

BILL ANALYSIS

C.S.H.B. 3126
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

As reported by the Hogg Foundation at The University of Texas at Austin in 2017, over 180 counties in Texas do not have a single psychiatrist, leaving about three million people without access to appropriate care. This not only impacts individuals but also legal proceedings when loved ones are faced with the challenging and often heartbreaking decisions of having a loved one declared incompetent. Accurate findings about a person's mental state and medical conditions must be presented to judges who must evaluate this information when making guardianship decisions. C.S.H.B. 3126 seeks to address this issue by expanding the list of health care providers who can evaluate patients to help the courts decide if a person is in need of a guardianship determination to include advanced practice registered nurses.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3126 amends the Estates Code to authorize a licensed advanced practice registered nurse who is acting under a physician's delegated authority and supervision to perform an examination of a ward or proposed ward in relation to a guardianship proceeding for the following purposes:

- establishing probable cause for a court-initiated investigation regarding incapacity and necessity of guardianship;
- determining a proposed ward's incapacity;
- determining intellectual disability; and
- determining a ward's incapacity for purposes of an order restoring the ward's capacity or modification of the guardianship.

The bill establishes that the determination or opinion of an advanced practice registered nurse that is based on an examination of a proposed ward that is conducted under delegation from and supervision by a physician is considered the delegating physician's determination or opinion as it relates to the following:

- a proposed ward's ability to operate a motor vehicle and make personal decisions regarding voting;
- a written update or endorsement of a previous determination of an intellectual disability; and
- a letter or certificate by the advanced practice registered nurse for purposes of a proceeding to restore a ward's capacity or modify the guardianship.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3126 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute limits the authorization for an advanced practice registered nurse that appeared in the original to an advanced practice registered nurse acting under a physician's delegated authority and supervision. The substitute includes a provision, which did not appear in the original, establishing that the opinion of an advanced practice registered nurse based on an examination that is conducted under delegation from and supervision by a physician is considered the delegating physician's opinion.