

BILL ANALYSIS

C.S.H.B. 1954
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill author has informed the committee that the Texas Real Estate and Probate Institute raised issues by lawyers who practice guardianship law and identified areas of statute that require clarification. The bill author has further informed the committee that addressing these issues would preclude unnecessary litigation and reduce inefficiencies and ambiguities in state law that have led to delays, procedural hurdles, and risks to the rights of proposed wards. C.S.H.B. 1954 seeks to address the issues by prohibiting persons with interests adverse to a ward or incapacitated person from filing an application to have a guardian appointed or contest removal of a guardian, by providing for the appointment of a guardian ad litem for a person that is alleged to be incapacitated rather than solely a person that has already been found to be incapacitated, and by requiring a court to enter an order approving the annual account or report of a guardianship or requiring the guardian to file another account or report within a prescribed deadline, as necessary.

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. 1954 amends the Estates Code to authorize a judge to appoint a guardian ad litem to represent the interests of a proposed ward in a guardianship proceeding and makes the following provisions applicable with respect to a proposed ward:

- the duty of a guardian ad litem to protect the person's interests in a manner that will enable the court to determine the action that will be in that person's best interests; and
- the exemption from liability of a guardian ad litem for civil damages from a recommendation made or an opinion given in that capacity.

The bill prohibits a person who has an interest that is adverse to a proposed ward or incapacitated person from filing an application for the appointment of a guardian for the proposed ward or incapacitated person and from filing a motion or complaint to request the removal of a guardian or contest the request for removal of a guardian.

C.S.H.B. 1954 requires a court to enter an order to the effect of whether or not the court approves an annual account filed by the guardian of the estate or an annual report filed by the guardian of the person. If the court does not approve the annual account or the annual report, the bill requires the court to require the applicable guardian to file another annual account or report, respectively,

within a period prescribed by the order, which may not be later than the 30th day after the date the order is entered.

C.S.H.B. 1954 applies to a guardianship proceeding that is pending or commenced on or after the bill's effective date.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 1954 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute does not include the following provisions from the introduced:

- the requirement for a guardian of the estate who on appointment has actual knowledge of the existence of the ward's estate plan to preserve the plan, if preserving the plan is consistent with the ward's best interest based on all relevant factors;
- the requirement for a guardian of the estate to obtain court approval before changing or canceling the ward's beneficiary designation or designated payee under certain accounts or closing those accounts;
- the authorization for a guardian of the estate to request the court's permission to restore the designated beneficiary or designated payee of those accounts if the beneficiary or payee was canceled or required to be canceled due to closure of the ward's account; and
- the authorization for the court, on receipt of the guardian's request, to grant both the request and the guardian authority to execute the beneficiary designation form or payable or transfer on death form required by the financial institution or other entity.

The substitute extends the deadline that a court that does not approve the annual account filed by the guardian of the estate or the annual report filed by the guardian of the person may prescribe for the filing of another annual account or report in the court's order for such filing, respectively, from not later than the 20th day after the date the order is entered, as in the introduced, to not later than the 30th day after such date.