

BILL ANALYSIS

C.S.S.B. 706
By: Lucio
Judiciary
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law does not set forth a system for appointing attorneys ad litem in civil cases. There needs to be a system in place that is fair, efficient, and equitable.

The bill requires the local administrative judge to establish and maintain a list of all the attorneys who are qualified to serve and who have registered to serve as an attorney ad litem at a court for which the judge maintaining the list serves as local administrative judge. The list facilitates a rotating process by appointing the attorney whose name appears first on the list when the appointment of an attorney ad litem is necessary in a case. If a case involves special circumstances that require the expertise of a certain lawyer, the court has the discretion to appoint an attorney who possess the relevant specialized education, training, certification, or skills, although the attorney is not first on the list.

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. Amends Section 74.092, Government Code, as follows:

Sec. 74.092. DUTIES OF LOCAL ADMINISTRATIVE JUDGE. (a) Creates this subsection from existing text. Requires a local administrative judge, for the courts for which the judge serves as local administrative judge, to establish and maintain a list of all attorneys qualified to serve as an attorney ad litem. Makes a conforming change.

(b) Requires the list of attorneys who qualify to serve as attorneys ad litem to contain names of attorneys who meet any statutory or other requirements to serve as an attorney ad litem, and who have registered to serve as attorney ad litem with a court for which the judge maintaining the list serves as local administrative judge.

SECTION 2. Amends Subchapter D, Chapter 74, Government Code, by adding Section 74.098, as follows:

Sec. 74.098. APPOINTMENTS OF ATTORNEYS AD LITEM; MAINTENANCE OF LIST. (a) Requires a court to, except as provided by Subsection (b), in each case in which the appointment of an attorney ad litem is necessary to appoint the attorney whose name appears first on the list of attorneys ad litem maintained by the local administrative judge for that court as required by Section 74.092.

(b) Authorizes the court to appoint an attorney included on the list whose name does not appear first on the list or an attorney not included on the list, if the appointment of that attorney as attorney ad litem is required on a complex matter because the attorney possesses relevant specialized education, training, certification, or skill; made pursuant to the Family Code, Health and Safety Code, Human Resources Code, Texas Trust Code, or Texas Probate Code; or agreed on by the parties and approved by the court.

(c) Requires the local administrative judge to place an attorney's name at the end of the list after that attorney has been appointed as an attorney ad litem.

SECTION 3. Requires the local administrative judge to establish a list of attorneys qualified to serve as attorney ad litem in a court for which the judge serves as local administrative judge as required by Section 74.092, Government Code, as amended by this Act, not later than December 1, 2007.

SECTION 4. Provides that the change in law made by this Act applies only to the appointment of an attorney ad litem on or after December 1, 2007.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute changes the original bill by adding appointments made under the Texas Trust Code to the types of attorney ad litem appointments that do not have to be made to the first attorney named on the list maintained by the local administrative judge.