

BILL ANALYSIS

Senate Research Center
85R1523 MTB-D

S.B. 37
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State Affairs
2/23/2017
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently most attorneys participating in guardianship cases are required to complete a Texas State Bar four-hour certification course in guardianship and alternatives to guardianship. Certification requirements, however, do not apply to attorneys representing interested parties intervening in the litigation. This gap results in expert attorneys having to respond to and correct baseless motions and briefs by attorneys with little training in this highly specialized area. All this comes at greater cost to the estates of persons under guardianship because typically, in guardianship litigation, compensation for attorneys comes from those estates. S.B. 37 would require attorneys representing intervening third parties to be certified in guardianship law and alternatives to guardianship. This change would increase the quality of representation in guardianship cases and reduce unnecessary legal fees and court time.

As proposed, S.B. 37 amends current law relating to the requirement to obtain certification for attorneys representing persons in guardianship proceedings.

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 the heading to Chapter 1054, Estates Code, to read as follows:

CHAPTER 1054. COURT OFFICERS, COURT-APPOINTED PERSONS, AND ATTORNEYS

SECTION 2. Amends the heading to Subchapter E, Chapter 1054, Estates Code, to read as follows:

SUBCHAPTER E. QUALIFICATIONS TO SERVE AS ATTORNEY

SECTION 3. Amends Section 1054.201(a), Estates Code, to require an attorney representing any person's interests, rather than an attorney for an applicant for guardianship and a court-appointed attorney, in a guardianship proceeding, including an attorney ad litem, to be certified by the State Bar of Texas (state bar), or a person or other entity designated by the state bar, as having successfully completed a course of study in guardianship law and procedure sponsored by the state bar or the state bar's designee.

SECTION 4. Amends Section 81.114(a), Government Code, to require the state bar to provide a course of instruction for attorneys who represent any person's interest, rather than attorneys who represent parties, in guardianship cases or who serve as court-appointed guardians.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: September 1, 2017.