

**SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION**

S.F. No. 5338

(SENATE AUTHORS: LATZ)

DATE
04/08/2024

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Introduction and first reading
Referred to Judiciary and Public Safety

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to civil law; providing an attorney adviser or guardian ad litem in settlement
1.3 agreements for cases where a party has a brain injury; requiring a study of the
1.4 2022 structure settlement laws and a report to the legislature; proposing coding
1.5 for new law in Minnesota Statutes, chapter 549.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. **[549.275] ATTORNEY REVIEW FOR INJURED PARTIES;**
1.8 **SETTLEMENT AGREEMENTS.**

1.9 (a) The court shall appoint an attorney adviser or guardian ad litem in any case involving
1.10 a settlement agreement between parties to a case if it appears to the court that one of the
1.11 parties may suffer from a brain injury resulting in a mental or cognitive injury. Alternatively,
1.12 an attorney for a party who has a medical diagnosis of a brain injury shall file a motion for
1.13 the appointment of an attorney adviser or guardian ad litem prior to a settlement agreement
1.14 if the attorney is aware that their client has a brain injury that has caused a mental or cognitive
1.15 impairment. Filings related to the mental or cognitive impairment and brain injury shall be
1.16 filed in a confidential manner.

1.17 (b) The appointed attorney adviser or guardian ad litem shall make an independent
1.18 assessment and advise the court whether the proposed settlement is in the best interest of
1.19 the party whom they have been assigned to assist, taking into consideration the party's
1.20 dependents and medical history, if any. The attorney adviser or guardian ad litem may
1.21 consult with a certified public accountant, actuary, or other licensed professional adviser,
1.22 if necessary. Costs and reasonable fees for the appointed attorney adviser or guardian ad
1.23 litem may be distributed through the settlement or assigned by the court, and must not

2.1 exceed \$3,000. The fee may be deposited with and disbursed to the attorney adviser or
2.2 guardian ad litem by the court.

2.3 (c) The appointed attorney adviser or guardian ad litem shall consider the following
2.4 factors when making a report to the court on the best interest of the party they are assigned
2.5 to assist:

2.6 (1) the reasonable preference of the party in light of the party's age, mental capacity,
2.7 maturity, and understanding of the settlement agreement;

2.8 (2) if the settlement seems reasonable given the facts of the case for a similarly situated
2.9 party;

2.10 (3) if the cases involves injuries to the party, whether or not the settlement covers past
2.11 or future medical expenses; and

2.12 (4) the impact of the settlement on the party's ability to support themselves, their spouse,
2.13 or dependents.

2.14 (d) The attorney appointed by the court must report to the court the attorney's assessment
2.15 and advice in a manner directed by the court in the appointing order.

2.16 Sec. 2. **STUDY ON STRUCTURED SETTLEMENT TRANSFERS.**

2.17 (a) The attorney general is directed to complete a study of the impact of the updates to
2.18 the structured settlement law in 2022. The chief justice of the supreme court is directed to
2.19 assist the attorney general in completing the study. The study shall include reviewing and
2.20 compiling the information on cases under the new laws, including:

2.21 (1) when a discretionary appointment was made under section 549.405, subdivision 1;

2.22 (2) when a mandatory appointment was made under section 549.405, subdivision 2;

2.23 (3) how many cases involved minors;

2.24 (4) how many cases involved parties with a mental or cognitive impairment;

2.25 (5) how many cases had a motion made under section 549.405, subdivision 3;

2.26 (6) how many reports were filed under section 549.405, subdivision 4; and

2.27 (7) how many settlements were approved by the court and how many were denied.

2.28 (b) The attorney general may review and include other data that helps to determine the
2.29 impact of changes to the structured settlement laws and other legislative proposals that
2.30 would assist payees in structured settlement transfers. The attorney general shall provide a

- 3.1 report on the study to the chair and minority lead for the committees with jurisdiction over
- 3.2 civil law in the house of representatives and the senate by January 15, 2025.