

Chapter 715

S.B. No. 36

AN ACT

relating to the regulation of certain guardianship programs.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter H, Chapter 1104, Estates Code, is amended by adding Section 1104.359 to read as follows:

Sec. 1104.359. EFFECT OF LACK OF REQUIRED REGISTRATION.

(a) A guardianship program may not be appointed guardian:

(1) if the program is not registered as required under Subchapter D, Chapter 155, Government Code;

(2) if a registration certificate issued to the program under Subchapter D, Chapter 155, Government Code, is expired or refused renewal, or has been revoked and not been reissued; or

(3) during the time a registration certificate issued to the program under Subchapter D, Chapter 155, Government Code, is suspended.

(b) This section does not prevent the appointment, on the individual's own behalf, of an individual who is employed by or contracts with a guardianship program to provide guardianship and related services independently of the program.

SECTION 2. Section 155.101(a), Government Code, is amended to read as follows:

(a) The commission shall adopt minimum standards for:

(1) the provision of guardianship services or other

1 similar but less restrictive types of assistance or services by:

2 (A) individuals employed by or contracting with
3 guardianship programs to provide the assistance or services on
4 behalf of the programs; and

5 (B) private professional guardians; and

6 (2) the provision of guardianship services by the
7 Department of Aging and Disability Services or its successor
8 agency.

9 SECTION 3. Section 155.102, Government Code, is amended by
10 adding Subsection (a-1) to read as follows:

11 (a-1) An individual who directly supervises an individual
12 who will provide guardianship services in this state to a ward of a
13 guardianship program must hold a certificate issued under this
14 section.

15 SECTION 4. Subchapter C, Chapter 155, Government Code, is
16 amended by adding Section 155.106 to read as follows:

17 Sec. 155.106. PROHIBITED EMPLOYMENT. A guardianship
18 program may not employ an individual to provide, or directly
19 supervise the provision of, guardianship and related services on
20 the program's behalf:

21 (1) if a certificate issued to the individual under
22 this subchapter is expired or refused renewal, or has been revoked
23 and not been reissued; or

24 (2) during the time a certificate issued to the
25 individual under this subchapter is suspended.

26 SECTION 5. Chapter 155, Government Code, is amended by
27 adding Subchapter D to read as follows:

SUBCHAPTER D. REGULATION OF GUARDIANSHIP PROGRAMS

Sec. 155.151. APPLICATION OF SUBCHAPTER. This subchapter does not apply to guardianship and related services provided by a guardianship program under a contract with the Health and Human Services Commission.

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

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

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

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

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

(1) ensure compliance with the standards adopted under Section 155.152;

1 (2) provide that the commission establish
2 qualifications for obtaining and maintaining a registration
3 certificate;

4 (3) provide that a registration certificate expires on
5 the second anniversary of the date the certificate is issued;

6 (4) prescribe procedures for accepting complaints and
7 conducting investigations of alleged violations by guardianship
8 programs of the standards adopted under Section 155.152 or other
9 violations of this chapter or other applicable state law;

10 (5) prescribe procedures by which the commission,
11 after notice and hearing, may suspend or revoke the registration
12 certificate of a guardianship program that does not substantially
13 comply with the standards adopted under Section 155.152 or other
14 provisions of this chapter or other applicable state law; and

15 (6) prescribe procedures for addressing a
16 guardianship for which a guardianship program is the appointed
17 guardian if the guardianship program's registration certificate is
18 expired or refused renewal, or has been revoked and not been
19 reissued.

20 Sec. 155.154. REGISTRATION DATABASE. (a) The commission
21 shall make available on the commission's Internet website a
22 publicly accessible list of all registered guardianship programs.
23 The list must contain the following for each guardianship program:

24 (1) the information provided under Section
25 155.105(a); and

26 (2) whether the guardianship program holds in good
27 standing a registration certificate under this subchapter.

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

3 SECTION 6. (a) As soon as practicable after the effective
4 date of this Act, the Judicial Branch Certification Commission and
5 the Supreme Court of Texas shall adopt the standards and rules,
6 respectively, necessary to implement Subchapter D, Chapter 155,
7 Government Code, as added by this Act.

8 (b) A guardianship program is not required to hold a
9 registration certificate issued under Section 155.153, Government
10 Code, as added by this Act, until September 1, 2018.

11 (c) An individual described by Section 155.102(a-1),
12 Government Code, as added by this Act, is not required to hold a
13 certificate issued under that section until September 1, 2018.

14 SECTION 7. This Act takes effect September 1, 2017.

Don Patlock
President of the Senate

Joe Straus
Speaker of the House

I hereby certify that S.B. No. 36 passed the Senate on March 8, 2017, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 25, 2017, by the following vote: Yeas 30, Nays 1.

Patsy Spaw
Secretary of the Senate

I hereby certify that S.B. No. 36 passed the House, with amendment, on May 22, 2017, by the following vote: Yeas 126, Nays 16, three present not voting.

Robert Haney
Chief Clerk of the House

Approved:

6 - 9 - 2017
Date

Greg Abbott
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
3:30 PM O'CLOCK

RRP
JUN 12 2017

Secretary of State

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 22, 2017

TO: Honorable Dan Patrick, Lieutenant Governor, Senate

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB36 by Zaffirini (Relating to the regulation of certain guardianship programs), As
Passed 2nd House

No significant fiscal implication to the State is anticipated.

The bill would amend the Estates Code and Government Code to require guardianship programs be registered with the Judicial Branch Certification Commission (JBCC) and requires a person who directly supervises an individual that will provide guardianship services of a guardianship program to be certified. The JBCC would be required to consult with the Health and Human Services Commission to adopt minimum standards for the operation of guardianship programs, however, the provisions of the bill do not apply to guardianship and related services provided by a guardianship program under a contract with the Health and Human Services Commission. The Supreme Court of Texas would be required to adopt rules to ensure compliance and qualifications for registration of a guardianship program and adopt procedures to continue a guardianship after the program which carried out guardianship services is no longer certified by the JBCC.

This analysis assumes that duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 529 Health and Human Services Commission

LBB Staff: UP, LBO, AG, MW, GDz, TBo

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 5, 2017

TO: Honorable John T. Smithee, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB36 by Zaffirini (Relating to the regulation of certain guardianship programs.), As
Engrossed

No significant fiscal implication to the State is anticipated.

The bill would amend the Estates Code and Government Code to require guardianship programs be registered with the Judicial Branch Certification Commission (JBCC). The JBCC would be required to consult with the Health and Human Services Commission to adopt minimum standards for the operation of guardianship programs; however, the provisions of the bill do not apply to guardianship and related services provided by a guardianship program under a contract with the Health and Human Services Commission. The Supreme Court of Texas would be required to adopt rules to ensure compliance and qualifications for registration of a guardianship program.

This analysis assumes that duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 529 Health and Human Services Commission

LBB Staff: UP, LBO, AG, MW, GDz, TBo

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

February 26, 2017

TO: Honorable Joan Huffman, Chair, Senate Committee on State Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB36 by Zaffirini (Relating to the regulation of certain guardianship programs.), As
Introduced

No significant fiscal implication to the State is anticipated.

The bill would amend the Estates Code and Government Code to require guardianship programs be registered with the Judicial Branch Certification Commission (JBCC). The JBCC would be required to consult with the Health and Human Services Commission to adopt minimum standards for the operation of guardianship programs; however, the provisions of the bill do not apply to guardianship and related services provided by a guardianship program under a contract with the Health and Human Services Commission. The Supreme Court of Texas would be required to adopt rules to ensure compliance and qualifications for registration of a guardianship program.

This analysis assumes that duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 529 Health and Human Services Commission

LBB Staff: UP, AG, MW, GDz, TBo