

By: Smithee, Guillen

H.B. No. 1286

A BILL TO BE ENTITLED

AN ACT

relating to establishing a guardianship abuse, fraud, and exploitation deterrence program.

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

SECTION 1. Chapter 72, Government Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. GUARDIANSHIP ABUSE, FRAUD, AND EXPLOITATION

DETERRENCE PROGRAM

Sec. 72.121. DEFINITIONS. In this subchapter:

(1) "Guardianship proceeding" has the meaning assigned by Section 1002.015, Estates Code.

(2) "Program" means the guardianship abuse, fraud, and exploitation deterrence program established by this subchapter.

Sec. 72.122. ESTABLISHMENT OF PROGRAM. (a) The office shall establish and maintain a guardianship abuse, fraud, and exploitation deterrence program designed to provide additional resources and assistance to courts that have jurisdiction over guardianship proceedings by:

(1) engaging guardianship compliance specialists who shall:

(A) review the guardianships of wards and identify reporting deficiencies by guardians;

(B) audit annual accounts required to be filed by guardians under Chapter 1163, Estates Code, or other law and report

1 their findings to the appropriate courts;

2 (C) work with courts to develop best practices in
3 managing guardianship cases; and

4 (D) report to the appropriate courts any concerns
5 of potential abuse, fraud, or exploitation, including financial
6 exploitation, committed against a ward and discovered as a result
7 of the specialists' work under this section; and

8 (2) maintaining an electronic database to monitor
9 filings of:

10 (A) inventories, appraisements, and lists of
11 claims required under Chapter 1154, Estates Code, or Section
12 1203.203, Estates Code;

13 (B) annual reports required under Section
14 1163.101, Estates Code; and

15 (C) any other reports and accounts required of
16 guardians under Chapter 1163, Estates Code, or other law.

17 (b) A court is required to participate in the program,
18 including allowing guardianship compliance specialists to conduct
19 reviews and audits under the program, if the court is selected by
20 the office to participate in the program.

21 (c) A court may apply to the office in the manner and form
22 prescribed by the office for participation in the program.

23 Sec. 72.123. NOTIFICATION OF STATE COMMISSION ON JUDICIAL
24 CONDUCT. The director may notify the State Commission on Judicial
25 Conduct in writing if the office has reason to believe that a
26 judge's actions or failure to act with respect to a report received
27 from a guardianship compliance specialist indicating a concern

1 described by Section 72.122(a)(1)(D) constitutes judicial
2 misconduct.

3 Sec. 72.124. ANNUAL REPORT. Not later than January 1 of
4 each year, the office shall submit a report to the legislature
5 regarding the performance of the program. The report must include:

6 (1) the number of courts involved in the program;

7 (2) the number of guardianships reviewed by
8 guardianship compliance specialists;

9 (3) the number of reviewed guardianship cases found to
10 be out of compliance with statutory reporting requirements;

11 (4) the number of cases reported to a court concerning
12 potential abuse, fraud, or exploitation, including financial
13 exploitation, committed against a ward; and

14 (5) the status of any technology developed to monitor
15 guardianship cases for purposes of the program.

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