

BILL ANALYSIS

S.B. 1555
By: Hinojosa
Judiciary
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Probate courts are often called upon to appoint fiduciaries to represent the interests of certain parties. The Probate Code allows a guardian to be reimbursed from the ward's estate for all necessary and reasonable expenses, including attorney's fees incurred by the guardian. Current law prohibits fiduciaries from collecting attorney's fees for non-legal fiduciary services, but it continues to happen.

The bill prohibits guardians from claiming attorney's fees for non-legal fiduciary services, and requires a person serving as an attorney-guardian to provide a detailed description of the type of work for which the attorney is claiming compensation to the court.

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 Subpart H, Part 2, Chapter XIII, Texas Probate Code, by adding Section 665D, as follows:

Sec. 665D. COMPENSATION AND PAYMENT OF ATTORNEY'S FEES OF ATTORNEYS SERVING AS GUARDIANS. (a) Provides that an attorney who serves as a guardian and provides legal services in connection with the guardianship is not entitled to compensation for guardianship services or payment of attorney's fees from the ward's estate or other funds available for that purpose unless the attorney files with the court a detailed description of the services performed that identifies which of those services are guardianship services and which are legal services.

(b) Provides that an attorney described by Subsection (a) of this section is not entitled to attorney's fees for services as guardian that are not legal services.

(c) Requires compensation of an attorney described by Subsection (a) for guardianship services to be determined in accordance with Section 665 (Compensation of Guardians and Temporary Guardians) of this code. Requires payment of attorney's fees for legal services provided by an attorney described by Subsection (a) of this section to be determined in accordance with Section 666 (Expenses Allowed), Probate Code.

SECTION 2. Makes application of this Act prospective.

EFFECTIVE DATE

Immediately on receipt of required vote; otherwise September 1, 2007.