

By: Thompson of Harris

H.B. No. 2733

A BILL TO BE ENTITLED

AN ACT

relating to payment and reimbursement of court costs in a guardianship proceeding.

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

SECTION 1. Section 1155.151, Estates Code, is amended by amending Subsections (a) and (b) and adding Subsections (a-1), (a-2), (d), and (e) to read as follows:

(a) In a guardianship proceeding, the court costs of the proceeding, including the costs described by Subsection (a-1) ~~cost of the guardians ad litem, attorneys ad litem, court visitor, mental health professionals, and interpreters appointed under this title, shall be set in an amount the court considers equitable and just and, except as provided by Subsection (c)]~~, shall, except as provided by Subsection (c), be paid as follows ~~[out of the guardianship estate, or the county treasury if the estate is insufficient to pay the cost]~~, and the court shall issue the judgment accordingly:

(1) out of the guardianship estate;

(2) by the party to the proceeding who incurred the costs unless that party filed, on the party's own behalf, an affidavit of inability to pay the costs under Rule 145, Texas Rules of Civil Procedure, if:

(A) there is no guardianship estate; or

(B) the guardianship estate is insufficient to

1 pay the costs; or

2 (3) out of the county treasury if:

3 (A) there is no guardianship estate or the
4 guardianship estate is insufficient to pay the costs; and

5 (B) the party to the proceeding who incurred the
6 costs filed, on the party's own behalf, an affidavit of inability to
7 pay the costs under Rule 145, Texas Rules of Civil Procedure.

8 (a-1) In a guardianship proceeding, the cost of any
9 guardians ad litem, attorneys ad litem, court visitors, mental
10 health professionals, and interpreters appointed under this title
11 shall be set in an amount the court considers equitable and just.

12 (a-2) Notwithstanding any other law requiring the payment
13 of court costs in a guardianship proceeding, the following are not
14 required to pay court costs on the filing of or during a
15 guardianship proceeding:

16 (1) an attorney ad litem;

17 (2) a guardian ad litem;

18 (3) a person or entity who files an affidavit of
19 inability to pay under Rule 145, Texas Rules of Civil Procedure;

20 (4) a nonprofit guardianship program;

21 (5) a governmental entity; and

22 (6) a government agency or nonprofit agency providing
23 guardianship services.

24 (b) The costs attributable to the services of a person
25 described by Subsection (a-1) [~~(a)~~] shall be paid under this
26 section at any time after the commencement of the proceeding as
27 ordered by the court.

1 (d) If a guardianship of the estate is created, a person or
2 entity who paid any costs on the filing of the proceeding is
3 entitled to be reimbursed out of the guardianship estate for the
4 costs if:

5 (1) the assets of the estate are sufficient to cover
6 the reimbursement of the costs; and

7 (2) the person or entity has not been ordered by the
8 court to pay the costs as all or part of the payment of court costs
9 under Subsection (c).

10 (e) If at any time after a guardianship of the estate is
11 created there are sufficient estate assets to pay the amount of any
12 of the costs exempt from payment under Subsection (a-2), the court
13 shall require the guardian to pay out of the guardianship estate to
14 the court clerk for deposit in the county treasury the amount of any
15 of those costs.

16 SECTION 2. Sections [1052.051\(d\)](#), (e), and (f), Estates
17 Code, are repealed.

18 SECTION 3. The changes in law made by this Act apply only to
19 a guardianship proceeding filed on or after the effective date of
20 this Act. A guardianship proceeding filed before the effective
21 date of this Act is governed by the law in effect on the date the
22 proceeding was filed, and the former law is continued in effect for
23 that purpose.

24 SECTION 4. This Act takes effect September 1, 2015.