

BILL ANALYSIS

Senate Research Center

S.B. 1369
By: Lucio
Jurisprudence
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law does not set forth a system for appointing attorneys ad litem in civil cases. There needs to be a system in place that is fair, efficient, and equitable.

S.B. 1369 amends current law relating to the appointment of attorneys ad litem and to court-appointed volunteer advocates in certain suits affecting the parent-child relationship.

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 74.092, Government Code, as follows:

Sec. 74.092. DUTIES OF LOCAL ADMINISTRATIVE JUDGE. (a) Creates this subsection from existing text. Requires a local administrative judge, for the courts for which the judge serves as local administrative judge, to establish and maintain a list of all attorneys qualified to serve as an attorney ad litem. Makes nonsubstantive changes.

(b) Requires that a list of attorneys ad litem maintained under Subsection (a)(11) contain the names of all attorneys who meet any statutory or other requirements to serve as an attorney ad litem and have registered to serve as attorney ad litem with a court for which the judge maintaining the list serves as local administrative judge.

SECTION 2. Amends Subchapter D, Chapter 74, Government Code, by adding Section 74.098, as follows:

Sec. 74.098. APPOINTMENT OF ATTORNEYS AD LITEM; MAINTENANCE OF LIST. (a) Requires a court, except as provided by Subsection (b), in each case in which the appointment of an attorney ad litem is necessary, to appoint the attorney whose name appears first on the list of attorneys ad litem maintained by the local administrative judge for that court as required by Section 74.092.

(b) Authorizes the court to appoint an attorney included on the list whose name does not appear first on the list or an attorney not included on the list if the appointment of that attorney as attorney ad litem is required on a complex matter because the attorney possesses relevant specialized education, training, certification, or skill; made pursuant to the Family Code, Health and Safety Code, Human Resources Code, Texas Trust Code (Subtitle B, Title 9, Property Code), or Texas Probate Code; or agreed on by the parties and approved by the court.

(c) Requires the local administrative judge to place an attorney's name at the end of the list after that attorney has been appointed as an attorney ad litem from the list.

SECTION 3. Amends Section 264.601(2), Family Code, to redefine "volunteer advocate program."

SECTION 4. Amends Section 264.602, Family Code, by amending Subsection (a) and adding Subsection (f), as follows:

(a) Requires the statewide organization with which the attorney general contracts under Section 264.603 (Administrative Contracts) to contract for services with eligible volunteer advocate programs to provide advocacy services to abused or neglected children, rather than to expand the existing services of the programs.

(f) Provides that expenses incurred by a volunteer advocate program to promote public awareness of the need for volunteer advocates or to explain the work performed by volunteer advocates that are paid with money from the attorney general volunteer advocate program account under Section 504.611 (Volunteer Advocate Program License Plates), Transportation Code, are not considered administrative expenses for the purposes of Section 264.603(b) (relating to the requirement that the contract under this section provide that not more than 12 percent of the annual legislative appropriation to implement this subchapter may be spent for administrative purposes by the statewide organization with which the attorney general contracts under this section).

SECTION 5. Amends Section 264.603(a), Family Code, to require that the contract include measurable goals and objectives relating to the number of volunteer advocates in the program and children receiving services from the program, and follow practices designed to ensure compliance with standards referenced in the contract. Deletes existing text requiring that the contract require measurable goals and objectives for expanding local volunteer child advocate programs to areas of the state in which these programs do not exist.

SECTION 6. Amends Section 264.604(a), Family Code, to provide that a person is eligible for a contract under Section 264.602 (Contracts with Advocate Programs) only if the person is a public or private nonprofit entity that operates a volunteer advocate program that meets certain conditions, including having provided court-appointed advocacy services for at least six months, rather than two years.

SECTION 8. Requires each local administrative judge, not later than December 1, 2009, to establish a list of attorneys registered and qualified to serve as attorney ad litem in a court for which the judge serves as local administrative judge as required by Section 74.092, Government Code, as amended by this Act.

SECTION 9. Makes application of this Act to the appointment of an attorney ad litem prospective to December 1, 2009.

SECTION 10. Effective date: September 1, 2009.