

BILL ANALYSIS

Senate Research Center
78R6981 MTB-D

S.B. 1410
By: Deuell
Health & Human Services
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DIGEST AND PURPOSE

The Department of Protective and Regulatory Services (DPRS) is assigned by the Human Resources Code to serve as guardians of persons who are found to be in a state of neglect, abuse, or exploitation. DPRS is intended to be the guardian of last resort for those who cannot take care of themselves. Some local courts have begun to expand this scope. As proposed, S.B. 1410 clarifies the duties of DPRS in order to prevent judicial expansion of the agency's responsibilities.

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 48.209, Human Resources Code, by amending Subsection (b) and adding Subsection (g), as follows:

- (b) Requires a representative of the Department of Protective and Regulatory Services (DPRS) to take the oath required by the Texas Probate Code on behalf of DPRS when, rather than if, DPRS begins to serve as, rather than is appointed, guardian.
- (g) Prohibits a court from appointing DPRS as a guardian under Section 682 (Application; Contents) or 875 (Temporary Guardian-Procedure), Texas Probate Code, unless certain action is taken and certain conditions are met.

SECTION 2. Amends Section 701, Texas Probate Code, to make a conforming change.

SECTION 3. Amends Section 875(j), Texas Probate Code, to prohibit the court from appointing DPRS as a temporary guardian under this section unless certain action is taken and certain conditions apply. Deletes existing text related to prohibiting the court from customarily or ordinarily appointing DPRS temporary guardian and providing that appointment of DPRS as a temporary guardian is a last resort.

SECTION 4. Provides that the changes in law made by this Act to Section 875, Texas Probate Code, and Section 48.209, Human Resources Code, apply only to an application for the appointment of a guardian or temporary guardian filed:

- (1) on or after the effective date of this Act; or
- (2) before the effective date of this Act if the proceeding is pending on the effective date of this Act.

SECTION 5. Effective date: September 1, 2003.