ENGROSSED HOUSE
BILL NO. 1891

By: Vaughn of the House

and

Coffee of the Senate

An Act relating to guardian and ward; amending 30 O.S. 1991, Section 4-403, which relates to certain fees and compensation; authorizing payment for certain services; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 30 O.S. 1991, Section 4-403, is amended to read as follows:

Section 4-403. A. 1. An attorney, other than a public defender, for a ward or a subject of a proceeding pursuant to ~~this act~~ the Oklahoma Guardianship and Conservatorship Act or whose services are obtained by a guardian on behalf of a ward is entitled to reasonable compensation to be paid from and as a charge against the estate of the ward. Reasonable compensation for attorney services rendered and expenses made for the guardian of the ward incurred prior to the appointment of the guardian may be paid from and charged against the estate of the ward, as approved by the court prior to payment.

2. Guardians ad litem, other than an employee of a public agency or an employee of a private agency which provides such service pursuant to a contract with a public agency, appointed pursuant to the provisions of this act are entitled to reasonable compensation.

3. A person conducting an evaluation of the subject of the proceeding, whose services resulted in the appointment of a limited

guardian or guardian or other order beneficial to the subject of the proceeding, is entitled to reasonable and necessary compensation.

B. 1. Compensation and reimbursements pursuant to this section shall be paid from the financial resources of the subject of the proceeding unless the court determines that such payment of compensation and reimbursements would:

a. substantially impede the partially incapacitated or incapacitated person from meeting the essential requirements for his physical health or safety, and

b. substantially impair the financial resources of such person, or substantially impede his ability to obtain the services necessary for developing or regaining his abilities to the maximum extent possible.

2. If not otherwise compensated or reimbursed pursuant to the provisions of paragraph 1 of this subsection:

a. any attorney or guardian ad litem appointed by the court who is entitled to compensation shall be compensated from the court fund of the court having jurisdiction~~;~~,

b. the cost of services provided by a person conducting an evaluation, when such person is the employee of a public agency or the employee of a private agency which provides such services for guardianship proceedings pursuant to an agreement with a public agency, shall be borne by the public agency, or by the private agency in accordance with the terms of such agreement~~;~~, and

c. if the person conducting an evaluation is a private individual or agency and the cost of the services provided is not otherwise compensable under a state or federal public assistance program, compensation for

the cost of services shall be from the court fund of the court having jurisdiction.

3. Compensation or reimbursement from the court fund for attorneys and guardian ad litem pursuant to the provisions of this subsection shall be in accordance with the provisions of Section 1304 of Title 20 of the Oklahoma Statutes.

~~D.~~ C. All compensation and reimbursements pursuant to the provisions of this section shall be approved by the court prior to payment.

~~E.~~ D. Contingent fees and contracts for recovery of property agreed upon and approved by courts or the ranking official representing the Secretary of the Interior in Oklahoma, who has supervision of any restricted Indian tribe in this state do not come within the provisions of the Oklahoma Guardianship and Conservatorship Act.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 28th day of February, 2000.

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Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 2000.

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President of the Senate