

By: Zaffirini

S.B. No. 1876

A BILL TO BE ENTITLED

AN ACT

relating to the appointment of attorneys ad litem, guardians ad litem, mediators, and guardians.

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

SECTION 1. Subtitle B, Title 2, Government Code, is amended by adding Chapter 37 to read as follows:

CHAPTER 37. APPOINTMENTS OF ATTORNEYS AD LITEM, GUARDIANS AD LITEM, MEDIATORS, AND GUARDIANS

Sec. 37.001. 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.

Sec. 37.002. EXEMPTION. The appointment requirements of Section 37.004 do not apply to:

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

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

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

Sec. 37.003. LISTS OF ATTORNEYS AD LITEM, GUARDIANS AD LITEM, MEDIATORS, AND GUARDIANS. (a) In addition to a list

1 required by other state law or rule, each court in this state shall
2 establish and maintain the following lists:

3 (1) a list of all attorneys who are qualified to serve
4 as an attorney ad litem and are registered with the court;

5 (2) a list of all attorneys and other persons
6 qualified to serve as a guardian ad litem and are registered with
7 the court;

8 (3) a list of all persons who are registered with the
9 court to serve as a mediator; and

10 (4) a list of all persons who are qualified to serve as
11 a guardian as defined by Section 1002.012, Estates Code, and are
12 registered with the court.

13 (b) A court may establish and maintain more than one of a
14 list required under Subsection (a) that is categorized by the type
15 of case and the person's qualifications.

16 (c) A local administrative judge, at the request of one or
17 more of the courts the judge serves, shall establish and maintain
18 the lists required under Subsection (a) for those courts. The local
19 administrative judge may establish and maintain one set of lists
20 for all of the requesting courts and may maintain for the courts
21 more than one of a list as provided in Subsection (b).

22 Sec. 37.004. APPOINTMENT OF ATTORNEYS AD LITEM, GUARDIANS
23 AD LITEM, MEDIATORS, AND GUARDIANS; MAINTENANCE OF LISTS.

24 (a) Except as provided by Subsections (c) and (d), in each case in
25 which the appointment of an attorney ad litem, guardian ad litem, or
26 guardian is necessary, a court using a rotation system shall
27 appoint the person whose name appears first on the applicable list

1 maintained by the court as required by Section 37.003.

2 (b) In each case in which the appointment of a mediator is
3 necessary because the parties to the case are unable to agree on a
4 mediator, a court using a rotation system shall appoint the person
5 whose name appears first on the mediator list maintained by the
6 court as required under Section 37.003.

7 (c) The court may appoint a person included on the
8 applicable list whose name does not appear first on the list, or a
9 person who meets statutory or other requirements to serve and who is
10 not included on the list, if the appointment of that person as
11 attorney ad litem, guardian ad litem, or guardian is agreed on by
12 the parties and approved by the court.

13 (d) On finding good cause, the court may appoint a person
14 included on the applicable list whose name does not appear first on
15 the list, or a person who meets statutory or other requirements to
16 serve on the case and who is not included on the list, if the
17 appointment of that person as attorney ad litem, guardian ad litem,
18 mediator, or guardian is required on a complex matter because the
19 person possesses relevant specialized education, training,
20 certification, or skill.

21 (e) A person who is not appointed in the order in which the
22 person's name appears on the applicable list shall remain next in
23 order on the list.

24 (f) After a person has been appointed as an attorney ad
25 litem, guardian ad litem, mediator, or guardian from the applicable
26 list, the court shall place that person's name at the end of the
27 list.

1 Sec. 37.005. POSTING OF LISTS. A court annually shall post
2 each list established under Section 37.003 at the courthouse of the
3 county in which the court is located and on any Internet website of
4 the court.

5 SECTION 2. Section 25.0022(d), Government Code, is amended
6 to read as follows:

7 (d) The presiding judge shall:

8 (1) ensure the promulgation of local rules of
9 administration in accordance with policies and guidelines set by
10 the supreme court;

11 (2) advise local statutory probate court judges on
12 case flow management practices and auxiliary court services;

13 (3) perform a duty of a local administrative statutory
14 probate court judge if the local administrative judge does not
15 perform that duty;

16 (4) appoint an assistant presiding judge of the
17 statutory probate courts;

18 (5) call and preside over annual meetings of the
19 judges of the statutory probate courts at a time and place in the
20 state as designated by the presiding judge;

21 (6) call and convene other meetings of the judges of
22 the statutory probate courts as considered necessary by the
23 presiding judge to promote the orderly and efficient administration
24 of justice in the statutory probate courts;

25 (7) study available statistics reflecting the
26 condition of the dockets of the probate courts in the state to
27 determine the need for the assignment of judges under this section;

1 (8) compare local rules of court to achieve uniformity
2 of rules to the extent practical and consistent with local
3 conditions; ~~and~~

4 (9) assign a judge or former or retired judge of a
5 statutory probate court to hear a case under the circumstances
6 described by Section [25.002201\(b\)](#); and

7 (10) require the local administrative judge for
8 statutory probate courts in a county to ensure that all statutory
9 probate courts in the county comply with Chapter 37.

10 SECTION 3. Section [74.092](#), Government Code, is amended to
11 read as follows:

12 Sec. 74.092. DUTIES OF LOCAL ADMINISTRATIVE JUDGE.
13 ~~(a)~~ A local administrative judge, for the courts for which the
14 judge serves as local administrative judge, shall:

15 (1) implement and execute the local rules of
16 administration, including the assignment, docketing, transfer, and
17 hearing of cases;

18 (2) appoint any special or standing committees
19 necessary or desirable for court management and administration;

20 (3) promulgate local rules of administration if the
21 other judges do not act by a majority vote;

22 (4) recommend to the regional presiding judge any
23 needs for assignment from outside the county to dispose of court
24 caseloads;

25 (5) supervise the expeditious movement of court
26 caseloads, subject to local, regional, and state rules of
27 administration;

1 (6) provide the supreme court and the office of court
2 administration requested statistical and management information;

3 (7) set the hours and places for holding court in the
4 county;

5 (8) supervise the employment and performance of
6 nonjudicial personnel;

7 (9) supervise the budget and fiscal matters of the
8 local courts, subject to local rules of administration;

9 (10) coordinate and cooperate with any other local
10 administrative judge in the district in the assignment of cases in
11 the courts' concurrent jurisdiction for the efficient operation of
12 the court system and the effective administration of justice;

13 (11) if requested by the courts the judge serves,
14 establish and maintain the lists required by Section 37.003 and
15 ensure appointments are made from the lists in accordance with
16 Section 37.004 [~~a list of all attorneys qualified to serve as an~~
17 ~~attorney ad litem]; and~~

18 (12) perform other duties as may be directed by the
19 chief justice or a regional presiding judge.

20 [~~(b) A list of attorneys ad litem maintained under~~
21 ~~Subsection (a)(11) must contain the names of all attorneys who:~~

22 [~~(1) meet any statutory or other requirements to serve~~
23 ~~as an attorney ad litem; and~~

24 [~~(2) have registered to serve as attorney ad litem~~
25 ~~with a court for which the judge maintaining the list serves as~~
26 ~~local administrative judge.]~~

27 SECTION 4. Section 74.093, Government Code, is amended by

1 adding Subsection (c-1) to read as follows:

2 (c-1) The rules may provide for the establishment and
3 maintenance of the lists required by Section 37.003, including the
4 establishment and maintenance of more than one of a list required by
5 that section that is categorized by the type of case, such as family
6 law or probate law, and the persons' qualifications.

7 SECTION 5. Section 74.098, Government Code, is repealed.

8 SECTION 6. Chapter 37, Government Code, as added by this
9 Act, and Section 74.092, Government Code, as amended by this Act,
10 apply only to the appointment of an attorney ad litem, guardian ad
11 litem, mediator, or guardian made on or after the effective date of
12 this Act. An appointment made before the effective date of this Act
13 is governed by the law in effect on the date the appointment was
14 made, and the former law is continued in effect for that purpose.

15 SECTION 7. This Act takes effect September 1, 2015.