

BILL ANALYSIS

H.B. 3009
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Guardianship proceedings are often necessary to protect individuals from abuse, neglect, or fraud, as well as to ensure their timely access to medical care and treatment. The medical condition and mental state of a proposed ward must be considered by the court in a guardianship proceeding. An initial "gatekeeping" function for this process is the requirement for a physician to complete a physician's certificate of evaluation for the proposed ward. Under current Texas law, only a licensed physician, even one who has no prior history with a proposed ward, can complete the required letter or certificate setting forth the proposed ward's health and mental condition. However, an increasing number of individuals rely on advanced practice registered nurses (APRNs) or nurse practitioners as health care providers. So, often APRNs are most familiar with an individual's mental and health condition. H.B. 3009 seeks to address this issue by permitting judges to consider a letter or certificate from an APRN or nurse practitioner which will give the judge better information on which to base a guardianship decision, thus ensuring judges continue to make timely and well-informed determinations in guardianship proceedings.

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

H.B. 3009 amends the Estates Code to authorize a licensed advanced practice registered nurse who is acting under a physician's delegation 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.

H.B. 3009 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.

H.B. 3009 applies only to an application for the appointment of a guardian, for the complete restoration of a ward's capacity, or for the modification of a guardianship that is filed on or after the bill's effective date.

EFFECTIVE DATE

September 1, 2023.