

1-1 By: Zaffirini S.B. No. 36
 1-2 (In the Senate - Filed November 14, 2016; January 24, 2017,
 1-3 read first time and referred to Committee on State Affairs;
 1-4 March 6, 2017, reported favorably by the following vote: Yeas 9,
 1-5 Nays 0; March 6, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the regulation of certain guardianship programs.
 1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-21 SECTION 1. Subchapter H, Chapter 1104, Estates Code, is
 1-22 amended by adding Section 1104.359 to read as follows:
 1-23 Sec. 1104.359. EFFECT OF LACK OF REQUIRED REGISTRATION.
 1-24 (a) A guardianship program may not be appointed guardian:
 1-25 (1) if the program is not registered as required under
 1-26 Subchapter D, Chapter 155, Government Code;
 1-27 (2) if a registration certificate issued to the
 1-28 program under Subchapter D, Chapter 155, Government Code, is
 1-29 expired or has been revoked and not been reissued; or
 1-30 (3) during the time a registration certificate issued
 1-31 to the program under Subchapter D, Chapter 155, Government Code, is
 1-32 suspended.
 1-33 (b) This section does not prevent the appointment, on the
 1-34 individual's own behalf, of an individual who is employed by or
 1-35 contracts with a guardianship program to provide guardianship and
 1-36 related services independently of the program.
 1-37 SECTION 2. Section 155.101(a), Government Code, is amended
 1-38 to read as follows:
 1-39 (a) The commission shall adopt minimum standards for:
 1-40 (1) the provision of guardianship services or other
 1-41 similar but less restrictive types of assistance or services by:
 1-42 (A) individuals employed by or contracting with
 1-43 guardianship programs to provide the assistance or services on
 1-44 behalf of the programs; and
 1-45 (B) private professional guardians; and
 1-46 (2) the provision of guardianship services by the
 1-47 Department of Aging and Disability Services.
 1-48 SECTION 3. Subchapter C, Chapter 155, Government Code, is
 1-49 amended by adding Section 155.106 to read as follows:
 1-50 Sec. 155.106. PROHIBITED EMPLOYMENT. A guardianship
 1-51 program may not employ an individual to provide guardianship and
 1-52 related services on the program's behalf:
 1-53 (1) if a certificate issued to the individual under
 1-54 this subchapter is expired or has been revoked and not been
 1-55 reissued; or
 1-56 (2) during the time a certificate issued to the
 1-57 individual under this subchapter is suspended.
 1-58 SECTION 4. Chapter 155, Government Code, is amended by
 1-59 adding Subchapter D to read as follows:
 1-60 SUBCHAPTER D. REGULATION OF GUARDIANSHIP PROGRAMS
 1-61 Sec. 155.151. APPLICATION OF SUBCHAPTER. This subchapter

2-1 does not apply to guardianship and related services provided by a
2-2 guardianship program under a contract with the Health and Human
2-3 Services Commission.

2-4 Sec. 155.152. STANDARDS FOR OPERATION OF GUARDIANSHIP
2-5 PROGRAMS. (a) The commission, in consultation with the Health and
2-6 Human Services Commission and other interested parties, shall adopt
2-7 minimum standards for the operation of guardianship programs.

2-8 (b) The commission shall design the standards to monitor and
2-9 ensure the quality of guardianship and related services provided by
2-10 guardianship programs.

2-11 (c) Standards adopted under this section must be designed to
2-12 ensure continued compliance by a guardianship program with this
2-13 chapter and other applicable state law.

2-14 Sec. 155.153. REGISTRATION REQUIRED FOR GUARDIANSHIP
2-15 PROGRAMS. (a) A guardianship program may not provide guardianship
2-16 and related services to an incapacitated person or other person
2-17 described by Section 155.001(4) unless the program is registered
2-18 with and holds a certificate of registration issued by the
2-19 commission under this subchapter.

2-20 (b) The supreme court shall adopt rules and procedures for
2-21 issuing, renewing, suspending, or revoking a registration
2-22 certificate under this section. Rules adopted by the supreme court
2-23 under this section must:

2-24 (1) ensure compliance with the standards adopted under
2-25 Section 155.152;

2-26 (2) provide that the commission establish
2-27 qualifications for obtaining and maintaining a registration
2-28 certificate;

2-29 (3) provide that a registration certificate expires on
2-30 the second anniversary of the date the certificate is issued;

2-31 (4) prescribe procedures for accepting complaints and
2-32 conducting investigations of alleged violations by guardianship
2-33 programs of the standards adopted under Section 155.152 or other
2-34 violations of this chapter or other applicable state law; and

2-35 (5) prescribe procedures by which the commission,
2-36 after notice and hearing, may suspend or revoke the registration
2-37 certificate of a guardianship program that does not substantially
2-38 comply with the standards adopted under Section 155.152 or other
2-39 provisions of this chapter or other applicable state law.

2-40 Sec. 155.154. REGISTRATION DATABASE. (a) The commission
2-41 shall make available on the commission's Internet website a
2-42 publicly accessible list of all registered guardianship programs.
2-43 The list must contain the following for each guardianship program:

2-44 (1) the information provided under Section
2-45 155.105(a); and

2-46 (2) whether the guardianship program holds in good
2-47 standing a registration certificate under this subchapter.

2-48 (b) The commission shall update the list described by
2-49 Subsection (a) at least quarterly.

2-50 SECTION 5. (a) As soon as practicable after the effective
2-51 date of this Act, the Judicial Branch Certification Commission and
2-52 the Supreme Court of Texas shall adopt the standards and rules,
2-53 respectively, necessary to implement Subchapter D, Chapter 155,
2-54 Government Code, as added by this Act.

2-55 (b) A guardianship program is not required to hold a
2-56 registration certificate issued under Section 155.153, Government
2-57 Code, as added by this Act, until September 1, 2018.

2-58 SECTION 6. This Act takes effect September 1, 2017.

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