By: Rodríguez   S.B. No. 1622

A BILL TO BE ENTITLED

1   AN ACT

2 relating to payment and reimbursement of court costs in a

3 guardianship proceeding.

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

5   SECTION 1. Section 1155.151, Estates Code, is amended by

6 amending Subsections (a) and (b) and adding Subsections (a-1),

7 (a-2), (d), and (e) to read as follows:

8   (a) In a guardianship proceeding, the court costs of the

9 proceeding, including the costs described by Subsection (a-1) [cost

10 of the guardians ad litem, attorneys ad litem, court visitor,

11 mental health professionals, and interpreters appointed under this

12 title, shall be set in an amount the court considers equitable and

13 just and, except as provided by Subsection (c)], shall, except as

14 provided by Subsection (c), be paid as follows [out of the

15 guardianship estate, or the county treasury if the estate is

16 insufficient to pay the cost], and the court shall issue the

17 judgment accordingly:

18   (1) out of the guardianship estate;

19   (2) by the party to the proceeding who incurred the

20 costs unless that party filed, on the party's own behalf, an

21 affidavit of inability to pay the costs under Rule 145, Texas Rules

22 of Civil Procedure, if:

23   (A) there is no guardianship estate; or

24   (B) the guardianship estate is insufficient to

84R333 CLG-D   1

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.