

## **BILL ANALYSIS**

Senate Research Center

S.B. 1392  
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Jurisprudence  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Individuals who are incapacitated retain all legal and civil rights and powers except those designated by court order as legal disabilities. The right to vote is an important and fundamental right for which generations have fought vigorously to obtain, defend, and maintain. Unfortunately, under current law, many individuals with disabilities are divested of the right to vote without the benefit of substantive and procedural due process.

As proposed, S.B. 1392 provides certain procedural requirements for a court that seeks to terminate a person's right to vote or to operate a motor vehicle if the person is determined to be the court to be mentally incapacitated.

### **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, as follows:

Sec. 682. APPLICATION; CONTENTS. Authorizes any person to commence a proceeding for the appointment of a guardian by filing a written application in a court having jurisdiction and venue. Requires the application to be sworn to by the applicant and state certain information, including the limitation or termination of rights requested to be included in the court's order of appointment, including a termination of the right of a proposed ward 18 years of age or older to cast a vote in a public election and a termination of the proposed ward's right to operate a motor vehicle.

SECTION 2. Amends Section 687(a), Texas Probate Code, as follows:

(a) Prohibits a court from granting an application to create a guardianship for an incapacitated person, other than a minor, person whose alleged incapacity is mental retardation, or person for whom it is necessary to have a guardian to receive funds from a government source, unless the applicant presents a written letter or certificate from a physician licensed in this state in a certain timeframe. Requires the letter or certificate to contain certain information, including information stating whether in the physician's opinion the proposed ward has the capacity to cast a vote in a public election and has the ability to safely operate a motor vehicle.

SECTION 3. Amends Sections 693(a) and (b), Texas Probate Code, to make conforming changes.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2007.