

BILL ANALYSIS

H.B. 587
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Texas Probate Code allows the probate court to authorize payment of attorney's fees to an attorney who represented an applicant in a guardianship proceeding, whether or not the applicant was successful in being appointed as guardian. The authorized fees can come from either the ward's estate or the county treasury when the ward's estate is insufficient and the county has budgeted funds for such a purpose. The law does not stop attorneys from receiving fees from the county treasury and then seeking extra fees from another source such as the proposed guardian.

H.B. 587 clarifies that payment of the attorney's fees may be made from the county treasury only if the court is satisfied that the attorney to whom the fees will be paid has not received, and is not otherwise seeking, payment for representing the person who filed an application to be appointed guardian of a proposed ward or for the appointment of another person as guardian. The bill clarifies that a court may authorize the payment of reasonable and necessary attorney's fees to an attorney who represents a person who filed an application.

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

H.B. 587 amends the Texas Probate Code to clarify that a court may authorize the payment of reasonable and necessary attorney's fees, as determined by the court, rather than compensation of an attorney, to an attorney who represents a person who filed an application to be appointed guardian of a proposed ward or for the appointment of another person as guardian. The bill clarifies that payment of the attorney's fees may be made from the county treasury only if the court is satisfied that the attorney to whom the fees will be paid has not received, and is not seeking, payment for representing the person who filed the application from any other source.

EFFECTIVE DATE

September 1, 2009.