

BILL ANALYSIS

H.B. 2323
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Human Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Under current law, the Department of Family and Protective Services (DFPS) may petition a court to render an emergency protective order authorizing protective services for an elderly or disabled person who is determined by DFPS to be suffering from a threat to their safety if the person lacks the capacity to consent to receive protective services because of mental or physical impairment. Such an order expires either 10 days after the date it is rendered or 10 days after the person was removed to a safer environment. The court may extend an emergency order for no more than 30 days after the date the original order was rendered, but the order cannot be extended more than two times, meaning that the total length of time such an emergency protective order can be in effect is 60 days from the day it was rendered.

Interested parties note that when DFPS petitions the court for an emergency protective order, it also refers the elderly or disabled individual to the Department of Aging and Disability Services (DADS) for guardianship services to secure a permanent safe environment for the individual while the individual is in emergency protective care. The parties contend that because DADS has up to 70 days to determine whether permanent guardianship is appropriate for the individual, there is often a 10-day gap between the time an emergency protective order is in effect and the time DADS secures permanent guardianship of an affected individual, during which time the individual may return to a prior state of neglect, abuse, or exploitation. H.B. 2323 seeks to remedy this issue by increasing the number of days an emergency protective order can be in effect.

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

H.B. 2323 amends the Human Resources Code to authorize a probate or statutory or constitutional county court with probate jurisdiction over an elderly or disabled person under an emergency order for protective services, after notice and a hearing, to extend the order for a period of not more than 30 days after the date the original order would otherwise expire, rather than the date the original order was rendered.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.