

## **BILL ANALYSIS**

S.B. 746  
By: Zaffirini  
Judiciary & Civil Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The bill sponsor 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 sponsor 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. S.B. 746 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**

S.B. 746 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.

S.B. 746 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.

S.B. 746 applies to a guardianship proceeding that is pending or commenced on or after the bill's effective date.

**EFFECTIVE DATE**

September 1, 2025.