

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1709
By: Zaffirini
State Affairs
4/10/2017
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2015 the legislature passed H.B. 2665, which, among other things, requires notice to a person with a guardian's (PWG) spouse, parents, siblings, and children regarding significant changes about the person's health and residence. When giving notice to a relative is not in the best interest of the PWG, H.B. 2665 requires a notification waiver from the court.

This notice provision has inadvertently resulted in significant time and costs spent by guardianship programs to locate family members who have not shown interest in the PWG for years. The programs also spend a significant amount in attorneys' fees to get courts to waive the notification requirements. In some cases, programs have to contact as many as 10-12 persons, who all declined the opportunity to serve as guardian or were not appropriate to serve at the time of appointment. When a program serves dozens of persons, these costs unnecessarily increase. The funds would be better spent by the program in providing better care for the PWG.

S.B. 1709 requires the guardian to notify only those family members that express in writing interest in receiving these notices and who have not been found by a court or state agency to have abused the PWG. Such provisions would reduce the burden that current law places on guardianship programs. (Original Author's / Sponsor's Statement of Intent)

As proposed, S.B. 1709 amends current law relating to the requirement of a guardian to provide information regarding a ward's health and residence to certain relatives of the ward.

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 Sections 1151.056(a) and (g), Estates Code, as follows:

(a) Provides that this section (Guardian's Duty to Inform Certain Relatives About Ward's Health and Residence) applies only with respect to a relative, rather than applies with respect to relatives, described under Sections 1101.001(b)(13(A)-(D) (relating to requiring an application for appointment of a guardian to contain certain information relating to a proposed ward):

- (1) against whom a protective order has not been issued to protect the ward;
- (2) who has not been found by a court or other state agency to have abused, neglected, or exploited the ward; and
- (3) who has elected in writing to receive the notice about a ward under this section.

(g) Requires the court, in considering a motion under Subsection (e) (relating to relieving a guardian of the duty to provide certain notice about a ward), to relieve the guardian of

the duty to provide notice about a ward to a relative under this section if the court finds that:

(1) and (2) makes no changes to these subdivisions;

(3) makes a nonsubstantive change; or

(4) notice is not in the best interest of the ward. Creates this subsection from existing text.

Deletes existing Subdivisions (4) and (5) relating to requiring the court to relieve the guardian of the duty to provide notice if certain protective orders were issued against the ward or a court or other state agency has found that the relative abused, neglected, or exploited the ward.

SECTION 2. Provides that the changes in law made by this Act apply to a guardianship created before, on, or after the effective date of this Act.

SECTION 3. Effective date: upon passage or September 1, 2017.