

BILL ANALYSIS

S.B. 2342
By: Zaffirini
Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The bill sponsor has informed the committee that criminal background check requirements for proposed guardians under current law are broad and unclear and that the ambiguities in statutory provisions governing these requirements can result in the requirements potentially applying to persons who have direct contact with a proposed ward or a proposed ward's estate but who are not directly responsible for care, including dayhab providers and doctors. S.B. 2342 seeks to improve efficiency, reduce administrative burdens on courts and guardians, and ensure that only appropriate persons undergo criminal background checks by clarifying provisions governing background check requirements relating to guardianship screenings, thus enhancing both safety and compliance.

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. 2342 amends the Estates Code to revise the information that must be stated on a written application for the appointment of a guardian by replacing the inclusion among that information of the name and address of any person or institution having the care and custody of the proposed ward with an inclusion among that information of the name, address, phone number, and date of birth, if applicable, of any person or institution having the care and custody of the proposed ward or the proposed ward's estate.

S.B. 2342 revises the requirement for the clerk of the county having venue of the proceeding for the appointment of a guardian to obtain criminal history record information that is maintained by the Department of Public Safety (DPS) or the FBI identification division relating to any person proposed to serve as a guardian, including a proposed temporary guardian, a proposed successor guardian, or any person who will have contact with the proposed ward or the proposed ward's estate on behalf of the proposed guardian, other than an attorney or a person who is a certified guardian, as follows:

- establishes that the requirement must be satisfied based on information provided in an application for the appointment of a guardian filed under applicable state law;
- for purposes of the requirement, clarifies that the person proposed to serve as a guardian is any person other than an attorney or a person who is a certified guardian; and
- with respect to the person proposed to serve as a guardian, replaces the inclusion of any person who will have contact with the proposed ward or the proposed ward's estate on

behalf of the proposed guardian, other than an attorney or a person who is a certified guardian, with an inclusion of any person who will have care and custody of the proposed ward or the proposed ward's estate on behalf of the proposed guardian and who is not otherwise required to submit to a criminal background check under provisions relating to the duty to obtain criminal history record information relating to a proposed guardian. The bill requires a proposed guardian who is an attorney or certified guardian to provide to the court the name, address, phone number, and date of birth of any person who will have care and custody of the proposed ward or the proposed ward's estate on the proposed guardian's behalf. If the person having care and custody of the proposed ward or the proposed ward's estate on the proposed guardian's behalf is not also a certified guardian, the clerk must obtain criminal history record information for that person as specified by the applicable state law as amended by the bill.

S.B. 2342 replaces the authorization for a court that obtains or is provided criminal history record information relating to a proposed guardian to use the information to determine whether to appoint any person who will have contact with the proposed ward or the proposed ward's estate on behalf of the proposed guardian with an authorization for an applicable court to use that information to determine whether to appoint any person who will have care or custody of the proposed ward or the proposed ward's estate on behalf of the proposed guardian.

S.B. 2342 requires a guardian to notify the court of any change concerning the designation or contact information of a person having care and custody of a ward or the ward's estate on the guardian's behalf not later than the 30th day after the date the change occurs. If, as a result of a change in designation, the guardian wants to designate another person who will have care and custody of the ward or the ward's estate on the guardian's behalf, the notification must also include the name, address, phone number, and date of birth of that other person. The bill requires the clerk of the court having jurisdiction over the proceeding, on receipt of a notification of a change under these provisions that includes the name of a person who will have care and custody of the ward or the ward's estate on behalf of the guardian, to obtain criminal history record information that is maintained by DPS or the FBI identification division relating to that person. These provisions apply only to a guardian who is a certified guardian or attorney and who has designated a person to have care and custody of the ward or the ward's estate on the guardian's behalf as provided by the bill's provisions.

S.B. 2342 amends the Government Code to expand the requirement for a court clerk to obtain fingerprint-based criminal history record information from the FBI identification division relating to an individual seeking appointment as a guardian or a temporary guardian if the liquid assets of the estate of a ward exceed \$50,000 or the proposed guardian is not a Texas resident by including an additional requirement for a court clerk to obtain fingerprint-based criminal history record information from the FBI identification division relating to any individual who will have care and custody of a proposed ward or the proposed ward's estate on behalf of a certified guardian or attorney who has been appointed guardian as required by the bill's provisions under those circumstances.

S.B. 2342 revises the requirement for the clerk of the county having venue over a proceeding for the appointment of a guardian under applicable Estates Code provisions to obtain criminal history record information obtained from the FBI or from DPS or any other criminal justice agency in Texas that relates to any person proposed to serve as a guardian under applicable Estates Code provisions, including a proposed temporary guardian, a proposed successor guardian, or any person who will have contact with the proposed ward or the proposed ward's estate on behalf of the proposed guardian, other than an attorney or a certified guardian, as follows:

- establishes that the requirement must be satisfied based on information provided in an application for the appointment of a guardian filed under applicable state law;
- for purposes of the requirement, clarifies that the person proposed to serve as a guardian is any person other than an attorney or a person who is a certified guardian; and

- with respect to the person proposed to serve as a guardian, replaces the inclusion of any person who will have contact with the proposed ward or the proposed ward's estate on behalf of the proposed guardian, other than an attorney or a certified guardian, with an inclusion of any person who will have care and custody of the proposed ward or the proposed ward's estate on behalf of the proposed guardian and who is not otherwise required to submit to a criminal background check under provisions relating to a court clerk's access to criminal history record information with respect to guardianships.

EFFECTIVE DATE

September 1, 2025.