

HB 2104 -1 STAFF MEASURE SUMMARY

House Committee On Human Services

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Sub-Referral To: House Committee On Judiciary

Meeting Dates: 2/17, 3/31

WHAT THE MEASURE DOES:

Prohibits a court from terminating its jurisdiction over wards when a guardian has been appointed unless the ward is 21 or guardianship is vacated. Narrows the definition of "current caretaker" to exclude wards in Department of Human Services' (DHS) custody with concurrent permanent adoption plans.

ISSUES DISCUSSED:

- Distinction between permanent and general (temporary) guardianship
- Difficulties parents may have who seek to end a general guardianship after conditions have been ameliorated
- Technical change to definition of current caretaker established by Senate Bill 741 (2015)

EFFECT OF AMENDMENT:

-1 Narrows the definition of "current caretaker" to exclude wards in Department of Human Services' (DHS) custody with concurrent permanent adoption plans.

BACKGROUND:

Courts can become involved in the lives of children and their families for many reasons. Guardians may be appointed by courts for children whose parents are unwilling or unable to care for them. A relative or another adult, or the Department of Human Services (DHS) or another qualifying entity, can be appointed as a child's guardian, and guardianships are usually temporary, but sometimes permanent. The findings that courts are required to make, and the applicable standards of proof vary depending on the type of guardianship and the person or entity being appointed. The same standards that courts apply when deciding whether to terminate parental rights, apply to the establishment of a permanent guardianship; parents may ask a court to terminate a temporary guardianship, but not a permanent guardianship. General or temporary guardianships can be terminated by a court that maintains jurisdiction over the child or ward upon finding it is in the child's best interest; or by transferring jurisdiction over the ward or terminating the wardship; or if the child is adopted or reaches 21 years of age. DHS reports that it is currently possible for wardship to be terminated without proper attention to safety considerations. House Bill 2104 prohibits courts from terminating jurisdiction over wards when a guardian has been appointed unless the ward is 21 or the guardianship is vacated.

In 2015, the Legislative Assembly enacted Senate Bill 741. Among other provisions, the measure sought to treat a ward's current caretakers the same as relatives, with respect to their being considered as prospective adoptive parents, when certain criteria were met. The definition of "current caretaker" established by the measure, includes those who care for wards in the legal custody of the Department of Human Services (DHS) who have a permanency plan of adoption, as well as those who have a concurrent plan of adoption. *[Ask Tristan to explain the difference between plans, and distill the difference into one sentence here? I'm sure it has something to do with the level of commitment.]* House Bill 2104 narrows the definition to remove those with a concurrent plan, so that only current caretakers with a permanency plan of adoption who satisfy the other criteria, are treated the same as relatives seeking to adopt.

This summary has not been adopted or officially endorsed by action of the committee.