

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Hartnett

H.B. No. 2900

A BILL TO BE ENTITLED

AN ACT

1

2 relating to guardianship matters and proceedings.

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

4 SECTION 1. Section 612, Texas Probate Code, is amended to  
5 read as follows:

6 Sec. 612. APPLICATION FOR TRANSFER OF GUARDIANSHIP TO  
7 ANOTHER COUNTY. When a guardian or any other person desires to  
8 transfer [~~remove~~] the transaction of the business of the  
9 guardianship from one county to another, the person shall file a  
10 written application in the court in which the guardianship is  
11 pending stating the reason for the transfer [~~moving the transaction~~  
12 ~~of business~~].

13 SECTION 2. Section 613(a), Texas Probate Code, is amended  
14 to read as follows:

15 (a) On filing an application to transfer [~~remove~~] a  
16 guardianship to another county, the sureties on the bond of the  
17 guardian shall be cited by personal service to appear and show cause  
18 why the application should not be granted.

19 SECTION 3. Sections 614, 615, 616, 617, and 618, Texas  
20 Probate Code, are amended to read as follows:

21 Sec. 614. COURT ACTION. (a) On hearing an application  
22 under Section 612 of this code, if good cause is not shown to deny  
23 the application and it appears that transfer [~~removal~~] of the  
24 guardianship is in the best interests of the ward, the court shall

1 enter an order authorizing the transfer [~~removal~~] on payment on  
2 behalf of the estate of all accrued costs.

3 (b) In an order entered under Subsection (a) of this  
4 section, the court shall require the guardian, not later than the  
5 20th day after the date the order is entered, to:

6 (1) give a new bond payable to the judge of the court  
7 to which the guardianship is transferred; or

8 (2) file a rider to an existing bond noting the court  
9 to which the guardianship is transferred.

10 Sec. 615. TRANSFER OF RECORD. When an order of transfer  
11 [~~removal~~] is made under Section 614 of this code, the clerk shall  
12 record any unrecorded papers of the guardianship required to be  
13 recorded. On payment of the clerk's fee, the clerk shall transmit  
14 to the county clerk of the county to which the guardianship was  
15 ordered transferred [~~removed~~]:

16 (1) the case file of the guardianship proceedings; and

17 (2) a certified copy of the index of the guardianship  
18 records.

19 Sec. 616. TRANSFER [~~REMOVAL~~] EFFECTIVE. The order  
20 transferring [~~removing~~] a guardianship does not take effect until:

21 (1) the case file and a certified copy of the index  
22 required by Section 615 of this code are filed in the office of the  
23 county clerk of the county to which the guardianship was ordered  
24 transferred [~~removed~~]; and

25 (2) a certificate under the clerk's official seal and  
26 reporting the filing of the case file and a certified copy of the  
27 index is filed in the court ordering the transfer [~~removal~~] by the

1 county clerk of the county to which the guardianship was ordered  
2 transferred [~~removed~~].

3       Sec. 617. CONTINUATION OF GUARDIANSHIP.       When a  
4 guardianship is transferred [~~removed~~] from one county to another in  
5 accordance with this subpart, the guardianship proceeds in the  
6 court to which it was transferred [~~removed~~] as if it had been  
7 originally commenced in that court. It is not necessary to record  
8 in the receiving court any of the papers in the case that were  
9 recorded in the court from which the case was transferred  
10 [~~removed~~].

11       Sec. 618. NEW GUARDIAN APPOINTED ON TRANSFER [~~REMOVAL~~]. If  
12 it appears to the court that transfer [~~removal~~] of the guardianship  
13 is in the best interests of the ward, but that because of the  
14 transfer [~~removal~~] it is not in the best interests of the ward [~~will~~  
15 ~~be unduly expensive or unduly inconvenient to the estate~~] for the  
16 guardian of the estate to continue to serve in that capacity, the  
17 court may in its order of transfer [~~removal~~] revoke the letters of  
18 guardianship and appoint a new guardian, and the former guardian  
19 shall account for and deliver the estate as provided by this chapter  
20 in a case in which a guardian resigns.

21       SECTION 4. Subpart B, Part 2, Chapter XIII, Texas Probate  
22 Code, is amended by adding Section 619 to read as follows:

23       Sec. 619. REVIEW OF TRANSFERRED GUARDIANSHIP. Not later  
24 than the 90th day after the date the transfer of the guardianship  
25 takes effect under Section 616 of this code, the court to which the  
26 guardianship was transferred shall hold a hearing to consider  
27 modifying the rights, duties, and powers of the guardian or any

1 other provisions of the transferred guardianship.

2 SECTION 5. Subpart E, Part 2, Chapter XIII, Texas Probate  
3 Code, is amended by adding Section 652 to read as follows:

4 Sec. 652. LOCATION OF HEARING. (a) Except as provided by  
5 Subsection (b) of this section, the judge may hold a hearing on a  
6 guardianship matter involving an adult ward or adult proposed ward  
7 at any suitable location in the county in which the guardianship  
8 matter is pending. The hearing should be held in a physical setting  
9 that is not likely to have a harmful effect on the ward or proposed  
10 ward.

11 (b) On the request of the adult proposed ward, the adult  
12 ward, or the attorney of the proposed ward or ward, the hearing may  
13 not be held under the authority of this section at a place other  
14 than the courthouse.

15 SECTION 6. Section 892, Texas Probate Code, is amended by  
16 amending Subsections (a) and (e) and adding Subsection (f-1) to  
17 read as follows:

18 (a) A guardian appointed by a foreign court to represent an  
19 incapacitated person who is residing in this state or intends to  
20 move to this state may file an application with a court in which the  
21 ward resides or intends to reside to have the guardianship  
22 transferred to the court. The application must have attached a  
23 certified copy of all papers of the guardianship filed and recorded  
24 in the foreign court.

25 (e) ~~The [On the court's own motion or on the motion of the~~  
26 ~~ward or any interested person, the]~~ court shall hold a hearing to:

27 (1) consider the application for receipt and

1 acceptance of a foreign guardianship; and

2 (2) consider modifying the administrative procedures  
3 or requirements of the proposed transferred guardianship in  
4 accordance with local and state law.

5 (f-1) At the time of granting an application for receipt and  
6 acceptance of a foreign guardianship, the court may also modify the  
7 administrative procedures or requirements of the transferred  
8 guardianship in accordance with local and state law.

9 SECTION 7. Section 894(b), Texas Probate Code, is amended  
10 to read as follows:

11 (b) A court that delays further action in a guardianship  
12 proceeding under Subsection (a) of this section shall determine  
13 whether venue of the proceeding is more suitable in that court or in  
14 the foreign court. In making that determination, the court may  
15 consider:

- 16 (1) the interests of justice;
- 17 (2) the best interests of the ward or proposed ward;
- 18 [~~and~~]
- 19 (3) the convenience of the parties; and
- 20 (4) the preference of the ward or proposed ward, if the  
21 ward or proposed ward is 12 years of age or older.

22 SECTION 8. Subpart G, Part 5, Chapter XIII, Texas Probate  
23 Code, is amended by adding Section 895 to read as follows:

24 Sec. 895. DETERMINATION OF MOST APPROPRIATE FORUM FOR  
25 CERTAIN GUARDIANSHIP PROCEEDINGS. (a) If at any time a court of  
26 this state determines that it acquired jurisdiction of a proceeding  
27 for the appointment of a guardian of the person or estate, or both,

1 of a ward or proposed ward because of unjustifiable conduct, the  
2 court may:

3 (1) decline to exercise jurisdiction;

4 (2) exercise jurisdiction for the limited purpose of  
5 fashioning an appropriate remedy to ensure the health, safety, and  
6 welfare of the ward or proposed ward or the protection of the ward's  
7 or proposed ward's property or prevent a repetition of the  
8 unjustifiable conduct, including staying the proceeding until a  
9 petition for the appointment of a guardian or issuance of a  
10 protective order is filed in a court of another state having  
11 jurisdiction; or

12 (3) continue to exercise jurisdiction after  
13 considering:

14 (A) the extent to which the ward or proposed ward  
15 and all persons required to be notified of the proceedings have  
16 acquiesced in the exercise of the court's jurisdiction;

17 (B) whether the court of this state is a more  
18 appropriate forum than the court of any other state after  
19 considering the factors described by Section 894(b) of this code;  
20 and

21 (C) whether the court of any other state would  
22 have jurisdiction under the factual circumstances of the matter.

23 (b) If a court of this state determines that it acquired  
24 jurisdiction of a proceeding for the appointment of a guardian of  
25 the person or estate, or both, of a ward or proposed ward because a  
26 party seeking to invoke the court's jurisdiction engaged in  
27 unjustifiable conduct, the court may assess against that party

1 necessary and reasonable expenses, including attorney's fees,  
2 investigative fees, court costs, communication expenses, witness  
3 fees and expenses, and travel expenses. The court may not assess  
4 fees, costs, or expenses of any kind against this state or a  
5 governmental subdivision, agency, or instrumentality of this state  
6 unless authorized by other law.

7 SECTION 9. Section 893, Texas Probate Code, is repealed.

8 SECTION 10. Sections 612, 613, 614, 615, 616, 617, and 618,  
9 Texas Probate Code, as amended by this Act, and Section 619, Texas  
10 Probate Code, as added by this Act, apply only to an application for  
11 the transfer of a guardianship to another county filed on or after  
12 the effective date of this Act. An application for the transfer of  
13 a guardianship to another county filed before the effective date of  
14 this Act is governed by the law in effect on the date the  
15 application was filed, and the former law is continued in effect for  
16 that purpose.

17 SECTION 11. Section 652, Texas Probate Code, as added by  
18 this Act, applies to a guardianship matter that is pending or  
19 commenced on or after the effective date of this Act.

20 SECTION 12. The changes in law made by this Act to Sections  
21 892 and 893, Texas Probate Code, apply only to an application for  
22 receipt and acceptance of a foreign guardianship filed on or after  
23 the effective date of this Act. An application for receipt and  
24 acceptance of a foreign guardianship filed before the effective  
25 date of this Act is governed by the law in effect on the date the  
26 application was filed, and the former law is continued in effect for  
27 that purpose.

1           SECTION 13. Section 894, Texas Probate Code, as amended by  
2 this Act, and Section 895, Texas Probate Code, as added by this Act,  
3 apply only to a guardianship proceeding filed on or after the  
4 effective date of this Act. A guardianship proceeding filed before  
5 the effective date of this Act is governed by the law in effect on  
6 the date the proceeding was filed, and the former law is continued  
7 in effect for that purpose.

8           SECTION 14. This Act takes effect September 1, 2011.



# ADOPTED

MAY 20 2011

*Atty Gen*  
Secretary of the Senate  
*Chris Harris*

FLOOR AMENDMENT NO. 1

1 Amend H.B. No. 2900 (senate committee printing) by adding the  
2 following appropriately numbered SECTIONS to the bill and  
3 renumbering subsequent SECTIONS as appropriate:

4 SECTION \_\_\_\_ . Section 642, Texas Probate Code, is amended by  
5 amending Subsection (a) and adding Subsection (a-1) to read as  
6 follows:

7 (a) Except as provided by Subsections (a-1) and  
8 ~~[Subsection]~~ (b) of this section, any person has the right to  
9 commence any guardianship proceeding, including a proceeding for  
10 complete restoration of a ward's capacity or modification of a  
11 ward's guardianship, or to appear and contest any guardianship  
12 proceeding or the appointment of a particular person as guardian.

13 (a-1) A person who is not entitled to receive notice of the  
14 filing of an application for guardianship under Section 633(c) or  
15 (d) of this code must obtain leave of court to appear and contest a  
16 guardianship proceeding or the appointment of a particular person  
17 as guardian. The granting of leave by the court does not prevent any  
18 other party from subsequently challenging the person's standing to  
19 maintain the contest under Subsections (b) and (c) of this section.

20 SECTION \_\_\_\_ . Section 665A, Texas Probate Code, is amended  
21 to read as follows:

22 Sec. 665A. PAYMENT FOR PROFESSIONAL SERVICES. The court  
23 shall order the payment of a fee in an amount set by the court that  
24 is fair and just as compensation to the attorneys, mental health  
25 professionals, and interpreters appointed under this chapter, as  
26 applicable, to be taxed as costs in the case. The court may  
27 allocate attorney's fees taxed as costs under this section among  
28 the parties as the court finds is fair and just. If after examining  
29 the proposed ward's assets the court determines the proposed ward

1 is unable to pay for costs allocated to the proposed ward for  
2 services provided by an attorney, a mental health professional, or  
3 an interpreter appointed under this chapter, as applicable, the  
4 county is responsible for those costs [~~the cost of those services~~].

5 SECTION \_\_\_\_\_. Section 665B, Texas Probate Code, as amended  
6 by Chapters 314 (H.B. 587) and 930 (H.B. 3080), Acts of the 81st  
7 Legislature, Regular Session, 2009, is reenacted and amended to  
8 read as follows:

9 Sec. 665B. PAYMENT OF ATTORNEY'S FEES TO CERTAIN ATTORNEYS.

10 (a) A court that creates a guardianship or creates a management  
11 trust under Section 867 of this code for a ward under this chapter,  
12 on request of a person who filed an application to be appointed  
13 guardian of the proposed ward, an application for the appointment  
14 of another suitable person as guardian of the proposed ward, or an  
15 application for the creation of the management trust, may authorize  
16 the payment of reasonable and necessary attorney's fees, as  
17 determined by the court, in amounts the court considers fair and  
18 just, to an attorney who represents the person who filed the  
19 application at the application hearing, regardless of whether the  
20 person is appointed the ward's guardian or whether a management  
21 trust is created, from:

22 (1) subject to Subsection (a-1) of this section, the  
23 parties to the guardianship proceeding, allocated as the court  
24 finds is fair and just; or

25 (2) subject to Subsection (a-1) of this section,  
26 available funds of the [~~ward's estate or~~] management trust, if  
27 created.

28 (a-1) The court may authorize amounts allocated to the  
29 ward's estate under Subsection (a)(1) of this section or amounts to  
30 be paid from available funds of the management trust as provided by  
31 Subsection (a)(2) of this section to instead be paid from the county

1 treasury, ~~[, or~~

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

4 (1) ~~[(A)]~~ the ward's estate or ~~[, if created,]~~  
5 management trust~~[,]~~ is insufficient to pay ~~[for]~~ the amounts  
6 ~~[services provided by the attorney]~~; and

7 (2) ~~[(B)]~~ funds in the county treasury are budgeted  
8 for that purpose.

9 (b) The court may not authorize attorney's fees under this  
10 section unless the court finds that the applicant acted in good  
11 faith and for just cause in the filing and prosecution of the  
12 application.

13 (c) The court may authorize the payment of attorney's fees  
14 from the county treasury under Subsection (a-1) ~~[(a)]~~ of this  
15 section only if the court is satisfied that the attorney to whom the  
16 fees will be paid has not received, and is not seeking, payment for  
17 the services described by that subsection from any other source.

18 SECTION \_\_\_\_\_. Subsection (a), Section 669, Texas Probate  
19 Code, is amended to read as follows:

20 (a) Except as provided by Subsection (b) of this section or  
21 Section 665A or 665B(a) of this code, in a guardianship matter, the  
22 cost of the proceeding, including the cost of the guardian ad litem  
23 or court visitor, shall be set in an amount the court considers fair  
24 and just and shall be paid out of the guardianship estate, or, if  
25 the estate is insufficient to pay for the cost of the proceeding,  
26 the cost of the proceeding shall be paid out of the county treasury,  
27 and the judgment of the court shall be issued accordingly.

28 SECTION \_\_\_\_\_. Section 761, Texas Probate Code, is amended by  
29 adding Subsection (a-1) to read as follows:

30 (a-1) The court clerk shall issue notice of an order  
31 rendered by the court removing a guardian under Subsection (a)(1),

1 (2), (3), (4), (6), (7), or (8) of this section. The notice must:

2 (1) state the names of the ward and the removed  
3 guardian;

4 (2) state the date the court signed the order of  
5 removal;

6 (3) contain the following statement printed in  
7 12-point bold font:

8 "If you have been removed from serving as guardian under  
9 Section 761(a)(6) or (7), Texas Probate Code, you have the right to  
10 contest the order of removal by filing an application with the court  
11 for a hearing under Section 762, Texas Probate Code, to determine  
12 whether you should be reinstated as guardian. The application must  
13 be filed not later than the 30th day after the date the court signed  
14 the order of removal.";

15 (4) contain as an attachment a copy of the order of  
16 removal; and

17 (5) be personally served on the removed guardian not  
18 later than the seventh day after the date the court signed the order  
19 of removal.

20 SECTION \_\_\_\_ . Subsections (a), (c), and (d), Section 762,  
21 Texas Probate Code, are amended to read as follows:

22 (a) Not later than the 30th [~~10th~~] day after the date the  
23 court signs the order of removal, a guardian [~~personal~~  
24 ~~representative~~] who is removed under Section 761(a)(6) [~~Subsection~~  
25 ~~(a)(6)~~] or (7) [~~Section 761,~~] of this code may file an application  
26 with the court for a hearing to determine whether the guardian  
27 [~~personal representative~~] should be reinstated.

28 (c) The court shall hold a hearing on an application for  
29 reinstatement under this section as soon as practicable after the  
30 application is filed, but not later than the 60th day after the date  
31 the court signed the order of removal. If, at the conclusion of the

1 [a] hearing [~~under this section~~], the court is satisfied by a  
2 preponderance of the evidence that the applicant did not engage in  
3 the conduct that directly led to the applicant's removal, the court  
4 shall set aside an order appointing a successor guardian  
5 [~~representative~~], if any, and shall enter an order reinstating the  
6 applicant as guardian [~~personal representative~~] of the ward or  
7 estate.

8 (d) If the court sets aside the appointment of a successor  
9 guardian [~~representative~~] under this section, the court may require  
10 the successor guardian [~~representative~~] to prepare and file, under  
11 oath, an accounting of the estate and to detail the disposition the  
12 successor has made of the property of the estate.

13 SECTION \_\_\_\_\_. The changes in law made by this Act to Section  
14 642, Texas Probate Code, apply to a guardianship proceeding that is  
15 pending or commenced on or after the effective date of this Act.

16 SECTION \_\_\_\_\_. The changes in law made by this Act to Sections  
17 665A, 665B, and 669, Texas Probate Code, apply to a guardianship  
18 created before, on, or after the effective date of this Act.

19 SECTION \_\_\_\_\_. The changes in law made by this Act to Sections  
20 761 and 762, Texas Probate Code, apply only to a removal of a  
21 guardian ordered by a court on or after the effective date of this  
22 Act. A removal of a guardian ordered by a court before the  
23 effective date of this Act is governed by the law in effect on the  
24 date the order was rendered, and the former law is continued in  
25 effect for that purpose.

**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

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

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

**May 13, 2011**

**TO:** Honorable Chris Harris, Chair, Senate Committee on Jurisprudence

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

**IN RE:** HB2900 by Hartnett (Relating to guardianship matters and proceedings.), **As Engrossed**

**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.

**Local Government Impact**

The bill would require the court to which the guardianship is transferred to hold a review hearing. County courts with probate jurisdiction may have a greater demand on their time and resources which would vary by county; however, the fiscal impact is not expected to be significant.

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

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



**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

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

**April 8, 2011**

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

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

**IN RE: HB2900** by Hartnett (relating to guardianship matters and proceedings.), **Committee Report 1st House, Substituted**

**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.

**Local Government Impact**

The bill would require the court to which the guardianship is transferred to hold a review hearing. County courts with probate jurisdiction may have a greater demand on their time and resources which would vary by county; however, the fiscal impact is not expected to be significant.

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

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

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

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

**March 31, 2011**

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

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

**IN RE: HB2900** by Hartnett (Relating to guardianships.), **As Introduced**

**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 repeals Probate Code Section 893, but its provisions are included in the revisions under section 6; therefore, the fiscal impact is neutral. Section 8 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 also permits the court to assess costs and fees against the party seeking the action if the party engaged in unjustifiable conduct.

**Local Government Impact**

The bill would require the court to which the guardianship is transferred to hold a review hearing. County courts with probate jurisdiction may have a greater demand on their time and resources which would vary by county; however, the fiscal impact is not expected to be significant.

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

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