

## **BILL ANALYSIS**

Senate Research Center

S.B. 746  
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Jurisprudence  
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Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Texas Real Estate & Probate Institute (T-REP) made several guardianship recommendations during the interim to address issues such as conflicts of interest and procedural inefficiencies that put vulnerable persons at risk. Specifically, current law does not prohibit persons with interests adverse to a person under guardianship from filing for the appointment or removal of a guardian, allowing potential conflicts of interest in guardianship proceedings. Courts can appoint a guardian ad litem only for someone already found to be incapacitated, which may delay legal representation for those in need of protection. What's more, guardians risk losing their authority if courts do not approve their required annual reports or accounts in a timely manner, creating uncertainty and potential disruptions in guardianship management.

C.S.S.B. 746 would address these concerns by prohibiting persons with interests adverse to the person under guardianship from seeking appointment, removal, or contesting the removal of a guardian. What's more, C.S.S.B. 746 would clarify that a judge may appoint a guardian ad litem to represent the best interests of an alleged incapacitated person in a guardianship proceeding and require a judge to approve or request a revised annual account from a guardian of the estate within 30 days. Lastly, C.S.S.B. 746 would create a 30-day deadline for a guardian to file a new annual account report ordered by the court, ensuring they are filed in a timely manner.

S.B. 746 amends current law relating to guardianship matters.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 1002.013, Estates Code, to redefine "guardian ad litem."

SECTION 2. Amends Section 1054.051(a), Estates Code, to authorize the judge to appoint a guardian ad litem to represent the interests of a proposed ward in a guardianship proceeding.

SECTION 3. Amends Section 1054.054(b), Estates Code, to make a conforming change.

SECTION 4. Amends Section 1054.056(a), Estates Code, to make a conforming change.

SECTION 5. Amends Section 1055.001(b), Estates Code, as follows:

(b) Prohibits a person who has an interest that is adverse to a proposed ward or incapacitated person from:

(1) filing an application to create a guardianship or for the appointment of a guardian for the proposed ward or incapacitated person;

(2) makes no changes to this subdivision;

(3)-(4) makes nonsubstantive changes to these subdivisions; or

(5) filing a motion or complaint to request the removal of a guardian or contest the request for removal of a guardian.

SECTION 6. Amends Section 1163.051, Estates Code, by adding Subsections (d) and (e), as follows:

(d) Requires the court, if the court approves the annual account, to enter an order to that effect.

(e) Requires the court, if the court does not approve the annual account, to enter an order to that effect and require the guardian of the estate to file another annual account within a period prescribed by the order, which is prohibited from being later than the 30th day after the date the order is entered.

SECTION 7. Amends Section 1163.104, Estates Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Requires the court, if the judge is satisfied that the facts stated in the annual report filed by a guardian of a person are true, to approve the report and enter an order to that effect.

(a-1) Requires the court, if the court does not approve the annual report, to enter an order to that effect and require the guardian of the person to file another annual report within a period prescribed by the order, which is prohibited from being later than the 30th day after the date the order is entered.

SECTION 8. Makes application of Sections 1054.051 (Appointment of Guardian Ad Litem in Guardianship Proceeding), 1054.054 (Duties), 1054.056 (Immunity), 1055.001 (Standing to Commence or Contest Proceeding), 1163.051 (Filing and Consideration of Annual Account), and 1163.104 (Approval of Report), Estates Code, as amended by this Act, prospective.

SECTION 9. Effective date: September 1, 2025.