

## **BILL ANALYSIS**

Senate Research Center  
76R14407 E

H.B. 2164  
By: Naishtat (Moncrief)  
Jurisprudence  
5/12/1999  
Engrossed

### **DIGEST**

Currently, Texas law prohibits a parent or loved one from filing to become the legal guardian of a child with severe mental retardation and reaching the age of majority, until the child reaches the age of 18. The time it takes to process the application for guardianship, typically one to two months, creates a short, but potentially problematic gap in the ability of a caring adult to protect and make decisions for the ward in question. This bill would authorize a person to file an application for guardianship under Section 682, Probate Code, within 60 days of the child's 18th birthday, in instances where a child is incapacitated prior to reaching the age of majority, which requires a guardianship.

### **PURPOSE**

As proposed, H.B. 2164 sets forth guidelines for the appointment of a guardian for certain incapacitated minors.

### **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 Part 3A, Chapter XIII, Texas Probate Code, by adding Section 682A, as follows:

Sec. 682A. APPLICATION FOR APPOINTMENT OF GUARDIAN FOR CERTAIN PERSONS. Authorizes a person to file an application under Section 682 of this code for the appointment of a guardian of the person and/or the estate of the proposed ward not earlier than the 60th day before the proposed ward's 18th birthday, if a minor will require a guardianship after the ward is no longer a minor because of incapacity. Provides that the guardianship of the person who is the subject of an application for the appointment of a guardian of the person filed under Subsection (a) is settled and closed when: a county court in the exercise of its probate jurisdiction, a court created by statute and authorized to exercise original probate jurisdiction, or a district court exercising original probate jurisdiction in contested matters (court) determines that the appointment of a guardian of the person for the proposed ward is not necessary; or the guardian appointed by the court after a hearing on the application has qualified under Section 699 of this code.

SECTION 2. Effective date: September 1, 1999.  
Makes application of this Act prospective.

SECTION 3. Emergency clause.