

By: Harris

S.B. No. 1701

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the appointment of a successor guardian for certain  
3 wards adjudicated as totally incapacitated.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 161.101, Human Resources Code, is  
6 amended by amending Subsection (d) and adding Subsection (f) to  
7 read as follows:

8 (d) The department may not be required by a court to file an  
9 application for guardianship, and except as provided by Subsection  
10 (f) and Section 695, Texas Probate Code, the department may not be  
11 appointed as permanent guardian for any individual unless the  
12 department files an application to serve or otherwise agrees to  
13 serve as the individual's guardian of the person or estate, or both.

14 (f) On appointment by a probate court under Section 695(c),  
15 Texas Probate Code, the department shall agree to serve as the  
16 successor guardian of the person or estate, or both, of a ward  
17 described by that section.

18 SECTION 2. Section 695, Texas Probate Code, is amended by  
19 adding Subsection (c) to read as follows:

20 (c) The court may appoint the Department of Aging and  
21 Disability Services as a successor guardian of the person or  
22 estate, or both, of a ward who has been adjudicated as totally  
23 incapacitated if:

24 (1) there is no family member or other suitable

1 person, including a guardianship program, willing and able to serve  
2 as the ward's successor guardian; and

3 (2) the ward is located more than 100 miles from the  
4 court that created the guardianship.

5 SECTION 3. Section 697A(b), Texas Probate Code, is amended  
6 to read as follows:

7 (b) The Department of Aging and Disability Services, if the  
8 department [~~files an application for and~~] is appointed to serve as  
9 guardian or successor guardian for one or more incapacitated  
10 persons residing in the county as provided by Subchapter E, Chapter  
11 161, Human Resources Code, or Section 695(c) of this code, shall  
12 submit annually to the county clerk the information required under  
13 Subsection (a) of this section for each department employee who is  
14 or will be providing guardianship services in the county on the  
15 department's behalf.

16 SECTION 4. This Act takes effect immediately if it receives  
17 a vote of two-thirds of all the members elected to each house, as  
18 provided by Section 39, Article III, Texas Constitution. If this  
19 Act does not receive the vote necessary for immediate effect, this  
20 Act takes effect September 1, 2007.