

## **BILL ANALYSIS**

C.S.H.B. 634  
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Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Concerned parties have reported that they are aware, after speaking with certain local elected officials from Montgomery County, of situations in which court-appointed guardians were denied access to their wards in the criminal justice system. The parties explain that these situations were caused when the ward either failed to put the guardian on a visitor list or purposely excluded the guardian from the list. C.S.H.B. 634 seeks to address this problem along with other rights of a guardian of a person in the criminal justice system.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Commission on Jail Standards in SECTION 4 of this bill.

### **ANALYSIS**

C.S.H.B. 634 amends the Code of Criminal Procedure to authorize the court-appointed guardian of an incapacitated defendant who provides a court with the certificate constituting the letters of guardianship to provide information relevant to the determination of the defendant's indigency and to request that counsel be appointed for the defendant's arraignment. This authorization applies to a defendant for whom indigency is at issue, regardless of whether the defendant is arrested before, on, or after the bill's effective date.

C.S.H.B. 634 amends the Government Code to require the visitation policies for facilities operated by the institutional division and the state jail division of the Texas Department of Criminal Justice (TDCJ) to allow visitation by such a court-appointed guardian of an inmate of a facility operated by the institutional division or of a defendant confined in a state jail felony facility, as applicable, to the same extent as the inmate's or defendant's next of kin, including placing the guardian on the inmate's or defendant's approved visitors list on the guardian's request and providing the guardian access to the inmate or defendant during a facility's standard visitation hours if the inmate or defendant is otherwise eligible to receive visitors. The bill requires the visitation policies to require the guardian to provide the warden or director of the facility with a certificate constituting the letters of guardianship before being allowed to visit the inmate or defendant, as applicable. The bill requires TDCJ to revise the visitation policies to reflect these requirements not later than December 1, 2015.

C.S.H.B. 634 requires the Commission on Jail Standards to adopt reasonable rules and procedures regarding visitation of a prisoner at a county jail by a guardian that allow visitation by the guardian to the same extent as the prisoner's next of kin, including placing the guardian on

the prisoner's approved visitors list on the guardian's request and providing the guardian access to the prisoner during a facility's standard visitation hours if the prisoner is otherwise eligible to receive visitors and that require the guardian to provide the sheriff with the certificate constituting the letters of guardianship before being allowed to visit the prisoner. The bill requires the commission to establish such rules and procedures not later than December 1, 2015.

**EFFECTIVE DATE**

September 1, 2015.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 634 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Chapter 26, Code of Criminal Procedure, is amended.	SECTION 1. Same as introduced version.
SECTION 2. Section 501.010, Government Code, is amended.	SECTION 2. Same as introduced version.
SECTION 3. Section 507.030, Government Code, is amended.	SECTION 3. Same as introduced version.
SECTION 4. Section 511.009(a), Government Code, is amended.	SECTION 4. Same as introduced version.
SECTION 5. Not later than December 1, 2015: (1) the Texas Department of Criminal Justice shall revise visitation policies consistent with Sections 501.010 and 507.030, Government Code, as amended by this Act; and (2) the Commission on Jail Standards shall establish rules and procedures as required by Section 511.009(a)(20), Government Code, as added by this Act.	SECTION 5. Same as introduced version.
SECTION 6. Article 26.041, Code of Criminal Procedure, as added by this Act, applies only to a person who is arrested on or after the effective date of this Act. A person arrested before the effective date of this Act is governed by the law in effect on the date the person was arrested, and the former law is continued in effect for that purpose.	SECTION 6. Article 26.041, Code of Criminal Procedure, as added by this Act, applies to a defendant for whom indigency is at issue, regardless of whether the defendant is arrested before, on, or after the effective date of this Act.
SECTION 7. This Act takes effect September 1, 2015.	SECTION 7. Same as introduced version.