

By: Zaffirini, et al.
(Smithee)

S.B. No. 1369

Substitute the following for S.B. No. 1369:

By: Smithee

C.S.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 chapter:

(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 mediation conducted by an alternative dispute
4 resolution system established under Chapter 152, Civil Practice and
5 Remedies Code;

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

7 (3) a guardian ad litem or other person appointed
8 under a program authorized by Section 107.031, Family Code; or

9 (4) an attorney ad litem, guardian ad litem, amicus
10 attorney, or mediator appointed under a domestic relations office
11 established under Chapter 203, Family Code.

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

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

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

1 (3) the number and style of each case in which a person
2 was appointed as an attorney ad litem, guardian ad litem, guardian,
3 mediator, or competency evaluator for that month;

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

7 (5) the total amount of compensation paid to each
8 attorney ad litem, guardian ad litem, guardian, mediator, or
9 competency evaluator appointed by the court in that month and the
10 source of the compensation; and

11 (6) if the total amount of compensation paid to a
12 person appointed to serve as an attorney ad litem, guardian ad
13 litem, guardian, mediator, or competency evaluator for one
14 appointed case in that month exceeds \$1,000, any information
15 related to the case that is available to the court on the number of
16 hours billed to the court for the work performed by the person or
17 the person's employees, including paralegals, and the billed
18 expenses.

19 (b) Not later than the 15th day of each month, the clerk of a
20 court shall:

21 (1) submit a copy of the report to the Office of Court
22 Administration of the Texas Judicial System; and

23 (2) post the report at the courthouse of the county in
24 which the court is located and on any Internet website of the court.

25 (c) The Office of Court Administration of the Texas Judicial
26 System shall prescribe the format that courts and the clerks of the
27 courts must use to report the information required by this section

1 and shall post the information collected under Subsection (b) on
2 the office's Internet website.

3 Sec. 36.005. FAILURE TO REPORT. If a court in this state
4 fails to provide to the clerk of the court the information required
5 for the report submitted under Section 36.004, the court is
6 ineligible for any grant money awarded by this state or a state
7 agency for the next state fiscal biennium.

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

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

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

21 (1) the possible benefits to this state and to
22 counties in this state of establishing a statewide uniform attorney
23 ad litem billing system;

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

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

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

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

6 (6) the amount of money spent on court-appointed legal
7 representation by year, court, county, and person served, such as
8 parent, child, or other.

9 (c) Not later than December 31, 2016, the Office of Court
10 Administration of the Texas Judicial System shall submit an
11 electronic copy of the study conducted under this section to the
12 governor, lieutenant governor, and speaker of the house of
13 representatives.

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

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

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