

BILL ANALYSIS

C.S.S.B. 291
By: Nelson
Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law requires the Department of Aging and Disability Services (DADS) to report to each county a list of those who are employed by DADS to provide guardianship services in that particular county. County clerks are then required to obtain criminal history record information for guardians. This process is an inefficient and incomplete procedure that encourage duplicative efforts and does not cover all potential guardians.

S.B. 291 would clarify and complete the procedures for obtaining criminal history record information for guardians. S.B. 291 requires DADS to perform criminal background checks for those persons it employs as guardians and to submit those background checks to the Guardianship Certification Board and the county clerk. S.B. 291 also requires DADS to submit to the Board a list of names, along with identifiable information and the county of employment or prospective employment, of all persons employed or seeking employment, as a guardian by DADS.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1: Amends the heading of Section 697A, Texas Probate Code.

SECTION 2: Amends Section 697A, Texas Probate Code, to instruct DADS to submit names and contact information of all employees who are or will be serving as guardians to the Guardianship Certification Board (GCB).

SECTION 3: Amends Section 698, Texas Probate Code, to allow DADS to obtain criminal history record information of its employees serving as guardians, and instructs DADS to submit that information to county clerks and the GCB. Allows county clerks to obtain criminal history record information for proposed guardians and to charge a \$10 fee for obtaining this information. The substitute allows an individual to provide his or her criminal history record information to the court. The substitute Conforms current restrictions on use of this information and requirements of confidentiality to new provisions.

SECTION 4: The substitute conforms Section 411.1386, Texas Government Code, to existing and new language in the Probate Code.

SECTION 5: Specifies the intent of the various sections of this bill.

SECTION 6: Effective Date September 1, 2007.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

Under current law, county clerks do not have the authority to obtain criminal history record information for potential guardians, despite the fact that a Probate Judge is not allowed to appoint a person as a guardian if they have committed certain crimes. C.S.S.B. 291 adds a provision that gives county clerks the authority to obtain criminal history record information for potential guardians. It also allows county clerks to charge a \$10 fee for the cost of collecting

criminal history information. Finally, C.S.S.B. 291 allows an individual to provide his or her own criminal background information to the court.