

1-1 By: Zaffirini S.B. No. 1876  
 1-2 (In the Senate - Filed March 13, 2015; March 25, 2015, read  
 1-3 first time and referred to Committee on State Affairs;  
 1-4 April 28, 2015, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 28, 2015,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1876 By: Zaffirini

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to the appointment of attorneys ad litem, guardians ad  
 1-22 litem, mediators, and guardians.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subtitle B, Title 2, Government Code, is amended  
 1-25 by adding Chapter 37 to read as follows:

1-26 CHAPTER 37. APPOINTMENTS OF ATTORNEYS AD LITEM, GUARDIANS AD  
 1-27 LITEM, MEDIATORS, AND GUARDIANS

1-28 Sec. 37.001. APPLICABILITY; CONFLICT OF LAW. (a) This  
 1-29 chapter applies to a court in this state created by the Texas  
 1-30 Constitution, by statute, or as authorized by statute.

1-31 (b) To the extent of a conflict between this chapter and a  
 1-32 specific provision relating to a court, this chapter controls.

1-33 Sec. 37.002. EXEMPTION. The appointment requirements of  
 1-34 Section 37.004 do not apply to:

1-35 (1) a mediator appointed under Chapter 152, Civil  
 1-36 Practice and Remedies Code;

1-37 (2) a guardian ad litem or other person appointed  
 1-38 under Section 107.031, Family Code; or

1-39 (3) an attorney ad litem, guardian ad litem, or  
 1-40 mediator appointed to represent a child as authorized under Chapter  
 1-41 203, Family Code.

1-42 Sec. 37.003. LISTS OF ATTORNEYS AD LITEM, GUARDIANS AD  
 1-43 LITEM, MEDIATORS, AND GUARDIANS. (a) In addition to a list  
 1-44 required by other state law or rule, each court in this state shall  
 1-45 establish and maintain the following lists:

1-46 (1) a list of all attorneys who are qualified to serve  
 1-47 as an attorney ad litem and are registered with the court;

1-48 (2) a list of all attorneys and other persons  
 1-49 qualified to serve as a guardian ad litem and are registered with  
 1-50 the court;

1-51 (3) a list of all persons who are registered with the  
 1-52 court to serve as a mediator; and

1-53 (4) a list of all persons who are qualified to serve as  
 1-54 a guardian as defined by Section 1002.012, Estates Code, and are  
 1-55 registered with the court.

1-56 (b) A court may establish and maintain more than one of a  
 1-57 list required under Subsection (a) that is categorized by the type  
 1-58 of case and the person's qualifications.

1-59 (c) A local administrative judge, at the request of one or  
 1-60 more of the courts the judge serves, shall establish and maintain

2-1 the lists required under Subsection (a) for those courts. The local  
2-2 administrative judge may establish and maintain one set of lists  
2-3 for all of the requesting courts and may maintain for the courts  
2-4 more than one of a list as provided in Subsection (b).

2-5 Sec. 37.004. APPOINTMENT OF ATTORNEYS AD LITEM, GUARDIANS  
2-6 AD LITEM, MEDIATORS, AND GUARDIANS; MAINTENANCE OF LISTS.

2-7 (a) Except as provided by Subsections (c) and (d), in each case in  
2-8 which the appointment of an attorney ad litem, guardian ad litem, or  
2-9 guardian is necessary, a court using a rotation system shall  
2-10 appoint the person whose name appears first on the applicable list  
2-11 maintained by the court as required by Section 37.003.

2-12 (b) In each case in which the appointment of a mediator is  
2-13 necessary because the parties to the case are unable to agree on a  
2-14 mediator, a court using a rotation system shall appoint the person  
2-15 whose name appears first on the mediator list maintained by the  
2-16 court as required under Section 37.003.

2-17 (c) The court may appoint a person included on the  
2-18 applicable list whose name does not appear first on the list, or a  
2-19 person who meets statutory or other requirements to serve and who is  
2-20 not included on the list, if the appointment of that person as  
2-21 attorney ad litem, guardian ad litem, or guardian is agreed on by  
2-22 the parties and approved by the court.

2-23 (d) On finding good cause, the court may appoint a person  
2-24 included on the applicable list whose name does not appear first on  
2-25 the list, or a person who meets statutory or other requirements to  
2-26 serve on the case and who is not included on the list, if the  
2-27 appointment of that person as attorney ad litem, guardian ad litem,  
2-28 mediator, or guardian is required on a complex matter because the  
2-29 person possesses relevant specialized education, training,  
2-30 certification, or skill.

2-31 (e) A person who is not appointed in the order in which the  
2-32 person's name appears on the applicable list shall remain next in  
2-33 order on the list.

2-34 (f) After a person has been appointed as an attorney ad  
2-35 litem, guardian ad litem, mediator, or guardian from the applicable  
2-36 list, the court shall place that person's name at the end of the  
2-37 list.

2-38 Sec. 37.005. POSTING OF LISTS. A court annually shall post  
2-39 each list established under Section 37.003 at the courthouse of the  
2-40 county in which the court is located and on any Internet website of  
2-41 the court.

2-42 SECTION 2. Section 25.0022(d), Government Code, is amended  
2-43 to read as follows:

2-44 (d) The presiding judge shall:

2-45 (1) ensure the promulgation of local rules of  
2-46 administration in accordance with policies and guidelines set by  
2-47 the supreme court;

2-48 (2) advise local statutory probate court judges on  
2-49 case flow management practices and auxiliary court services;

2-50 (3) perform a duty of a local administrative statutory  
2-51 probate court judge if the local administrative judge does not  
2-52 perform that duty;

2-53 (4) appoint an assistant presiding judge of the  
2-54 statutory probate courts;

2-55 (5) call and preside over annual meetings of the  
2-56 judges of the statutory probate courts at a time and place in the  
2-57 state as designated by the presiding judge;

2-58 (6) call and convene other meetings of the judges of  
2-59 the statutory probate courts as considered necessary by the  
2-60 presiding judge to promote the orderly and efficient administration  
2-61 of justice in the statutory probate courts;

2-62 (7) study available statistics reflecting the  
2-63 condition of the dockets of the probate courts in the state to  
2-64 determine the need for the assignment of judges under this section;

2-65 (8) compare local rules of court to achieve uniformity  
2-66 of rules to the extent practical and consistent with local  
2-67 conditions; ~~and~~

2-68 (9) assign a judge or former or retired judge of a  
2-69 statutory probate court to hear a case under the circumstances

3-1 described by Section 25.002201(b); and  
3-2 (10) require the local administrative judge for  
3-3 statutory probate courts in a county to ensure that all statutory  
3-4 probate courts in the county comply with Chapter 37.

3-5 SECTION 3. Section 74.092, Government Code, is amended to  
3-6 read as follows:

3-7 Sec. 74.092. DUTIES OF LOCAL ADMINISTRATIVE JUDGE.  
3-8 ~~[(a)]~~ A local administrative judge, for the courts for which the  
3-9 judge serves as local administrative judge, shall:

3-10 (1) implement and execute the local rules of  
3-11 administration, including the assignment, docketing, transfer, and  
3-12 hearing of cases;

3-13 (2) appoint any special or standing committees  
3-14 necessary or desirable for court management and administration;

3-15 (3) promulgate local rules of administration if the  
3-16 other judges do not act by a majority vote;

3-17 (4) recommend to the regional presiding judge any  
3-18 needs for assignment from outside the county to dispose of court  
3-19 caseloads;

3-20 (5) supervise the expeditious movement of court  
3-21 caseloads, subject to local, regional, and state rules of  
3-22 administration;

3-23 (6) provide the supreme court and the office of court  
3-24 administration requested statistical and management information;

3-25 (7) set the hours and places for holding court in the  
3-26 county;

3-27 (8) supervise the employment and performance of  
3-28 nonjudicial personnel;

3-29 (9) supervise the budget and fiscal matters of the  
3-30 local courts, subject to local rules of administration;

3-31 (10) coordinate and cooperate with any other local  
3-32 administrative judge in the district in the assignment of cases in  
3-33 the courts' concurrent jurisdiction for the efficient operation of  
3-34 the court system and the effective administration of justice;

3-35 (11) if requested by the courts the judge serves,  
3-36 establish and maintain the lists required by Section 37.003 and  
3-37 ensure appointments are made from the lists in accordance with  
3-38 Section 37.004 [a list of all attorneys qualified to serve as an  
3-39 attorney ad litem]; and

3-40 (12) perform other duties as may be directed by the  
3-41 chief justice or a regional presiding judge.

3-42 ~~[(b) A list of attorneys ad litem maintained under~~  
3-43 ~~Subsection (a)(11) must contain the names of all attorneys who:~~

3-44 ~~[(1) meet any statutory or other requirements to serve~~  
3-45 ~~as an attorney ad litem; and~~

3-46 ~~[(2) have registered to serve as attorney ad litem~~  
3-47 ~~with a court for which the judge maintaining the list serves as~~  
3-48 ~~local administrative judge.]~~

3-49 SECTION 4. Section 74.093, Government Code, is amended by  
3-50 adding Subsection (c-1) to read as follows:

3-51 (c-1) The rules may provide for the establishment and  
3-52 maintenance of the lists required by Section 37.003, including the  
3-53 establishment and maintenance of more than one of a list required by  
3-54 that section that is categorized by the type of case, such as family  
3-55 law or probate law, and the persons' qualifications.

3-56 SECTION 5. Section 74.098, Government Code, is repealed.

3-57 SECTION 6. Chapter 37, Government Code, as added by this  
3-58 Act, and Section 74.092, Government Code, as amended by this Act,  
3-59 apply only to the appointment of an attorney ad litem, guardian ad  
3-60 litem, mediator, or guardian made on or after the effective date of  
3-61 this Act. An appointment made before the effective date of this Act  
3-62 is governed by the law in effect on the date the appointment was  
3-63 made, and the former law is continued in effect for that purpose.

3-64 SECTION 7. This Act takes effect September 1, 2015.

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