SUBJECT: Increasing allowable compensation for guardians of Medicaid recipients

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 7 ayes — Leach, Farrar, Y. Davis, Julie Johnson, Meyer, Smith, White

0 nays

2 absent — Krause, Neave

SENATE VOTE: On final passage, April 17 — 31-0, on Local and Uncontested Calendar

WITNESSES: For — Steven Fields, Texas Guardianship Association; (*Registered, but did not testify*: Karen Collins)

Against — None

BACKGROUND: Estates Code sec. 1155.202(a) establishes that a court that appoints a guardian for a Medicaid recipient who has applied income may order certain items to be deducted as an additional personal needs allowance in the calculation of the recipient's applied income. The following items may be deducted:

- a monthly maximum compensation of $175 to the guardian;
- costs directly related to establishing or terminating the guardianship, not to exceed $1,000 except for certain attorney's fees; and
- other administrative costs regarding guardianship, not to exceed $1,000 during any three-year period.

Sec. 1115.201 defines applied income as the portion of the earned or unearned income of a Medicaid recipient or, if applicable, the recipient and the recipient's spouse that is paid under Medicaid to an institution or long-term care facility in which the recipient resides.

Observers have noted that the cost of providing guardianship services has increased and the number of counties served by nonprofit guardianship programs has decreased in recent years. Interested parties suggest that increasing the compensation that could be paid to guardians would encourage the provision of more guardianship services for certain Medicaid recipients throughout the state.

DIGEST:

SB 1784 would increase from $175 to $250 the monthly maximum compensation to a guardian that could be deducted as an additional personal needs allowance in the calculation of the Medicaid recipient's applied income.

The bill would apply to a guardianship created before, on, or after the bill's effective date.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.