

SENATE AMENDMENTS

2nd Printing

By: Smithee

H.B. No. 3424

A BILL TO BE ENTITLED

AN ACT

relating to a central database containing information about certain individuals under guardianship.

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

SECTION 1. Subchapter C, Chapter 1053, Estates Code, is amended by adding Section 1053.106 to read as follows:

Sec. 1053.106. CERTAIN INFORMATION PROVIDED BY COURT CLERK.

(a) Except as provided by Subsection (b), the clerk of a court shall compile and provide to the Department of Public Safety of the State of Texas the:

(1) names of incapacitated persons who are at least 18 years of age and who have a guardian appointed under Title 3, Estates Code;

(2) name of the guardian appointed for each incapacitated person; and

(3) contact information for the guardian appointed for each incapacitated person.

(b) The clerk of a court must obtain the consent of a guardian of an incapacitated person on a form prescribed by the Department of Public Safety of the State of Texas before the clerk may provide to the department the information for the incapacitated person described by Subsection (a).

SECTION 2. Subchapter D, Chapter 411, Government Code, is amended by adding Section 411.055 to read as follows:

1 Sec. 411.055. DATABASE OF INCAPACITATED PERSONS AND
2 GUARDIANS. (a) In this section:

3 (1) "Incapacitated person" means an adult who:

4 (A) because of a physical or mental condition, is
5 substantially unable to:

6 (i) provide food, clothing, or shelter for
7 himself or herself;

8 (ii) care for the person's own physical
9 health; or

10 (iii) manage the person's own financial
11 affairs; and

12 (B) has a guardian appointed under Title 3,
13 Estates Code.

14 (2) "Emergency service provider" means an individual
15 who provides emergency response services, including a law
16 enforcement officer, firefighter, emergency medical services
17 provider, dispatcher, or rescue service provider.

18 (b) The department shall develop and maintain a
19 computerized central database accessible only to emergency service
20 providers that contains, to the extent the information is available
21 to the department:

22 (1) the names of incapacitated persons who have a
23 guardian consenting to the dissemination of the incapacitated
24 person's information under Section 1053.106, Estates Code; and

25 (2) for each incapacitated person, the name of the
26 guardian appointed for that person and contact information for the
27 guardian.

1 (c) Information contained in the database is confidential
2 and not subject to disclosure under Chapter 552, Government Code.

3 (d) The director shall adopt rules as necessary to implement
4 and maintain the database created under this section.

5 SECTION 3. This Act takes effect September 1, 2015.

ADOPTED

MAY 27 2015

FLOOR AMENDMENT NO. 1

Atty Gen
Secretary of the Senate

BY:

Caffery

1 Amend H.B. No. 3424 (senate committee printing) by striking
2 all below the enacting clause and substituting the following:

3 SECTION 1. (a) In this section, "incapacitated person"
4 means an adult who:

5 (1) because of a physical or mental condition, is
6 substantially unable to:

7 (A) provide food, clothing, or shelter for
8 himself or herself;

9 (B) care for the person's own physical health; or

10 (C) manage the person's own financial affairs;

11 and

12 (2) has a guardian appointed under Title 3, Estates
13 Code.

14 (b) The Office of Court Administration of the Texas Judicial
15 System shall conduct a study on:

16 (1) the feasibility of developing, implementing, and
17 maintaining a computerized central database that contains:

18 (A) the names of incapacitated persons; and

19 (B) for each incapacitated person, the name of
20 the guardian appointed for that person and contact information for
21 the guardian; and

22 (2) best practices for protecting the privacy of
23 incapacitated persons and the confidentiality of information
24 included in the database.

25 (c) Not later than December 1, 2016, the director of the
26 office of court administration shall provide a report on the
27 results of the study to the governor, the lieutenant governor, the
28 speaker of the house of representatives, and the appropriate
29 standing committees of the senate and the house of representatives.

1 (d) This section expires September 1, 2017.

2 SECTION 2. This Act takes effect September 1, 2015.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 28, 2015

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3424 by Smithee (Relating to a central database containing information about certain individuals under guardianship.), **As Passed 2nd House**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would require the Office of Court Administration (OCA) to conduct a study on the feasibility of developing, implementing, and maintaining a central database containing the names of incapacitated persons that have had a Guardian appointed under the Estates Code. OCA would be required to study best practices for protecting the privacy of the incapacitated persons and the confidentiality of information in the database and would be required to report on the results of the study by December 1, 2016 to the Governor and the Legislature.

It is assumed any costs associated with implementing the bill could be absorbed within 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

LBB Staff: UP, AG, GDz, SD, EK, FR, JAW

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 18, 2015

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3424 by Smithee (Relating to a central database containing information about certain individuals under guardianship.), **As Engrossed**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would amend the Estates Code and Government Codes to require a clerk of court to compile and submit information regarding incapacitated persons, the guardian appointed for the person and certain other contact information to the Department of Public Safety. Under the provisions of the bill, a clerk of court must obtain consent of a guardian of an incapacitated person on a form before the clerk would be able to provide the Department of Public Safety with the information for the incapacitated person. The bill would require the Department of Public Safety to develop and maintain a computerized system accessible to emergency service providers that contains certain information relating to incapacitated persons. Under the provisions of the bill, the information contained in the database is confidential and not subject to disclosure under Chapter 552, Government Code.

It is assumed any costs associated with implementing the bill could be absorbed within existing resources.

Local Government Impact

There would be costs associated with the bill. Depending on the processes and resources of a county, additional staff could be necessary to comply with the provisions of the bill.

Yoakum County reported there would be costs of hiring another employee to comply with the reporting requirements of the bill, the cost would be \$60,000 per year including benefits.

Source Agencies: 405 Department of Public Safety

LBB Staff: UP, AG, SD, EK, FR, JAW

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 27, 2015

TO: Honorable John T. Smithee, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3424 by Smithee (Relating to a central database containing information about certain individuals under guardianship.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Estates Code and Government Codes to require a clerk of court to compile and submit information regarding incapacitated persons, the guardian appointed for the person and certain other contact information to the Department of Public Safety. The bill would require the Department of Public Safety to develop and maintain a computerized system accessible to emergency service providers that contains certain information relating to incapacitated persons. Under the provisions of the bill, the information contained in the database is confidential and not subject to disclosure under Chapter 552, Government Code.

It is assumed any costs associated with implementing the bill could be absorbed within existing resources.

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Source Agencies: 405 Department of Public Safety

LBB Staff: UP, FR, SD, EK, JAW

LEGISLATIVE BUDGET BOARD
Austin, Texas

OPEN GOVERNMENT IMPACT STATEMENT

84TH LEGISLATIVE REGULAR SESSION

May 18, 2015

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3424 by Smithee (Relating to a central database containing information about certain individuals under guardianship.), **As Engrossed**

As a result of this bill there will be a restriction upon the open records law and the access to government information.

The bill would exempt information contained in the database of incapacitated persons and guardians from disclosure under Chapter 552, Government Code.

Source Agencies:

LBB Staff: UP, SD, KVe