attorney, regardless of when they were executed. The changes to the form would apply to durable powers of attorney executed on or after the effective date.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.