

## **BILL ANALYSIS**

C.S.H.B. 1985  
By: Casteel  
Judicial Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Unlike the Family Code, the current Probate Code does not provide for the immunity of a guardian ad litem for ordinary negligence. C.S.H.B. 1985 provides for this immunity of a guardian ad litem in certain circumstances.

### **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**

SECTION 1. Subpart E, Part 2, Chapter XIII, Texas Probate Code, is amended by adding:

Sec. 65A. IMMUNITY.

- (a) Guardian ad litem appointed under Section 645, 683, or 694A of this code to represent the interests of an incapacitated person in a guardianship proceeding involving the creation, modification or termination of a guardianship is not liable for civil damages arising from a recommendation made or an opinion given in the capacity of guardian ad litem.
- (b) Subsection (a) does not apply to a recommendation or opinion that is wilfully wrong, given with conscious indifference or reckless disregard to the safety of another, given in bad faith or with malice or grossly negligent.

SECTION 2. Makes conforming changes.

SECTION 3. Effective Date: September 1, 2003.

### **EFFECTIVE DATE**

September 1, 2003.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute restricts the application of the bill's provisions to guardians ad litem appointed under Section 645, 683, and 694A of the Probate Code in proceedings involving the creation, modification or termination of a guardianship.