

By: Zaffirini, et al.

S.B. No. 1369

A BILL TO BE ENTITLED

AN ACT

relating to reports on attorney ad litem, guardian ad litem, guardian, mediator, and competency evaluator appointments made by courts in this state and an interim study on a billing system for attorneys ad litem.

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

SECTION 1. Subtitle B, Title 2, Government Code, is amended by adding Chapter 36 to read as follows:

CHAPTER 36. JUDICIAL REPORTS

Sec. 36.001. DEFINITIONS. In this section:

(1) "Competency evaluator" means a physician or psychologist who is licensed or certified in this state and who performs examinations to determine whether an individual is incapacitated or has an intellectual disability for purposes of appointing a guardian for the individual. The term includes physicians and psychologists conducting examinations under Sections 1101.103 and 1101.104, Estates Code.

(2) "Guardian" has the meaning assigned by Section 1002.012, Estates Code.

Sec. 36.002. APPLICABILITY; CONFLICT OF LAW. (a) This chapter applies to a court in this state created by the Texas Constitution, by statute, or as authorized by statute.

(b) To the extent of a conflict between this chapter and a specific provision relating to a court, this chapter controls.

1 Sec. 36.003. EXEMPTION. The reporting requirements of
2 Section 36.004 do not apply to:

3 (1) a mediator appointed under Chapter 152, Civil
4 Practice and Remedies Code;

5 (2) an appointment made under Chapter 33, Family Code;

6 (3) a guardian ad litem or other person appointed
7 under Section 107.031, Family Code; or

8 (4) an attorney ad litem, guardian ad litem, or
9 mediator appointed to represent a child as authorized under Chapter
10 203, Family Code.

11 Sec. 36.004. REPORT ON APPOINTMENTS. (a) In addition to a
12 report required by other state law or rule, each court in this state
13 shall prepare a report on court appointments for each state fiscal
14 year. A court that does not make an appointment in the preceding
15 state fiscal year must file a report indicating that no appointment
16 was made in that year. A court that appoints an attorney ad litem,
17 guardian ad litem, guardian, mediator, or competency evaluator for
18 a case before the court in the preceding state fiscal year shall
19 include in the report:

20 (1) the name of each person appointed by the court as
21 an attorney ad litem, guardian ad litem, guardian, mediator, or
22 competency evaluator for a case in that year;

23 (2) the name of the judge and the date of the order
24 approving compensation to be paid to a person appointed as an
25 attorney ad litem, guardian ad litem, guardian, mediator, or
26 competency evaluator for a case in that year;

27 (3) the number and style of each case in which a person

1 was appointed as an attorney ad litem, guardian ad litem, guardian,
2 mediator, or competency evaluator for that year;

3 (4) the number of cases each person was appointed by
4 the court to serve as an attorney ad litem, guardian ad litem,
5 guardian, mediator, or competency evaluator in that year;

6 (5) if available, the number of hours and the hourly
7 rate, flat fee, or pro bono hours of credit for each person who
8 served as an attorney ad litem, guardian ad litem, guardian,
9 mediator, or competency evaluator for an appointed case in that
10 year; and

11 (6) the total amount of compensation paid to each
12 attorney ad litem, guardian ad litem, guardian, mediator, or
13 competency evaluator appointed by the court in that year and the
14 source of the compensation.

15 (b) A court shall, not later than November 1 of each year,
16 prepare the report required under Subsection (a), submit a copy of
17 the report to the Office of Court Administration of the Texas
18 Judicial System, and post the report at the courthouse of the county
19 in which the court is located and on any Internet website of the
20 court.

21 (c) The Office of Court Administration of the Texas Judicial
22 System shall prescribe the format that courts must use to report the
23 information required by this section and shall post the information
24 collected under Subsection (b) on the office's Internet website.

25 Sec. 36.005. FAILURE TO REPORT. If a court in this state
26 fails to submit a report required by Section 36.004, the court is
27 ineligible for any grant money awarded by this state or a state

1 agency for the next state fiscal biennium.

2 Sec. 36.006. TEXAS JUDICIAL COUNCIL RULES. The Texas
3 Judicial Council shall, as the council considers appropriate, adopt
4 rules to implement this chapter.

5 SECTION 2. (a) The Office of Court Administration of the
6 Texas Judicial System shall conduct a study on the feasibility of
7 establishing a statewide uniform attorney ad litem billing system
8 that would allow attorneys appointed by courts in this state to
9 serve as attorneys ad litem in cases before the courts to enter on a
10 standardized form information regarding the appointment type and
11 duration, case information and activities, numbers of hours served
12 under the appointment, and hourly rate or flat fee paid for the
13 appointment.

14 (b) The study conducted under this section shall examine:

15 (1) the possible benefits to this state and to
16 counties in this state of establishing a statewide uniform attorney
17 ad litem billing system;

18 (2) the number of attorneys in this state providing
19 legal representation in court-appointed matters;

20 (3) the number of hours spent in client representation
21 activities by attorneys serving as attorneys ad litem;

22 (4) the qualifications of attorneys serving as
23 attorneys ad litem, including training and specialization;

24 (5) whether using a standardized billing voucher would
25 provide uniformity in the types of vouchers attorneys are currently
26 required to submit to courts for payment; and

27 (6) the amount of money spent on court-appointed legal

1 representation by year, court, county, and person served, such as
2 parent, child, or other.

3 (c) Not later than December 31, 2016, the Office of Court
4 Administration of the Texas Judicial System shall submit an
5 electronic copy of the study conducted under this section to the
6 governor, lieutenant governor, and speaker of the house of
7 representatives.

8 (d) This section expires September 1, 2017.

9 SECTION 3. Chapter 36, Government Code, as added by this
10 Act, applies beginning with the state fiscal year that begins
11 September 1, 2016.

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