

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 318  
By: Ellis  
Jurisprudence  
4-3-97  
Committee Report (Substituted)

### **DIGEST**

Currently, guardians of certain wards are required to post a bond. This bill will set forth the types of bonds required of guardians of certain wards.

### **PURPOSE**

As proposed, C.S.S.B. 318 sets forth the types of bonds required of guardians of certain wards.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 702(b), Probate Code, to delete a provision stating that a bond is not required to be given by a guardian that is a guardianship program operated by a county with a population of more than 2.5 million.

SECTION 2. Amends Part 3B, Chapter XIII, Probate Code, by adding Section 702A, as follows:

Sec. 702A. TYPES OF BONDS ACCEPTABLE FOR GUARDIAN OF THE PERSON. Provides that this section applies only to a bond required to be posted by a guardian of the person of a ward when there is no guardian of the ward's estate. Sets forth types of bonds the court is authorized to accept. Sets forth factors the court is required to consider in determining the appropriate type and amount of bond to set for the guardian.

SECTION 3. Amends Section 102.002, Civil Practice and Remedies Code, by amending Subsection (c) and adding Subsection (e), to require a local government that does not give a bond under Section 702(b), Probate Code, to pay damages awarded against an employee of the local government arising from a cause of action described by Subsection (c) if the liability results from the employee's appointment as guardian of the person or estate of a ward under the Probate Code and the action or omission for which the employee was found liable was in the course and scope of the person's employment with the local government. Makes a conforming change.

SECTION 4. Amends Section 102.003, Civil Practice and Remedies Code, to prohibit payments under this chapter by a local government from exceeding \$410,000 for a single occurrence of property damage, unless the local government is liable in the local government's capacity under the Probate Code and does not give a bond under Section 702(b), Probate Code, in which event payments are prohibited from exceeding the amount of the actual property damage.

SECTION 5. Effective date: September 1, 1997.  
Makes application of this Act prospective.

SECTION 6. Emergency clause.

## **SUMMARY OF COMMITTEE CHANGES**

### **SECTION 1.**

Amends Section 702(b), Probate Code, to delete a reference to the population of a county.

### **SECTION 2.**

Redesignates former SECTION 1 as SECTION 2.

Deletes proposed SECTIONS 1-5, Sections 702, 743, and Chapter XIII(4)(B), Probate Code.

Adds Section 702A, Probate Code, to set forth the types of bonds acceptable for guardians of a ward.

### **SECTION 3.**

Amends Section 102.002, Civil Practice and Remedies Code, to add a provision regarding the liability of a local government.

### **SECTION 4.**

Amends Section 102.003, Civil Practice and Remedies Code, to add an exception regarding payment by a local government in certain circumstances.

### **SECTION 5.**

Sets forth the effective date and makes application of this Act prospective.