

By: Naishtat

H.B. No. 1921

A BILL TO BE ENTITLED

1 AN ACT
2 relating to requiring criminal history record information
3 concerning a family member being proposed to serve as a guardian of
4 a ward or proposed ward.

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

6 SECTION 1. Section 1104.402(a), Estates Code, is amended to
7 read as follows:

8 (a) Except as provided by Section 1104.403, 1104.404, or
9 1104.406(a), the clerk of the county having venue of the proceeding
10 for the appointment of a guardian shall obtain criminal history
11 record information that is maintained by the Department of Public
12 Safety or the Federal Bureau of Investigation identification
13 division relating to:

14 (1) a private professional guardian;
15 (2) each person who represents or plans to represent
16 the interests of a ward as a guardian on behalf of the private
17 professional guardian;

18 (3) each person employed by a private professional
19 guardian who will:

20 (A) have personal contact with a ward or proposed
21 ward;

22 (B) exercise control over and manage a ward's
23 estate; or

24 (C) perform any duties with respect to the

1 management of a ward's estate;

2 (4) each person employed by or volunteering or
3 contracting with a guardianship program to provide guardianship
4 services to a ward of the program on the program's behalf; or

5 (5) any other person proposed to serve as a guardian
6 under this title, including a proposed temporary guardian and a
7 proposed successor guardian, other than [~~the ward's or proposed~~
8 ~~ward's family member or~~] an attorney.

9 SECTION 2. Section 1104.409, Estates Code, is amended to
10 read as follows:

11 Sec. 1104.409. USE OF INFORMATION BY COURT. The court
12 shall use the information obtained under this subchapter only in
13 determining whether to:

14 (1) appoint, remove, or continue the appointment of a
15 private professional guardian, a guardianship program, or the
16 department; or

17 (2) appoint any other person proposed to serve as a
18 guardian under this title, including a proposed temporary guardian
19 and a proposed successor guardian, other than [~~the ward's or~~
20 ~~proposed ward's family member or~~] an attorney.

21 SECTION 3. Sections 411.1386(a) and (e), Government Code,
22 are amended to read as follows:

23 (a) Except as provided by Subsections (a-1), (a-5), and
24 (a-6), the clerk of the county having venue over a proceeding for
25 the appointment of a guardian under Title 3, Estates [~~Chapter XIII,~~
26 ~~Texas Probate~~] Code, shall obtain from the department criminal
27 history record information maintained by the department that

1 relates to:

2 (1) a private professional guardian;

3 (2) each person who represents or plans to represent
4 the interests of a ward as a guardian on behalf of the private
5 professional guardian;

6 (3) each person employed by a private professional
7 guardian who will:

8 (A) have personal contact with a ward or proposed
9 ward;

10 (B) exercise control over and manage a ward's
11 estate; or

12 (C) perform any duties with respect to the
13 management of a ward's estate;

14 (4) each person employed by or volunteering or
15 contracting with a guardianship program to provide guardianship
16 services to a ward of the program on the program's behalf; or

17 (5) any other person proposed to serve as a guardian
18 under Title 3, Estates [~~Chapter XIII, Texas Probate~~] Code,
19 including a proposed temporary guardian and a proposed successor
20 guardian, other than [~~the ward's or proposed ward's family member~~
21 ~~or~~] an attorney.

22 (e) The court, as that term is defined by Section 1002.008,
23 Estates [~~601, Texas Probate~~] Code, shall use the information
24 obtained or provided under Subsection (a), (a-4)(1), (a-5), or
25 (a-6) only in determining whether to:

26 (1) appoint, remove, or continue the appointment of a
27 private professional guardian, a guardianship program, or the

1 Department of Aging and Disability Services; or

2 (2) appoint any other person proposed to serve as a
3 guardian under Title 3, Estates [~~Chapter XIII, Texas Probate~~] Code,
4 including a proposed temporary guardian and a proposed successor
5 guardian, other than [~~the ward's or proposed ward's family member~~
6 ~~or~~] an attorney.

7 SECTION 4. The changes in law made by this Act apply only to
8 a proceeding for the appointment of a guardian that is pending or
9 filed on or after the effective date of this Act.

10 SECTION 5. This Act takes effect September 1, 2015.