

BILL ANALYSIS

H.B. 2387
By: Casteel
Juvenile Justice & Family Issues
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, the court appoints an attorney ad litem to represent the interests of a proposed ward in a guardianship proceeding. In some cases, the proposed ward may wish to retain counsel but the court is still required to appoint an attorney ad litem.

House Bill 2387 would allow the court to appoint the attorney retained by the proposed ward to represent the proposed ward at the proceeding.

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.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends, Section 646, Texas Probate Code, as follows:

- (a) Except as provided in Subsection (e), a proceeding under this chapter for the appointment of a guardian, the court shall appoint an attorney ad litem to represent the interests of the proposed ward. The attorney should be supplied with the copies of all current records in the case and have access to all of the ward's personal information.
- (e) The court may appoint an attorney retained by the proposed ward to represent the interests of the proposed ward at the proceeding instead of appointing an attorney ad litem under Subsection (a)
- (f) If the proposed ward retains an attorney eligible for appointment, after the court appoints an attorney ad litem under Subsection (a), the court may discharge the attorney ad litem and appoint the attorney retained by the proposed ward.
- (g) An attorney appointed under Subsection (e) or (f) is entitled to receive the same information provided to an attorney ad litem under Subsection (a) and has the duties imposed on and powers granted to an attorney ad litem under this code.

SECTION 2. Amends Section 665A, Texas Probate Code, as follows:

- (a) Except as provided in Subsection (b), the court shall order the payment of a fee set by the court as compensation to the attorneys, mental health professionals, and interpreters appointed under Section 646 or 687 of this code, as applicable, to be taxed as costs in the case. If the ward is unable to pay for these services provided, the county is responsible for the cost of those services.

- (b) A proposed ward who retains an attorney who is subsequently appointed by the court under Section 646(e) or (f) of this code, shall pay for the attorney's services out of the proposed ward's estate.

SECTION 3. Makes conforming changes.

SECTION 4. This Act takes effect September 1, 2003.

EFFECTIVE DATE

September 1, 2003.