

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 23, 2011**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB2900** by Hartnett (Relating to guardianship matters and proceedings. ), **As Passed 2nd House**

**No significant fiscal implication to the State is anticipated.**

The bill proposes changes to practices and procedures for guardianships that are transferred from one jurisdiction to another. Sections 1, 2, 3 and 6 do not have any changes that would have any fiscal impact. Section 4 requires the court to which the guardianship is transferred to hold a review hearing; this may have an impact on the court's time and resources. Section 5 authorizes the court to hold a hearing anywhere in the county; again, this may impact the court's time and resources. Section 7 proposes additions to Probate Code Section 894 clarifying the court's authority regarding its exercise of jurisdiction in certain matters involving unjustifiable conduct by parties to the guardianship proceeding. Section 8 adds Section 895 clarifying the most appropriate forum for certain guardianship proceedings. Section 8 also permits the court to assess costs and fees against the party seeking the action if the party engaged in unjustifiable conduct. Section 9 repeals Probate Code Section 893, but its provisions are included in the revisions under section 6; therefore, the fiscal impact is neutral.

The bill also amends the Probate Code relating to attorney's fees and other amounts taxed as costs in guardianship proceedings. The bill would authorize a court to allocate attorney's fees taxed as costs among the parties as the court finds is fair and just in guardianship proceedings. If the court determines the proposed ward is unable to pay for costs allocated to the proposed ward for services by an attorney, a mental health professional or an interpreter, the county would be responsible for those costs.

The bill would allow a court to authorize amounts allocated to the ward's estate or amounts to be paid from available funds of the management trust to instead be paid from the county treasury, if the ward's estate or trust is insufficient to pay the amounts.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

Three counties were contacted by the Comptroller's office for impacts and costs of the bill on their counties. Tarrant County currently assesses attorney and professional fees against ward's trust/estate if applicable. According to Tarrant County, by expanding to include parties to the guardianship proceedings, it would result in a reduction of expenditures of approximately \$30,000 per year. The amount would vary by year based on the number and complexity of guardianship cases filed.

McLennan County currently performs similar duties. McLennan County projects an additional cost of \$5,000 each year for FY2012-2016.

Aransas County already pays attorneys or interpreters for ad litem and mental health services to those who cannot afford it. Aransas County projects a cost of \$500 per year for FY2012-2016 and estimated revenue of \$500 per year during the same time period.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council

**LBB Staff:** JOB, JT, SD, SJS, KKR