

BILL ANALYSIS

Senate Research Center
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S.B. 1388
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Jurisprudence
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DIGEST

Currently, a state court does not have the discretion to provide for a structured settlement in a personal injury recovery suit for a minor or an incapacitated person. In addition, the Texas Property Code only provides limited fund management options for the persons who are represented by an appointed guardian ad litem and receive proceeds under a personal injury suit. Changing the Property Code would allow a court to provide for a structured settlement and an investment of funds from the proceeds in the personal injury suit of the persons. S.B. 1388 would authorize a court to direct the management of property received in a suit for the benefit of a minor or an incapacitated person.

PURPOSE

As proposed, S.B. 1388 authorizes a court to direct the management of property received in a suit for the benefit of a minor or an incapacitated person.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Chapter 142, Property Code, as follows:

CHAPTER 142. New heading: MANAGEMENT OF PROPERTY RECOVERED IN SUIT BY A
NEXT FRIEND OR GUARDIAN AD LITEM

SECTION 2. Amends Section 142.001(a), Property Code, to include a guardian ad litem in certain court considerations and procedures involving a minor or incapacitated person.

SECTION 3. Amends Section 142.002, Property Code, to make conforming and nonsubstantive changes.

SECTION 4. Amends Sections 142.004(a)-(c), Property Code, to authorize a court, when certain monies are withdrawn, to order the funds to be turned over to a person who is a minor, rather than person, is entitled to receive the money and has reached the age of 21, or on a finding that the incapacitated person entitled to receive the money is no longer under the disability. Makes conforming and nonsubstantive changes.

SECTION 5. Amends Sections 142.005(a), (d), and (f), Property Code, to authorize a court, in a suit without a legal guardian or a minor, to deliver funds to a person, including a natural parent, who is approved by the court to serve as trustee. Makes conforming changes.

SECTION 6. Amends Chapter 142, Property Code, by adding Sections 142.008 and 142.009, as follows:

Sec. 142.008. STRUCTURED SETTLEMENT. Authorizes the court, in certain suits with a minor or incapacitated person, to provide for a structured settlement that provides payments and certain funding. Sets forth requirements for a person who is obligated to provide funding for the structured settlement.

Sec. 142.009. ANNUITY CONTRACT REQUIREMENTS FOR STRUCTURED SETTLEMENT. Requires an annuity contract that funds a structured settlement provided by Section 142.008 to be provided by only certain insurance companies. Sets forth requirements for the insurance company. Authorizes the court to consider certain investment ratings of an insurance

company in approving the insurance company.

SECTION 7. Effective date: September 1, 1999.

SECTION 8. Emergency clause.