86R13781 CLG-D

By:  Meza H.B. No. 3572

A BILL TO BE ENTITLED

AN ACT

relating to referrals by the Department of Family and Protective Services to probate courts concerning allegedly incapacitated persons.

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

SECTION 1.  Section 48.209, Human Resources Code, is amended by amending Subsection (d) and adding Subsections (d-1) and (d-2) to read as follows:

(d)  Subject to Subsection (d-1), this [~~Nothing in this~~] section does not [~~shall~~] prohibit the department from also making a referral of an individual to a court having probate jurisdiction in the county where the individual is domiciled or found, if the court has requested the department to notify the court of any individuals who may be appropriate for a court-initiated guardianship proceeding under Chapter 1102, Estates Code.

(d-1)  Before [~~In~~] making a referral under Subsection (d), the department shall investigate the conditions and circumstances of an individual described by Subsection (a)(2) to determine whether a referral to the probate court is appropriate or whether an alternative to guardianship, as defined by Section 1002.0015, Estates Code, is available and more appropriate for the individual. On completion of the investigation, the department shall prepare a report that:

(1)  states each of the alternatives to guardianship considered by the department, if any; and

(2)  if alternatives to guardianship were considered and determined to be available, includes a recommendation as to which of those alternatives is the most appropriate for the individual.

(d-2)  If after completion of an investigation under Subsection (d-1) the department refers an individual to a probate court described by Subsection (d), the department shall provide a copy of the report prepared under Subsection (d-1) to the court. To the extent allowed by law, the court may use any relevant information included in the report in a court-initiated investigation or hearing to determine whether a guardianship is necessary for the individual. If [~~this subsection and if~~] requested by the court, the department shall, to the extent allowed by law, provide the court with all other relevant information in the department's records relating to the individual.  [~~The court, as part of this process, may not require the department to:~~

[~~(1)  perform the duties of a guardian ad litem or court investigator as prescribed by Chapter 1102, Estates Code; or~~

[~~(2)  gather additional information not contained in the department's records.~~]

SECTION 2.  This Act takes effect September 1, 2019.