

BILL ANALYSIS

Senate Research Center
77R14074 CLG-F

C.S.S.B. 1417
By: Lindsay
Jurisprudence
5/1/2001
Committee Report (Substituted)

DIGEST AND PURPOSE

Under current Texas law, a guardian or temporary guardian of an estate can be paid a fee of five percent of the gross income of the ward's estate and five percent of all money paid out of the estate. If a court finds this amount to be unreasonably low, it can authorize reasonable compensation for the guardian, but there are no statutory guidelines to determine if that amount is unreasonably low or who to determine a subsequent reasonable compensation. C.S.S.B. 1417 amends provisions regarding such determinations to authorize a court, on application of an interested person or on its own motion, to review and modify the amount of compensation if the court finds that the amount is unreasonably low when considering services rendered as guardian or temporary guardian.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 665, Texas Probate Code, to provide that the guardian or temporary guardian of an estate is entitled to reasonable compensation on application to the court at the time the court approves any annual accounting or final accounting filed by the guardian or temporary guardian under this chapter. Provides that a fee of five percent of the gross income of the ward's estate and five percent of all money paid out of the estate is considered reasonable under this subsection if certain conditions are met. Authorizes the court, on application of an interested person or on its own motion, to review and modify the amount of compensation authorized under Subsection (b) of this section if the court makes certain findings under certain conditions. Prohibits a finding of unseasonably low compensation from being established under Subsection (c) of this section solely because the amount of compensation is less than the usual and customary charges of the person or entity serving as guardian or temporary guardian. Deletes existing text regarding the term "money paid out" and the court's authorization of reasonable compensation under certain conditions. Defines "money paid out." Makes conforming and nonsubstantive changes.

SECTION 2. Amends Section 666, Texas Probate Code, to provide that a guardian is entitled to be reimbursed from the guardianship estate for all necessary and reasonable expenses incurred in performing any duty as a guardian, including reimbursement for the payment of reasonable attorney's fees necessarily incurred by the guardian in connection with the management of the estate or any other guardianship matter.

SECTION 3. Amends Section 667, Texas Probate Code, to set forth requirements for all expense charges.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: September 1, 2001.

SUMMARY OF COMMITTEE CHANGES

Differs from the original by amending the relating clause.

SECTION 1. Differs from the original by amending previously proposed changes to provisions regarding compensation of guardians and temporary guardians.

Inserts new SECTIONS 2 and 3 and renumbers previously proposed SECTION 2 as SECTION 4 with no change.

Inserts a new SECTION 5 and renumbers previously proposed SECTION 3 as SECTION 6 with no change.