

# Senate Bill 1369 - Frequently Asked Questions

## 1. When do I need to start reporting this information?

While the Supreme Court order currently requires reporting of some information by district and county clerks, the requirements of SB 1369 go into effect on September 1, 2016. Thus, the reporting changes will go into effect on that date.

## 2. Will the information required by Supreme Court Order 07-9188 still need to be reported?

Yes. The Court intends to leave the current reporting requirements in place but will amend the order to make it consistent with the requirements of Senate Bill 1369.

## 3. Which courts need to report the information required by SB 1369?

All courts must submit a report each month, even if there is no reportable activity. While the reporting requirements applied only to district and county courts in the past, the requirements of SB 1369 apply to all courts in the state, including appellate, justice and municipal courts.

## 4. My court does not make appointments. Do I have to report?

Yes. All courts are required to report whether or not there is reportable activity. Courts with no activity to report must submit "No Activity" reports each month.

## 5. The date of appointment and the date of payment are different. When do we report the information?

Each court will be required to submit each month a report for all appointments made during the month and a report for all payments made during the month, even if there was no activity.

## 6. How will this information be reported to OCA?

The existing Appointments and Fees database will be modified to meet the requirements of SB 1369. District and county clerks will notice little difference from how they are currently reporting. Fields will be added to capture Number of Hours Billed and Bill Expenses for cases in which the fee is more than \$1,000. A field will also be added to indicate whether a report is for appointments or payments.

Other courts should consult the materials posted on the Appointments and Fees webpage (<http://www.txcourts.gov/statistics/appointments-fees-in-civil-cases.aspx>) to get information about how the current reporting process works.

Updated reporting instructions and XML specifications will be released when they are ready.

## 7. Is a report required in the following scenarios?

- a. *CPS cases: judge authorizes mediation (does not order or appoint) that the county pays for; district attorney maintains the list of mediators and assigns the case to a mediator*
- b. *Civil and family cases: local rules mandate mediation for nearly all cases and county does not maintain list of mediators*

## Senate Bill 1369 - Frequently Asked Questions

- c. *Cases in which mediator is selected by agreement of the parties*
- d. *Appointees under contract that receive specific dollar amount each month (not dependent on the number of cases assigned)*
- e. *Fees paid from sources other than county funds (“private pay” cases)*

Yes to all of the above.

### **8. How will I be able to get payment information in the following scenarios?**

- a. *Courts prepare vouchers to pay attorneys on a quarterly basis, so clerk cannot accurately report correct amounts for each month*
- b. *“Private pay” cases – county only has information on compensation paid by the county; how do we determine what fees are paid when they are coming from another source?*
- c. *Appointees under contract*

As stated in the Supreme Court order,

- each appointment is to be made by a written order;
- each approval of the payment of a fee is to be accomplished by a separate written order; and
- orders making appointments or approving the payment of fees are to be sufficiently specific to enable the clerks to prepare the required monthly reports.

Judges and clerks will need to locally determine the specifics about how the required information is to be obtained.

### **9. The Supreme Court Order does not mention Title 5 (Child Protective Services cases) of the Family Code. Do CPS cases need to be reported?**

Yes. The requirements of SB 1369 apply to CPS cases. The exceptions are:

- a guardian ad litem or other person appointed under a program authorized by Sec. 107.031, Family Code (volunteer advocates in child protection cases) or
- an attorney ad litem, guardian ad litem, amicus attorney or mediator appointed under a domestic relations office established under Chapter 203, Family Code.

## Senate Bill 1369 - Frequently Asked Questions

<b>SB 1369 requirements</b>	<b>Current report</b>	<b>Add to Current Report</b>
1) name of each person appointed	#4 - Name of person appointed	
2) name of judge and date of order approving compensation	#1 - Name of judge/magistrate approving fee & #7 - Date of approval of fee	Change #7 to capture appointment date as well
3) case number and style of each case in which person appointed	#3 - Case number and style of case	
4) number of cases each person was appointed by the court	can be determined by counting individual reports	
5) total amount of compensation paid to each appointee and source of compensation	#8 - source of funds & #10 - amount of payment approved; if multiple payments in 1 month, total compensation can be determined by counting individual reports	
6) if total amount of compensation paid to a person in 1 case > \$1,000, # hours billed for work performed by person/person's employees and billed expenses		if #10 > \$1,000, report # hours billed and billed expenses; make fields required if #10 > \$1,000 but offer "n/a" option since statute says "any information available to the court"
	#5 position to which appointed	
	#6 relationship to ward/deceased	
	#9 fee type	eliminate

## GENERAL INSTRUCTIONS FOR COMPLETING THE REPORT

### ***NO REPORTABLE ACTIVITY FOR THE MONTH***

If no fees of \$500 or more were approved or paid during the month, submit a report indicating that there was no reportable activity for the month for the county as a whole or for a particular court.

### ***REPORTABLE ACTIVITY FOR THE MONTH***

Each payment must be reported separately. For each approval of the payment of a fee of \$500 or more, the following information must be reported:

**1. NAME OF JUDGE/MASTER/REFEREE APPROVING FEE**

Select the name of the person **signing the approval order**. *(It does not have to be the same person who made the original appointment. It could, for example, be a visiting judge.)*

**2. NAME/NUMBER OF COURT**

Select the name of the court in which the person signing the order was sitting when the order was signed *(e.g., 465th District Court, County Court at Law No. 2, etc.)*.

**3. CASE NUMBER AND STYLE OF CASE**

Enter the case number and style of the case. The style may be abbreviated to include, for example, just the last names of the parties. *In matters where confidentiality of records is required, judges and clerks should use their discretion regarding the style of the case.*

**4. NAME OF PERSON APPOINTED**

Enter the name of the person appointed. *If the person appointed is an attorney, his or her State Bar card number must be included.*

**5. POSITION TO WHICH APPOINTED**

Select the position to which the person was appointed in the case. A sample list of positions is included below for reference.

**6. RELATIONSHIP TO WARD OR DECEASED**

Select the relationship to the ward or deceased:

- An attorney;
- A private professional guardian;
- Associated with a public guardianship program; or
- A friend or family member

If not relevant to the case, select "Not Applicable."

**7. DATE OF APPROVAL OF FEE**

Enter the date the approval order was signed (or the date the fee was paid if the amount of the fee was not specified when the approval order was signed).

**8. SOURCE OF FEES**

Select the source of the fee known to the clerk at the time this report is prepared. A sample list of sources is included below for reference.

**9. Fee Type**

~~Select the fee type. If unknown or not relevant to the case, select "Not available/applicable". NOTE: This field is optional.~~

**10. AMOUNT OF FEE APPROVED**

Enter the dollar amount of **each fee** approved for payment. The **entire fee amount** should be reported, not the rate approved (i.e., not \$15 per hour).

Each fee includes any and all fees occurring as a result of the appointment. It shall include attorneys' fees and related expenses resulting from the appointment and any compensation and/or fees for serving as fiduciary.

Sample lists of position titles and sources of fees are included below to aid you in preparing your monthly report. These are partial lists only—there may be additional positions to which a person may be appointed or sources of fees.

**POSITION TO WHICH APPOINTED**

- Ad litem
- Amicus attorney
- Attorney ad litem
- Guardian ad litem
- Administrator
- Appraiser
- Arbitrator
- Attorney
- Certified Public Accountant
- Commissioner
- Court Visitor
- Doctor
- Executor
- Friend of the Court
- Guardian
- Permanent Guardian
- Temporary Guardian
- Hearing Officer
- Interpreter
- Investigator
- Master
- Master in Chancery
- Mediator
- Personal Representative
- Physician
- Receiver
- Referee
- Social Worker
- Trustee
- Trustee Bank

Trustee Friend

**SOURCE OF FEES**

- Managing Conservator
- Possessory Conservator
- County
- Defendant
- Estate
- Named Person (*i.e., individual identified by name*)
- The Parties
- Plaintiff
- Registry of the Court
- State
- Trust
- Trustee

**TYPES OF FEES**

Attorneys fees:

- *For serving as an appointee*
- *For serving as attorney when serving as court appointee*

- Compensation for fiduciary services
- Eminent domain commissioner fees
- Mediator fees
- Trustee's fees