

BILL ANALYSIS

Senate Research Center
81R3163 CLG-F

S.B. 1053
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Jurisprudence
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, certain individuals who provide guardianship services for incapacitated persons are required to be certified by the Guardianship Certification Board (GCB), as required by Section 697B (Certification Requirement for Private Professional Guardians and Public Guardians), Probate Code, and Section 111.042(a) (relating to guardianship services requiring certification), Government Code. However, there are no provisions authorizing GCB to enforce the certification requirement. Moreover, Section 681, Probate Code, which lists reasons a person is not qualified to be appointed guardian, does not include lack of certification. Changes are needed to help enforce existing statutory requirements that a person who is required to be certified by GCB is not authorized to serve as a guardian if the person does not have the required certification.

As proposed, S.B. 1053 provides that a person may not be appointed to serve as the guardian of an incapacitated person if the person does not have the required certification under Section 697B. This bill also authorizes a court to remove, on the complaint of GCB, a person who would be ineligible for appointment as a guardian because of the person's failure to maintain the required certification.

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 681, Texas Probate Code, as follows:

Sec. 681. PERSONS DISQUALIFIED TO SERVE AS GUARDIANS. Prohibits a person from being appointed guardian of an incapacitated person if the person does not have the certification to serve as guardian that is required by Section 697B (Certification Requirement for Private Professional Guardians and Public Guardians) of this code.

SECTION 2. Amends Section 761, Texas Probate Code, by adding Subsection (c-1), as follows:

(c-1) Authorizes the court, in addition to the authority granted to the court under Subsection (c) of this section, on the complaint of the Guardianship Certification Board, to remove a guardian who would be ineligible for appointment under Section 681 of this code because of the guardian's failure to maintain the certification required under Section 697B of this code. Requires the guardian to be cited to appear and contest the request for removal under this subsection in the manner provided by Subsection (c) of this section.

SECTION 3. Effective date: September 1, 2009.