

1-1 By: Zaffirini S.B. No. 1325
 1-2 (In the Senate - Filed March 6, 2017; March 14, 2017, read
 1-3 first time and referred to Committee on State Affairs;
 1-4 April 3, 2017, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 3, 2017,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
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	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1325 By: Zaffirini

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to authorizing counties to establish public guardians to
 1-22 serve as guardians for certain incapacitated persons.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Chapter 1002, Estates Code, is amended by adding
 1-25 Sections 1002.0215 and 1002.0265 to read as follows:

1-26 Sec. 1002.0215. OFFICE OF PUBLIC GUARDIAN. "Office of
 1-27 public guardian" means an office of public guardian established by
 1-28 the commissioners court of a county under Subchapter G-1, Chapter
 1-29 1104.

1-30 Sec. 1002.0265. PUBLIC GUARDIAN. "Public guardian" means a
 1-31 person:

1-32 (1) appointed to administer an office of public
 1-33 guardian by the commissioners court of a county under Subchapter
 1-34 G-1, Chapter 1104; or

1-35 (2) with which one or more counties enter into an
 1-36 agreement under Section 1104.327(a)(2) or (d).

1-37 SECTION 2. Section 1104.251(a), Estates Code, is amended to
 1-38 read as follows:

1-39 (a) An individual must be certified under Subchapter C,
 1-40 Chapter 155, Government Code, if the individual:

1-41 (1) is a private professional guardian;

1-42 (2) will represent the interests of a ward as a
 1-43 guardian on behalf of a private professional guardian;

1-44 (3) is providing guardianship services to a ward of a
 1-45 guardianship program on the program's behalf, except as provided by
 1-46 Section 1104.254; ~~or~~

1-47 (4) is an employee of the Health and Human Services
 1-48 Commission ~~[Department of Aging and Disability Services]~~ providing
 1-49 guardianship services to a ward of the commission;

1-50 (5) is a public guardian; or

1-51 (6) will represent the interests of a ward as a
 1-52 guardian on behalf of a public guardian ~~[department].~~

1-53 SECTION 3. Chapter 1104, Estates Code, is amended by adding
 1-54 Subchapter G-1 to read as follows:

1-55 SUBCHAPTER G-1. PUBLIC GUARDIANS

1-56 Sec. 1104.326. DEFINITION. In this subchapter, unless the
 1-57 context otherwise requires, "office" means an office of public
 1-58 guardian established under this subchapter.

1-59 Sec. 1104.327. ESTABLISHMENT OF OFFICES; PUBLIC GUARDIANS.

1-60 (a) The commissioners court of a county by order may:

2-1 (1) create an office of public guardian to provide
 2-2 guardianship services to incapacitated persons described by
 2-3 Section 1104.334; or

2-4 (2) enter into an agreement with a person operating a
 2-5 nonprofit guardianship program or private professional
 2-6 guardianship program located in the county or in an adjacent county
 2-7 to act as a public guardian by providing guardianship services to
 2-8 incapacitated persons described by Section 1104.334.

2-9 (b) Subject to Subsection (c) and Section 1104.328, the
 2-10 commissioners court of a county shall appoint an individual as
 2-11 public guardian to administer the office of public guardian
 2-12 established under Subsection (a)(1) and may employ or authorize the
 2-13 public guardian to employ personnel necessary to perform the duties
 2-14 of the office, including personnel who will represent the interests
 2-15 of a ward as a guardian on behalf of the office if approved by the
 2-16 commissioners court.

2-17 (c) The commissioners court of a county may appoint an
 2-18 individual as public guardian under Subsection (b) on a part-time
 2-19 basis with appropriate compensation if:

2-20 (1) the commissioners court determines a full-time
 2-21 appointment does not serve the needs of the county; and

2-22 (2) the individual who is appointed on a part-time
 2-23 basis is not employed in or does not hold another position that
 2-24 presents a conflict of interest.

2-25 (d) The commissioners courts of two or more counties may
 2-26 collectively enter into an agreement:

2-27 (1) to create and fund an office of public guardian for
 2-28 purposes of Subsection (a)(1) and to appoint the same individual as
 2-29 public guardian to that office under Subsection (b); or

2-30 (2) with a person operating a guardianship program
 2-31 described by Subsection (a)(2) to serve as a public guardian for
 2-32 purposes of that subdivision.

2-33 (e) An individual appointed as public guardian under
 2-34 Subsection (b) serves a term of five years.

2-35 Sec. 1104.328. QUALIFICATIONS OF PUBLIC GUARDIAN. To be
 2-36 appointed as public guardian under Section 1104.327(b), an
 2-37 individual must:

2-38 (1) be a licensed attorney or be certified under
 2-39 Subchapter C, Chapter 155, Government Code; and

2-40 (2) have demonstrable guardianship experience.

2-41 Sec. 1104.329. CONFLICT OF INTEREST. (a) Except as
 2-42 provided by Subsection (b), an office or public guardian must be
 2-43 independent from providers of services to wards and proposed wards
 2-44 and may not directly provide housing, medical, legal, or other
 2-45 direct, non-surrogate decision-making services to a ward or
 2-46 proposed ward, unless approved by the court.

2-47 (b) An office or public guardian may provide money
 2-48 management services described by Section 531.125, Government Code,
 2-49 or other representative payee services to a ward or proposed ward.

2-50 Sec. 1104.330. COMPENSATION. A person appointed or acting
 2-51 as public guardian under Section 1104.327 shall receive
 2-52 compensation as set by the commissioners court and is not entitled
 2-53 to compensation under Subchapter A, Chapter 1155, unless approved
 2-54 by the court.

2-55 Sec. 1104.331. BOND REQUIREMENT. (a) A public guardian
 2-56 shall file with the court clerk a general bond in an amount fixed by
 2-57 the commissioners court payable to the county and issued by a surety
 2-58 company approved by the county judge. The bond must be conditioned
 2-59 on the faithful performance by the person of the person's duties
 2-60 and, if the public guardian administers an office, the office's
 2-61 duties.

2-62 (b) The bond required by this section satisfies any bond
 2-63 required under Chapter 1105.

2-64 Sec. 1104.332. VACANCY. If an individual appointed as
 2-65 public guardian under Section 1104.327(b) vacates the position, the
 2-66 commissioners court shall appoint, subject to Section 1104.328, an
 2-67 individual to serve as public guardian for the unexpired term.

2-68 Sec. 1104.333. POWERS AND DUTIES. (a) An office or public
 2-69 guardian shall:

3-1 (1) if applicable, evaluate the financial status of a
 3-2 proposed ward to determine whether the proposed ward is eligible to
 3-3 have the office or public guardian appointed guardian of the ward
 3-4 under Section 1104.334(a)(2)(A); and

3-5 (2) serve as guardian of the person or of the estate of
 3-6 a ward, or both, on appointment by a court in accordance with the
 3-7 requirements of this title.

3-8 (b) In connection with a financial evaluation under
 3-9 Subsection (a)(1) and on the request of an office or public
 3-10 guardian, a court with jurisdiction over the guardianship
 3-11 proceeding may order the release of public and private records,
 3-12 including otherwise confidential records, to the office or public
 3-13 guardian.

3-14 (c) Notwithstanding Section 552.261, Government Code, a
 3-15 state agency may not charge an office or public guardian for
 3-16 providing the office or public guardian with a copy of public
 3-17 information requested from the agency by the office or public
 3-18 guardian.

3-19 Sec. 1104.334. APPOINTMENT OF OFFICE OR PUBLIC GUARDIAN AS
 3-20 GUARDIAN. (a) In accordance with applicable law, including
 3-21 Subchapter C, Chapter 1101, a court may appoint an office or public
 3-22 guardian to serve as guardian of the person or of the estate of a
 3-23 ward, or both, if:

3-24 (1) on the date the guardianship application is filed,
 3-25 the ward resides in or is located in the county served by the office
 3-26 or public guardian; and

3-27 (2) the court finds that:

3-28 (A) the ward does not have sufficient assets or
 3-29 other resources to pay a private professional guardian to serve as
 3-30 the ward's guardian;

3-31 (B) the ward does not have a family member,
 3-32 friend, or other suitable person or entity willing and able to serve
 3-33 as the ward's guardian; or

3-34 (C) the appointment of an office or public
 3-35 guardian is in the ward's best interest.

3-36 (b) For purposes of Subsection (a)(2)(A), the determination
 3-37 of a ward's ability to pay a private professional guardian is
 3-38 dependent on:

3-39 (1) the nature, extent, and liquidity of the ward's
 3-40 assets;

3-41 (2) the ward's disposable net income, including income
 3-42 of a recipient of medical assistance that is used to pay expenses
 3-43 under Section 1155.202(a);

3-44 (3) the nature of the guardianship;

3-45 (4) the type, duration, and complexity of services
 3-46 required by the ward; and

3-47 (5) additional, foreseeable expenses.

3-48 (c) The number of appointments of an office under this
 3-49 section may not exceed 35 wards for each guardian representing the
 3-50 interests of wards on behalf of the office.

3-51 (d) If each guardian representing the interests of wards on
 3-52 behalf of an office reaches the limitation provided by Subsection
 3-53 (c), the office shall immediately give notice to the courts.

3-54 Sec. 1104.335. CONFIDENTIALITY AND DISCLOSURE OF
 3-55 INFORMATION. (a) All files, reports, records, communications, or
 3-56 working papers used or developed by an office or public guardian in
 3-57 the performance of duties relating to a financial evaluation under
 3-58 Section 1104.333(a)(1) or the provision of guardianship services
 3-59 are confidential and not subject to disclosure under Chapter 552,
 3-60 Government Code.

3-61 (b) Confidential information may be disclosed only for a
 3-62 purpose consistent with this subchapter, as required by other state
 3-63 or federal law, or as necessary to enable an office or public
 3-64 guardian to exercise the powers and duties as guardian of the person
 3-65 or of the estate of a ward, or both.

3-66 (c) A court on its own motion or on the motion of an
 3-67 interested person may order disclosure of confidential information
 3-68 only if:

3-69 (1) a hearing on the motion is conducted;

4-1 (2) notice of the hearing is served on the office or
4-2 public guardian and each interested person; and

4-3 (3) the court determines after the hearing and an in
4-4 camera review of the information that disclosure is essential to
4-5 the administration of justice and will not endanger the life or
4-6 safety of any individual who:

4-7 (A) is being assessed for guardianship services;

4-8 (B) is a ward of the office or public guardian; or

4-9 (C) provides services to a ward of the office or
4-10 public guardian.

4-11 (d) The Office of Court Administration of the Texas Judicial
4-12 System shall establish policies and procedures for the exchange of
4-13 information between offices, public guardians, and other
4-14 appropriate governmental entities, as necessary for offices,
4-15 public guardians, and governmental entities to properly execute
4-16 their respective duties and responsibilities relating to
4-17 guardianship services or other needed services for a ward. An
4-18 exchange of information under this subsection does not constitute a
4-19 release for purposes of waiving the confidentiality of the
4-20 information exchanged.

4-21 (e) To the extent consistent with policies and procedures
4-22 adopted by an office or public guardian, the office or public
4-23 guardian on request may release confidential information in the
4-24 record of an individual who is a former ward of the office or public
4-25 guardian to:

4-26 (1) the individual;

4-27 (2) the individual's guardian; or

4-28 (3) an executor or administrator of the individual's
4-29 estate.

4-30 (f) Before releasing confidential information under
4-31 Subsection (e), an office or public guardian shall edit the
4-32 information to protect the identity of any individual whose life or
4-33 safety may be endangered by the release. A release of information
4-34 under Subsection (e) does not constitute a release for purposes of
4-35 waiving the confidentiality of the information released.

4-36 Sec. 1104.336. CERTAIN ADMINISTRATIVE COSTS. (a) If an
4-37 office or public guardian is appointed guardian of the person or of
4-38 the estate of a ward, or both, the administrative costs of the
4-39 guardianship services provided to the ward may not be charged to the
4-40 ward's estate unless the court determines, subject to Subsection
4-41 (b), that the ward is financially able to pay all or part of the
4-42 costs.

4-43 (b) A court shall measure a ward's ability to pay for costs
4-44 under Subsection (a) by whether the ward has sufficient assets or
4-45 other resources to pay a private professional guardian to serve as
4-46 the ward's guardian in accordance with Section 1104.334(b).

4-47 Sec. 1104.337. OFFICE OF COURT ADMINISTRATION OF THE TEXAS
4-48 JUDICIAL SYSTEM; REPORT. (a) Not later than December 1 of each
4-49 even-numbered year, the Office of Court Administration of the Texas
4-50 Judicial System shall submit a report to the governor and the
4-51 legislature that contains an evaluation of public guardians
4-52 established under this subchapter, including the establishment and
4-53 operation of offices of public guardians under this subchapter and
4-54 the provision of guardianship services by the offices. The report
4-55 must include:

4-56 (1) an analysis of costs and offsetting savings or
4-57 other benefits to the state as a result of the establishment and
4-58 operation of offices and public guardians under this subchapter;
4-59 and

4-60 (2) recommendations for legislation, if any.

4-61 (b) If it is cost-effective and feasible, the Office of
4-62 Court Administration of the Texas Judicial System may contract with
4-63 an appropriate research or public policy entity with expertise in
4-64 gerontology, disabilities, and public administration to conduct
4-65 the analysis described by Subsection (a)(1).

4-66 Sec. 1104.338. RULES. The supreme court, in consultation
4-67 with the Office of Court Administration of the Texas Judicial
4-68 System and the presiding judge of the statutory probate courts
4-69 elected under Section 25.0022, Government Code, shall adopt rules

5-1 necessary to implement this subchapter.

5-2 SECTION 4. Section 1104.402(a), Estates Code, is amended to
 5-3 read as follows:

5-4 (a) Except as provided by Section 1104.403, 1104.404, or
 5-5 1104.406(a), the clerk of the county having venue of the proceeding
 5-6 for the appointment of a guardian shall obtain criminal history
 5-7 record information that is maintained by the Department of Public
 5-8 Safety or the Federal Bureau of Investigation identification
 5-9 division relating to:

5-10 (1) a private professional guardian;

5-11 (2) each person who represents or plans to represent
 5-12 the interests of a ward as a guardian on behalf of the private
 5-13 professional guardian;

5-14 (3) each person employed by a private professional
 5-15 guardian who will:

5-16 (A) have personal contact with a ward or proposed
 5-17 ward;

5-18 (B) exercise control over and manage a ward's
 5-19 estate; or

5-20 (C) perform any duties with respect to the
 5-21 management of a ward's estate;

5-22 (4) each person employed by or volunteering or
 5-23 contracting with a guardianship program to provide guardianship
 5-24 services to a ward of the program on the program's behalf; ~~or~~

5-25 (5) a public guardian appointed under Section
 5-26 1104.327(b);

5-27 (6) each person who represents or plans to represent
 5-28 the interests of a ward as a guardian on behalf of an office of
 5-29 public guardian;

5-30 (7) each person employed by an office of public
 5-31 guardian who will:

5-32 (A) have personal contact with a ward or proposed
 5-33 ward;

5-34 (B) exercise control over and manage a ward's
 5-35 estate; or

5-36 (C) perform any duties with respect to the
 5-37 management of a ward's estate; or

5-38 (8) any other person proposed to serve as a guardian
 5-39 under this title, including a proposed temporary guardian and a
 5-40 proposed successor guardian, other than an attorney.

5-41 SECTION 5. Section 1104.409, Estates Code, is amended to
 5-42 read as follows:

5-43 Sec. 1104.409. USE OF INFORMATION BY COURT. The court shall
 5-44 use the information obtained under this subchapter only in
 5-45 determining whether to:

5-46 (1) appoint, remove, or continue the appointment of a
 5-47 private professional guardian, a guardianship program, an office of
 5-48 public guardian, or the Health and Human Services Commission
 5-49 [department]; or

5-50 (2) appoint any other person proposed to serve as a
 5-51 guardian under this title, including a proposed temporary guardian
 5-52 and a proposed successor guardian, other than an attorney.

5-53 SECTION 6. Section 1155.151(a-2), Estates Code, is amended
 5-54 to read as follows:

5-55 (a-2) Notwithstanding any other law requiring the payment
 5-56 of court costs in a guardianship proceeding, the following are not
 5-57 required to pay court costs on the filing of or during a
 5-58 guardianship proceeding:

5-59 (1) an attorney ad litem;

5-60 (2) a guardian ad litem;

5-61 (3) a person or entity who files an affidavit of
 5-62 inability to pay the costs under Rule 145, Texas Rules of Civil
 5-63 Procedure, that shows the person or entity is unable to afford the
 5-64 costs;

5-65 (4) a nonprofit guardianship program;

5-66 (5) a governmental entity, including an office of
 5-67 public guardian; and

5-68 (6) a government agency or nonprofit agency providing
 5-69 guardianship services.

6-1 SECTION 7. Section 1163.005(a), Estates Code, is amended to
6-2 read as follows:

6-3 (a) The guardian of the estate shall attach to an account
6-4 the guardian's affidavit stating:

6-5 (1) that the account contains a correct and complete
6-6 statement of the matters to which the account relates;

6-7 (2) that the guardian has paid the bond premium for the
6-8 next accounting period;

6-9 (3) that the guardian has filed all tax returns of the
6-10 ward due during the accounting period;

6-11 (4) that the guardian has paid all taxes the ward owed
6-12 during the accounting period, the amount of the taxes, the date the
6-13 guardian paid the taxes, and the name of the governmental entity to
6-14 which the guardian paid the taxes; and

6-15 (5) if the guardian is a private professional
6-16 guardian, a guardianship program, an office of public guardian, or
6-17 the Health and Human Services Commission [~~Department of Aging and~~
6-18 ~~Disability Services~~], whether the guardian or an individual
6-19 certified under Subchapter C, Chapter 155 [~~111~~], Government Code,
6-20 who is providing guardianship services to the ward and who is
6-21 swearing to the account on the guardian's behalf, is or has been the
6-22 subject of an investigation conducted by the Judicial Branch
6-23 [~~Guardianship~~] Certification Commission [~~Board~~] during the
6-24 accounting period.

6-25 SECTION 8. Section 1163.101(c), Estates Code, is amended to
6-26 read as follows:

6-27 (c) The guardian of the person shall file a sworn affidavit
6-28 that contains:

6-29 (1) the guardian's current name, address, and
6-30 telephone number;

6-31 (2) the ward's date of birth and current name, address,
6-32 telephone number, and age;

6-33 (3) a description of the type of home in which the ward
6-34 resides, which shall be described as:

6-35 (A) the ward's own home;

6-36 (B) a nursing home;

6-37 (C) a guardian's home;

6-38 (D) a foster home;

6-39 (E) a boarding home;

6-40 (F) a relative's home, in which case the
6-41 description must specify the relative's relationship to the ward;

6-42 (G) a hospital or medical facility; or

6-43 (H) another type of residence;

6-44 (4) statements indicating:

6-45 (A) the length of time the ward has resided in the
6-46 present home;

6-47 (B) the reason for a change in the ward's
6-48 residence, if a change in the ward's residence has occurred in the
6-49 past year;

6-50 (C) the date the guardian most recently saw the
6-51 ward;

6-52 (D) how frequently the guardian has seen the ward
6-53 in the past year;

6-54 (E) whether the guardian has possession or
6-55 control of the ward's estate;

6-56 (F) whether the ward's mental health has
6-57 improved, deteriorated, or remained unchanged during the past year,
6-58 including a description of the change if a change has occurred;

6-59 (G) whether the ward's physical health has
6-60 improved, deteriorated, or remained unchanged during the past year,
6-61 including a description of the change if a change has occurred;

6-62 (H) whether the ward has regular medical care;

6-63 and

6-64 (I) the ward's treatment or evaluation by any of
6-65 the following persons during the past year, including the person's
6-66 name and a description of the treatment:

6-67 (i) a physician;

6-68 (ii) a psychiatrist, psychologist, or other
6-69 mental health care provider;

7-1 (iii) a dentist;
7-2 (iv) a social or other caseworker; or
7-3 (v) any other individual who provided
7-4 treatment;
7-5 (5) a description of the ward's activities during the
7-6 past year, including recreational, educational, social, and
7-7 occupational activities, or a statement that no activities were
7-8 available or that the ward was unable or refused to participate in
7-9 activities;
7-10 (6) the guardian's evaluation of:
7-11 (A) the ward's living arrangements as excellent,
7-12 average, or below average, including an explanation if the
7-13 conditions are below average;
7-14 (B) whether the ward is content or unhappy with
7-15 the ward's living arrangements; and
7-16 (C) unmet needs of the ward;
7-17 (7) a statement indicating whether the guardian's
7-18 power should be increased, decreased, or unaltered, including an
7-19 explanation if a change is recommended;
7-20 (8) a statement indicating that the guardian has paid
7-21 the bond premium for the next reporting period;
7-22 (9) if the guardian is a private professional
7-23 guardian, a guardianship program, an office of public guardian, or
7-24 the Health and Human Services Commission [~~Department of Aging and~~
7-25 ~~Disability Services~~], whether the guardian or an individual
7-26 certified under Subchapter C, Chapter 155, Government Code, who is
7-27 providing guardianship services to the ward and who is filing the
7-28 affidavit on the guardian's behalf, is or has been the subject of an
7-29 investigation conducted by the Judicial Branch [~~Guardianship~~
7-30 ~~Certification Commission~~ ~~Board~~] during the preceding year; and
7-31 (10) any additional information the guardian desires
7-32 to share with the court regarding the ward, including:
7-33 (A) whether the guardian has filed for emergency
7-34 detention of the ward under Subchapter A, Chapter 573, Health and
7-35 Safety Code; and
7-36 (B) if applicable, the number of times the
7-37 guardian has filed for emergency detention and the dates of the
7-38 applications for emergency detention.
7-39 SECTION 9. Section 155.001, Government Code, is amended by
7-40 amending Subdivisions (4) and (6) and adding Subdivisions (5-a) and
7-41 (6-a) to read as follows:
7-42 (4) "Guardianship program" means a local, county, or
7-43 regional program, other than an office of public guardian, that
7-44 provides guardianship and related services to an incapacitated
7-45 person or other person who needs assistance in making decisions
7-46 concerning the person's own welfare or financial affairs.
7-47 (5-a) "Office of public guardian" has the meaning
7-48 assigned by Section 1002.0215, Estates Code.
7-49 (6) "Private professional guardian" means a person,
7-50 other than an attorney, ~~or~~ a corporate fiduciary, or an office of
7-51 public guardian, who is engaged in the business of providing
7-52 guardianship services.
7-53 (6-a) "Public guardian" has the meaning assigned by
7-54 Section 1002.0265, Estates Code.
7-55 SECTION 10. Section 155.101(a), Government Code, is amended
7-56 to read as follows:
7-57 (a) The commission shall adopt minimum standards for:
7-58 (1) the provision of guardianship services or other
7-59 similar but less restrictive types of assistance or services by:
7-60 (A) guardianship programs; and
7-61 (B) private professional guardians; ~~and~~
7-62 (2) the provision of guardianship services by the
7-63 Health and Human Services Commission; and
7-64 (3) the provision of guardianship services by offices
7-65 of public guardians [~~Department of Aging and Disability Services~~].
7-66 SECTION 11. Section 155.102(a), Government Code, is amended
7-67 to read as follows:
7-68 (a) To provide guardianship services in this state, the
7-69 following individuals must hold a certificate issued under this

8-1 section:

8-2 (1) an individual who is a private professional
8-3 guardian;

8-4 (2) an individual who will provide those services to a
8-5 ward of a private professional guardian on the guardian's behalf;
8-6 [~~and~~]

8-7 (3) an individual, other than a volunteer, who will
8-8 provide those services or other services under Section 161.114,
8-9 Human Resources Code, to a ward of a guardianship program or the
8-10 Health and Human Services Commission [~~Department of Aging and~~
8-11 ~~Disability Services~~] on the program's or commission's
8-12 [~~department's~~] behalf;

8-13 (4) an individual who is a public guardian; and

8-14 (5) an individual who will provide those services to a
8-15 ward of an office of public guardian.

8-16 SECTION 12. Section 155.105, Government Code, is amended by
8-17 adding Subsection (b-1) to read as follows:

8-18 (b-1) Not later than January 31 of each year, each office of
8-19 public guardian shall provide to the commission a report containing
8-20 for the preceding year:

8-21 (1) the number of wards served by the office;

8-22 (2) the total amount of any money received from this
8-23 state for the provision of guardianship services; and

8-24 (3) the amount of money received from any other public
8-25 source, including a county or the federal government, for the
8-26 provision of guardianship services, reported by source, and the
8-27 total amount of money received from those public sources.

8-28 SECTION 13. Section 411.1386(a), Government Code, is
8-29 amended to read as follows:

8-30 (a) Except as provided by Subsections (a-1), (a-5), and
8-31 (a-6), the clerk of the county having venue over a proceeding for
8-32 the appointment of a guardian under Title 3, Estates Code, shall
8-33 obtain from the department criminal history record information
8-34 maintained by the department that relates to:

8-35 (1) a private professional guardian;

8-36 (2) each person who represents or plans to represent
8-37 the interests of a ward as a guardian on behalf of the private
8-38 professional guardian;

8-39 (3) each person employed by a private professional
8-40 guardian who will:

8-41 (A) have personal contact with a ward or proposed
8-42 ward;

8-43 (B) exercise control over and manage a ward's
8-44 estate; or

8-45 (C) perform any duties with respect to the
8-46 management of a ward's estate;

8-47 (4) each person employed by or volunteering or
8-48 contracting with a guardianship program to provide guardianship
8-49 services to a ward of the program on the program's behalf; [~~or~~]

8-50 (5) a public guardian, as defined by Section
8-51 1002.0265(1), Estates Code;

8-52 (6) each person who represents or plans to represent
8-53 the interests of a ward as a guardian on behalf of an office of
8-54 public guardian;

8-55 (7) each person employed by an office of public
8-56 guardian, as defined by Section 1002.0215, Estates Code, who will:

8-57 (A) have personal contact with a ward or proposed
8-58 ward;

8-59 (B) exercise control over and manage a ward's
8-60 estate; or

8-61 (C) perform any duties with respect to the
8-62 management of a ward's estate; or

8-63 (8) any other person proposed to serve as a guardian
8-64 under Title 3, Estates Code, including a proposed temporary
8-65 guardian and a proposed successor guardian, other than an attorney.

8-66 SECTION 14. Section 161.103, Human Resources Code, is
8-67 amended to read as follows:

8-68 Sec. 161.103. CONTRACT FOR GUARDIANSHIP SERVICES. (a) If
8-69 appropriate, the commission [~~department~~] may contract with a

9-1 political subdivision of this state, a guardianship program as
9-2 defined by Section 1002.016, Estates Code, a private agency, or
9-3 another state agency for the provision of guardianship services
9-4 under this section.

9-5 (b) A contract under Subsection (a) may allow for the
9-6 provision of guardianship services by an office of public guardian,
9-7 as defined by Section 1002.0215, Estates Code.

9-8 SECTION 15. Not later than January 1, 2018, the supreme
9-9 court shall adopt rules necessary to implement Subchapter G-1,
9-10 Chapter 1104, Estates Code, as added by this Act, including rules
9-11 governing the transfer of a guardianship of the person or of the
9-12 estate of a ward, or both, if appropriate, to an office of public
9-13 guardian established under that subchapter or a public guardian
9-14 contracted under that subchapter.

9-15 SECTION 16. (a) The changes in law made by this Act apply
9-16 only to the appointment of a guardian of the person or of the estate
9-17 of a ward, or both, made on or after July 1, 2018.

9-18 (b) Notwithstanding any other law, a person who,
9-19 immediately before July 1, 2018, is serving as guardian of the
9-20 person or of the estate of a ward, or both, who, under Section
9-21 1104.334, Estates Code, as added by this Act, would be eligible for
9-22 appointment of an office of public guardian as the ward's guardian,
9-23 may continue to serve as guardian of the person or of the estate of
9-24 the ward, or both, unless otherwise removed as provided by law.

9-25 SECTION 17. This Act takes effect September 1, 2017.

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