

BILL ANALYSIS

Senate Research Center
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S.B. 1369
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Attorneys and guardians ad litem generally are appointed by a court to represent or act on behalf of a person, such as a minor, an elderly person, or a person with disabilities, who due to particular circumstances is deemed unable of representing himself or herself.

Current law provides for inadequate and insufficient collection of information regarding ad litem attorneys appointed by the courts in Texas. This information could help expose disproportionate payment and favoritism practices in the justice system. In accordance with Texas Supreme Court rules, ad litem compensation data already should be reported, but in practice are not, hampering any investigation into improper activities and underlining the need for this legislation. The total amount spent on ad litem appointments through fiscal year 2014 appears to be \$25,983,731. Since there is about a 40 percent monthly reporting completion rate, it is likely that the true cost to taxpayers is much higher.

Whether courts have either been emboldened not to comply or simply feel the burden of the reporting requirements justifies their noncompliance, holding true to the important spirit of openness and transparency that characterizes Texas government and especially its judicial system requires timely, complete, and accurate information regarding ad litem appointments.

S.B. 1369 requires courts appointing attorneys ad litem to prepare a report including the name of each attorney appointed by the court, the rate and total amount of compensation paid to each attorney in that year, and the number of hours each attorney served ad litem for the appointed case. This report must be made available both online and physically at the court and submitted to the Office of Court Administration. Cases worth less than \$500 or where the ad litem attorney and compensation was agreed upon by the parties would be exempt from the reporting requirement. Finally, a penalty would be provided for failure to report that would be tied to the grants courts receive from the state. These changes would increase transparency regarding compensation for ad litem attorneys.

As proposed, S.B. 1369 amends current law relating to reports on attorney ad litem appointments made by courts in this state.

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 Subtitle B, Title 2, Government Code, by adding Chapter 36, as follows:

CHAPTER 36. JUDICIAL REPORTS

Sec. 36.001. APPLICABILITY; CONFLICT OF LAW. (a) Provides that this chapter applies to a judge of any court in this state created by the Texas Constitution, by statute, or as authorized by statute.

(b) Provides that to the extent of a conflict between this chapter and a specific provision relating to a judge or court, this chapter controls.

Sec. 36.002. REPORT ON ATTORNEY AD LITEM APPOINTMENTS. (a) Requires the judge of each court in this state that appointed an attorney ad litem for a case before the court in the preceding state fiscal year, in addition to a report required by other state law or rule, to prepare a report on:

(1) the name of each attorney appointed by the court as an attorney ad litem for a case in that year;

(2) the rate and total amount of compensation paid to each attorney ad litem appointed by the court in that year; and

(3) the number of hours each attorney served as an attorney ad litem for the appointed case in that year.

(b) Requires a court, not later than November 1 of each year, to prepare the report required under Subsection (a) and post the report at the courthouse door of the county in which the court is located and on any Internet website of the court.

SECTION 2. Provides that Chapter 36, Government Code, as added by this Act, applies beginning with the state fiscal year that begins September 1, 2015.

SECTION 3. Effective date: September 1, 2015.