

By: Zaffirini  
(Smithee)

S.B. No. 1876

Substitute the following for S.B. No. 1876:

By: Smithee

C.S.S.B. No. 1876

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

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

9 Sec. 37.001. APPLICABILITY; CONFLICT OF LAW. (a) This  
10 chapter applies to a court in this state created by the Texas  
11 Constitution, by statute, or as authorized by statute.

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

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

16 (1) a mediation conducted by an alternative dispute  
17 resolution system established under Chapter 152, Civil Practice and  
18 Remedies Code;

19 (2) a guardian ad litem or other person appointed  
20 under a program authorized by Section 107.031, Family Code;

21 (3) an attorney ad litem, guardian ad litem, amicus  
22 attorney, or mediator appointed under a domestic relations office  
23 established under Chapter 203, Family Code; or

24 (4) a person other than an attorney or a private

1 professional guardian appointed to serve as a guardian as defined  
2 by Section 1002.012, Estates Code.

3 Sec. 37.003. LISTS OF ATTORNEYS AD LITEM, GUARDIANS AD  
4 LITEM, MEDIATORS, AND GUARDIANS. (a) In addition to a list  
5 required by other state law or rule, each court in this state shall  
6 establish and maintain the following lists:

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

9 (2) a list of all attorneys and other persons who are  
10 qualified to serve as a guardian ad litem and are registered with  
11 the court;

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

14 (4) a list of all attorneys and private professional  
15 guardians who are qualified to serve as a guardian as defined by  
16 Section 1002.012, Estates Code, and are registered with the court.

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

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

26 Sec. 37.004. APPOINTMENT OF ATTORNEYS AD LITEM, GUARDIANS  
27 AD LITEM, MEDIATORS, AND GUARDIANS; MAINTENANCE OF LISTS.

1 (a) Except as provided by Subsections (c) and (d), in each case in  
2 which the appointment of an attorney ad litem, guardian ad litem, or  
3 guardian is necessary, a court using a rotation system shall  
4 appoint the person whose name appears first on the applicable list  
5 maintained by the court as required by Section 37.003.

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

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

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

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

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

5        Sec. 37.005. POSTING OF LISTS. A court annually shall post  
6 each list established under Section 37.003 at the courthouse of the  
7 county in which the court is located and on any Internet website of  
8 the court.

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

11        (d) The presiding judge shall:

12                (1) ensure the promulgation of local rules of  
13 administration in accordance with policies and guidelines set by  
14 the supreme court;

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

17                (3) perform a duty of a local administrative statutory  
18 probate court judge if the local administrative judge does not  
19 perform that duty;

20                (4) appoint an assistant presiding judge of the  
21 statutory probate courts;

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

25                (6) call and convene other meetings of the judges of  
26 the statutory probate courts as considered necessary by the  
27 presiding judge to promote the orderly and efficient administration

1 of justice in the statutory probate courts;

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

5 (8) compare local rules of court to achieve uniformity  
6 of rules to the extent practical and consistent with local  
7 conditions; ~~and~~

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

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

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

16 Sec. 74.092. DUTIES OF LOCAL ADMINISTRATIVE JUDGE.

17 [~~a~~] A local administrative judge, for the courts for which the  
18 judge serves as local administrative judge, shall:

19 (1) implement and execute the local rules of  
20 administration, including the assignment, docketing, transfer, and  
21 hearing of cases;

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

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

26 (4) recommend to the regional presiding judge any  
27 needs for assignment from outside the county to dispose of court

1 caseloads;

2 (5) supervise the expeditious movement of court  
3 caseloads, subject to local, regional, and state rules of  
4 administration;

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

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

9 (8) supervise the employment and performance of  
10 nonjudicial personnel;

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

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

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

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

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

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

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

4           SECTION 4. Section 74.093, Government Code, is amended by  
5 adding Subsection (c-1) to read as follows:

6           (c-1) The rules may provide for the establishment and  
7 maintenance of the lists required by Section 37.003, including the  
8 establishment and maintenance of more than one of a list required by  
9 that section that is categorized by the type of case, such as family  
10 law or probate law, and the person's qualifications.

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

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

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