

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

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

**May 20, 2011**

**TO:** Honorable Jim Jackson, Chair, House Committee on Judiciary & Civil Jurisprudence

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

**IN RE: SB286** by Harris (relating to attorney's fees and other costs in guardianship proceedings.),  
**Committee Report 2nd House, Substituted**

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

The bill amends the Texas Probate Code relating to attorney's fees and other 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.

The bill would allow a court to order a guardianship applicant to pay the cost of the guardian ad litem or court visitor appointed in the proceeding if the guardianship estate is insufficient to pay the cost or the applicant's gross annual family income exceeds 200 percent of the federal poverty level.

The bill would take effect immediately if it receives a vote of two-thirds of all members elected to each house; otherwise the effective date of the bill is September 1, 2011.

**Local Government Impact**

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

Three counties were contacted 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, 304 Comptroller of Public Accounts

**LBB Staff:** JOB, JT, JP, TB, JJO