Senate Research Center   S.B. 1410
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                                             Jurisprudence
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

As proposed, S.B. 1410 is designed to provide a fair, efficient, and equitable system for appointing attorneys ad litem in civil cases. Current law does not set forth a system for appointing attorneys ad litem. This bill includes as one of the duties of the local administrative judges the responsibility to establish and maintain a list of all attorneys who are qualified to serve as attorneys ad litem. The list would contain the names of the attorneys who are qualified to serve and who have registered to serve as an attorney ad litem with a court for which the judge maintaining the list serves as local administrative judge.

The process would work on a rotating basis by appointing the attorney whose name appears first on the list when the appointment of an attorney ad litem is necessary in a case. Once the attorney has been appointed as an attorney ad litem, the local administrative judge places the attorney's name at the end of the list. In some cases, the issues involved in the case may be of a special or complex nature. When these cases arise, the court has the discretion to appoint an attorney who possesses the relevant specialized education, training, certification, or skill, although the attorney's name is not first on the list.

This system for appointing attorneys ad litem provides the framework for a process that is free of ethical constraints and suspicion. Making the appointment of attorneys ad litem on a rotating basis ensures fairness and resolves any doubts as to the integrity of the system, while also providing judges with the necessary flexibility in more complex cases.

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:

> (a) Creates this subsection from existing text. Requires a local administrative judge, among the judge's other duties, to establish and maintain a list of all attorneys qualified to serve as an attorney ad litem for the courts for which the judge serves as local administrative judge. Makes nonsubstantive changes.

> (b) Requires a list of attorneys at litem to contain the names of all attorneys who meet certain requirements and have registered to serve as an attorney ad litem.

SECTION 2. Amends Subchapter D, Chapter 74, Government Code, by adding Section 74.097, as follows:

> Sec. 74.097. APPOINTMENT OF ATTORNEYS AD LITEM; MAINTENANCE OF LIST. (a) Requires the 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 if the appointment of that attorney as an attorney

ad litem is required on a complex matter because the attorney possesses relevant specialized education, training, certification, or skill.

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

SECTION 3. Requires each local administrative judge, not later than December 1, 2005, to establish a list of attorneys qualified to serve as attorney ad litem in a court for which the judge serves as local administrative judge.

SECTION 4. Makes application of this Act prospective to an appointment of an attorney ad litem on or after December 1, 2005.

SECTION 5. Effective date: September 1, 2005.