

## **BILL ANALYSIS**

Senate Research Center  
81R3158 KLA-D

H.B. 587  
By: Naishtat, Coleman (Watson)  
Jurisprudence  
5/18/2009  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

When a court creates a guardianship for a ward, the court may authorize payment of the applicant's attorney's fees from the county treasury if certain conditions are satisfied. However, current law does not provide any checks to ensure that attorney's fees are not paid from county resources if they have already been paid or might be paid from another source.

H.B. 587 clarifies that payment of attorney's fees may be made from the county treasury only if the court is satisfied that the attorney to whom the fees will be paid has not received and is not otherwise seeking payment for representing the person who filed an application to be appointed guardian of a proposed ward or for the appointment of another person as guardian. The bill clarifies that a court may authorize the payment of reasonable and necessary attorney's fees to an attorney if the court is satisfied that the attorney has not received and is not seeking payment from another source.

### **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 665B, Texas Probate Code, as follows:

Sec. 665B. New heading: PAYMENT OF ATTORNEY'S FEES TO CERTAIN ATTORNEYS. (a) Authorizes a court that creates a guardianship for a ward under this chapter, on request of a person who filed an application to be appointed guardian of the proposed ward or for the appointment of another suitable person as guardian of the proposed ward, to authorize the payment of reasonable and necessary attorney's fees, as determined by the court, to, rather than authorize compensation of, an attorney who represents the person who filed the application at the application hearing, regardless of whether the person is appointed the ward's guardian, from, subject to Subsection (c) of this section, the county treasury if certain conditions are met.

(b) Prohibits the court from authorizing attorney's fees, rather than compensation, under this section unless the court finds that the applicant acted in good faith and for just cause in the filing and prosecution of the application.

(c) Authorizes the court to authorize the payment of attorney's fees from the county treasury under Subsection (a) of this section only if the court is satisfied that the attorney to whom the fees will be paid has not received, and is not seeking, payment for the services described by that subsection from any other source.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2009.