

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 6, 2015

TO: Honorable Joan Huffman, Chair, Senate Committee on State Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB39** by Smithee (Relating to guardianships for incapacitated persons and to substitutes for guardianships for certain adults with disabilities.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Estates Code to provide alternatives to guardianship for incapacitated persons that would meet the needs of a proposed ward and avoid the need for the appointment of a guardian. The bill would require a physician's certificate of medical examination accompanying a guardianship application to include additional information and would require judges and attorneys to consider if a ward could retain the right to make decisions for themselves about their personal residence. In addition, the bill would require a guardian to obtain a court's permission and for the guardian to notify the ward prior to moving a ward into a more restrictive environment, with the ward able to object to such a move. The bill would require an attorney filing an application for guardianship to obtain continuing legal education in guardianship prior to filing. In addition, the bill defines a Supported Decision-Making Agreement (SDMA) as a new alternative to guardianship and outlines the scope and terms of this agreement. The agreement would extend until terminated by either party, the terms of the SDMA, or if the Department of Family and Protective Services finds that the adult with disability has been abused, neglected, or exploited by the supporter or if the supporter is found criminally liable for abuse, neglect, or exploitation conduct.

Based on the analysis of the Office of Court Administration and the Department of Family and Protective Services, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 530 Family and Protective Services, Department of

LBB Staff: UP, AG, GDz, FR