

BILL ANALYSIS

Senate Research Center

S.B. 1719
By: Harris
Jurisprudence
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DIGEST AND PURPOSE

Under current Texas law, guardians are prohibited from voluntarily committing a ward to a hospital for inpatient mental health treatment and a ward cannot voluntarily commit themselves, unless the mental state of the ward meets certain criteria established to warrant involuntary commitment. As proposed, S.B. 1719 authorizes a guardian to voluntarily commit a ward for inpatient mental health treatment if given that authority in the guardianship papers.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 682, Texas Probate Code, to require that the application must be sworn to by the applicant and state certain information, including whether the applicant is seeking authority for the proposed guardian of the person to consent to the voluntary admission of the ward to a public or private inpatient psychiatric facility.

SECTION 2. Amends Section 693(c), Texas Probate Code, to require that the order of the court appointing a guardian must specify certain information, including if it is a guardianship of the person, whether the guardian has the authority to consent to the voluntary admission of the ward to a public or private inpatient psychiatric facility subject to Section 770 of this code.

SECTION 3. Amends Section 767, Texas Probate Code, to provide that a guardian of the person of a ward, notwithstanding Subsection (a)(4) of this section, has the authority to consent to the voluntary admission of the ward to a public or private inpatient psychiatric facility if the guardian holds letters of guardianship under an order specifically granting the guardian that authority.

SECTION 4. Amends Section 770, Texas Probate Code, by amending Subsection (b) and adding Subsections (e), (f), (g), and (h) to read as follows:

SECTION 4. Section 770, Texas Probate Code, is amended by amending Subsection (b) and adding Subsections (e), (f), (g), and (h) to read as follows:

(b) Prohibits a guardian, except as provided by Subsections (c), (d), (e), (f), (g), or (h) of this section, from voluntarily admitting an incapacitated person to a public or private in-patient psychiatric facility or to a residential facility operated by the Texas Department of Mental Health and Mental Retardation for care and treatment.

(e) Authorizes a guardian of the person of a ward acting under letters of guardianship as described by Section 767(b) of this code to consent to the voluntary admission of the ward to a public or private inpatient psychiatric facility only if certain conditions are met.

(f) Requires the guardian, not longer than 24 hours after the time of the admission of a ward under Subsection (e) of this section, to return to the court that granted the guardianship a report of the admission and the statement required under Subsection (e)(2) of this section. Requires that the report must include the reason for the admission. Provides that if the day of the ward's admission to a facility is a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday.

(g) Authorizes the court to appoint a guardian ad litem, attorney ad litem, or both a guardian ad litem and an attorney ad litem for the ward and provide them with a copy of the guardian's report and the psychiatrist's statement for review and comment.

(h) Prohibits a guardian of the person of a ward, notwithstanding letters of guardianship issued under a court order specifically granting the guardian authority to consent to the admission, from consenting to the voluntary admission of the ward to a public or private inpatient psychiatric facility for an admission period that exceeds the period prescribed by Subsection (e) of this section without the prior approval of the court that granted the guardianship.

SECTION 5. Effective date: September 1, 2001.

Makes application of this Act prospective.