

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 1, 2017

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2892 by Smithee (Relating to guardianships; authorizing a fee.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2892, As Introduced: a negative impact of (\$837,834) through the biennium ending August 31, 2019.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	(\$440,211)
2019	(\$397,623)
2020	(\$374,357)
2021	(\$374,357)
2022	(\$385,857)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>Appropriated Receipts</i> 666	Change in Number of State Employees from FY 2017
2018	(\$440,211)	\$4,589	4.0
2019	(\$397,623)	\$17,757	4.0
2020	(\$374,357)	\$17,757	4.0
2021	(\$374,357)	\$17,757	4.0
2022	(\$385,857)	\$17,757	4.0

Fiscal Analysis

The bill would amend the Code of Criminal Procedure to require that a peace officer that detains or arrests a person who is a ward notify the court that has jurisdiction over the ward's guardianship of the arrest or detention not later than the first working day later.

The bill would amend the Government Code to require the Supreme Court to establish a mandatory registration program for guardianships by rule under which all guardianships in the state must register with the commission. The bill also requires the Supreme Court to adopt rules

requiring prospective guardians other than attorneys, corporate fiduciaries, and certified guardians, to receive training and undergo a criminal background check in order to be appointed a guardian. The bill would require the Judicial Branch Certification Commission within the Office of Court Administration (OCA) to establish a guardianship registration and database with the Department of Public Safety (DPS) provided access for purposes of dissemination via the Texas Law Enforcement Telecommunication System (TLETS). This database would be required to be developed no later than June 1, 2018. The bill would require the commission to obtain criminal history information maintained by DPS and the Federal Bureau of Investigation (FBI). This information must be fingerprint-based for a guardianship applicant where the liquid assets of the ward exceed \$50,000 or name-based for an applicant if less than \$50,000.

The bill would take effect on September 1, 2017.

Methodology

According to OCA, provisions of this bill would require the registration of 40,000 guardianships that would represent more than 500 percent of the Judicial Branch Certification Commission's current licensure class requiring the need for three Licensing Specialists and one Criminal History expert (\$64,917 per year with benefits of \$22,799, or \$87,716 per year) for a total of 4.0 full time equivalent positions with associated consumables, utilities, travel, and information technology resources. Additional associated costs in addition to the salaries and benefit costs include \$58,260 in fiscal year 2018, \$46,760 in fiscal year 2019, \$23,494 in fiscal years 2020-21, and \$34,994 in 2022.

The provisions of the bill do not require a fee for the registration of new guardianships. Pursuant to the bill, only new guardianship applicants would be required to submit to criminal background checks with a fingerprint-based check for an applicant where the liquid assets of the ward exceed \$50,000 or name-based for an applicant if less than \$50,000. According to OCA and based on fiscal year 2016 guardianship registrations, the agency estimates 200 fingerprint based checks in fiscal year 2018 due to the bill requiring the guardianship database be established no later than June 1, 2018 and 800 in each subsequent year. In addition, OCA estimates 1,189 name-based checks in fiscal year 2018 and 4,157 each subsequent year.

According to the DPS, the agency charges a \$27.00 fee for each application for a fingerprint-based criminal background check. Of this fee amount, the agency retains \$17.00 per application with these amounts counted towards the agency's appropriated receipts and the remainder remitted to the FBI. Of the total revenue from this fee and based on OCA's estimated amounts, DPS would retain \$3,400 in appropriated receipts in fiscal year 2018 and \$13,600 each subsequent year from fingerprint-based criminal background checks. DPS charges a \$1 fee per name-based transaction which is used to cover the costs to provide this service and is estimated to be \$1,189 in fiscal year 2018 and \$4,157 each subsequent year in appropriated receipts.

In addition, DPS would be required to engage the current TLETS vendor on establishing a web service interface to connect to the guardianship registry to allow for queries by law enforcement agencies to be sent and responses from the registry received for an estimated cost of \$31,088.

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

Technology

The Department of Public Safety would be required to establish a web service interface to connect to the guardianship registry. This work would be performed by the vendor used by DPS to manage the Texas Law Enforcement Telecommunication System

Local Government Impact

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

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 405 Department of Public Safety

LBB Staff: UP, LBO, MW, PBO, AG, GDz, FR, JGA