

BILL ANALYSIS

Senate Research Center
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S.B. 731
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Jurisprudence
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DIGEST

Currently, no clear requirements exist for an attorney to convey information on personal injury settlements. The lack of clarity serves inadvertently to force a client to accept a settlement that may not be in the client's best interest. Setting forth certain time periods, conditions under which an attorney is appointed, and procedures under which a structured settlement is presented may help a client make an informed decision. S.B. 731 sets forth guidelines for attorney ad litem appointments and for damages in certain personal injury suits.

PURPOSE

As proposed, S.B. 731 sets forth guidelines in a suit for damages for personal injury to certain persons.

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 Title 6, Civil Practice and Remedies Code, by adding Chapter 139, as follows:

CHAPTER 139. PERSONAL INJURY TO CERTAIN PERSONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 139.001. DEFINITIONS. Defines "claimant," and "incapacitated person."

Sec. 139.002. SCOPE OF CHAPTER. Sets forth the scope of this chapter regarding a suit on a claim for damages arising from personal injury.

SUBCHAPTER B. ATTORNEY AD LITEM

Sec. 139.051. APPLICATION OF NEXT FRIEND. Authorizes a court, on the application of the next friend of the claimant, to order the appointment of an attorney ad litem for the claimant, if the court reaches certain conclusions regarding the claimant.

SUBCHAPTER C. STRUCTURED SETTLEMENT OFFER

Sec. 139.101. WRITTEN OFFER REQUIRED. Sets forth requirements for an offer of structured settlement made after a suit.

Sec. 139.102. PRESENTATION TO CLAIMANT. Requires the attorney receiving the offer to present the offer within a certain date to the claimant or the claimant's personal representative. Requires the attorney, to the extent necessary to make an informed decision, to advise the claimant or the claimant's personal representative of certain conditions and appropriateness of the settlement.

Sec. 139.103. DUTIES OF GUARDIAN AD LITEM. Sets forth duties of a guardian ad litem who has been appointed by the court to participate in the case as necessary to protect the interests of the claimant.

SECTION 2. Effective date: September 1, 1999.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Emergency clause.