

By: Meza

H.B. No. 3572

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to referrals by the Department of Family and Protective  
3 Services to probate courts concerning allegedly incapacitated  
4 persons.

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

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

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

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

24 (1) states each of the alternatives to guardianship

1 considered by the department, if any; and

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

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

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

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

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