

By: Naishtat, Coleman

H.B. No. 587

A BILL TO BE ENTITLED

AN ACT

relating to the payment of attorney's fees to an attorney representing an applicant for the appointment of a guardian.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 665B, Texas Probate Code, is amended to read as follows:

Sec. 665B. PAYMENT OF ATTORNEY'S FEES TO ~~[COMPENSATION OF]~~ CERTAIN ATTORNEYS. (a) A court that creates a guardianship for a ward under this chapter, on request of a person who filed an application to be appointed guardian of the proposed ward or for the appointment of another suitable person as guardian of the proposed ward, may authorize the payment of reasonable and necessary attorney's fees, as determined by the court, to ~~[compensation of]~~ an attorney who represents the person who filed the application at the application hearing, regardless of whether the person is appointed the ward's guardian, from:

(1) available funds of the ward's estate; or

(2) subject to Subsection (c) of this section, the county treasury if:

(A) the ward's estate is insufficient to pay for the services provided by the attorney; and

(B) funds in the county treasury are budgeted for that purpose.

(b) The court may not authorize attorney's fees

1 ~~[compensation]~~ under this section unless the court finds that the  
2 applicant acted in good faith and for just cause in the filing and  
3 prosecution of the application.

4 (c) The court may authorize the payment of attorney's fees  
5 from the county treasury under Subsection (a) of this section only  
6 if the court is satisfied that the attorney to whom the fees will be  
7 paid has not received, and is not seeking, payment for the services  
8 described by that subsection from any other source.

9 SECTION 2. Section 665B, Texas Probate Code, as amended by  
10 this Act, applies only to the payment of attorney's fees with  
11 respect to an application for the appointment of a guardian that is  
12 filed on or after the effective date of this Act. The payment of  
13 attorney's fees with respect to an application for the appointment  
14 of a guardian filed before the effective date of this Act is  
15 governed by the law in effect on the date the application was filed,  
16 and the former law is continued in effect for that purpose.

17 SECTION 3. This Act takes effect September 1, 2009.