

BILL ANALYSIS

C.S.H.B. 1325
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Probate Code requires that payments for professional services and costs in a guardianship case be paid by the ward or guardianship estate. When the assets of the ward or the estate are insufficient to pay such costs, the county becomes responsible for them. C.S.H.B. 1325 gives the judge in these matters the discretion to order the costs to be paid by the applicant in the guardianship proceeding if the assets of a ward or guardianship estate are insufficient to pay the costs of an attorney or guardian ad litem.

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

C.S.H.B. 1325 amends the Texas Probate Code to authorize the court, in a guardianship proceeding, to order the applicant in the proceeding to pay the cost of an attorney ad litem if the proposed ward's assets are insufficient to pay that cost and the applicant's gross annual family income exceeds 200 percent of the federal poverty level. The bill authorizes the court, in a guardianship proceeding, to order the applicant to pay the cost of a guardian ad litem or court visitor appointed in the proceeding if the guardianship estate is insufficient to pay that cost and the applicant's gross annual family income exceeds 200 percent of the federal poverty level.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1325 includes a provision not in the original authorizing the court, in a guardianship proceeding under the Texas Probate Code, to order a guardianship applicant to pay the cost of an appointed attorney ad litem if the applicant's gross annual family income exceeds 200 percent of the federal poverty level, in addition to the proposed ward's assets being insufficient to pay that cost, whereas the original conditions the authorization only on the insufficiency of the ward's assets. The substitute differs from the original by authorizing the court to order the applicant to pay the cost of a guardian ad litem or court visitor appointed in the proceeding, whereas the original authorizes the court to order the applicant to pay only the cost of a guardian ad litem. The substitute, in a provision authorizing the court to order the applicant to pay the cost of a guardian ad litem or appointed court visitor, differs from the original by conditioning the authorization on the applicant's gross annual family income exceeding 200 percent of the federal poverty level, in addition to the guardianship's estate being insufficient to pay that cost, whereas the original conditions the authorization only on the insufficiency of the estate to pay that cost.