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SENATE BILL 282

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY
Joseph Cervantes

AN ACT

RELATING TO THE COURTS; AMENDING THE STRUCTURED SETTLEMENT PROTECTION ACT; REQUIRING APPOINTMENT OF A GUARDIAN AD LITEM IN ALL STRUCTURED SETTLEMENT TRANSFERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 39-1A-1 NMSA 1978 (being Laws 2005, Chapter 135, Section 1) is amended to read:

"39-1A-1. SHORT TITLE.--~~[This act]~~ Chapter 39, Article 1A NMSA 1978 may be cited as the "Structured Settlement Protection Act"."

SECTION 2. Section 39-1A-6 NMSA 1978 (being Laws 2005, Chapter 135, Section 6) is amended to read:

"39-1A-6. PROCEDURE FOR APPROVAL OF TRANSFERS.--

A. An application under the Structured Settlement Protection Act for approval of a transfer of structured

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1 settlement payment rights shall be made by the transferee and
2 shall be brought in court.

3 B. At least twenty days before the date of the
4 scheduled hearing on any application for approval of a transfer
5 of structured settlement payment rights under Section [~~4 of the~~
6 ~~Structured Settlement Protection Act~~] 39-1A-4 NMSA 1978, the
7 transferee shall file with the court and serve on all
8 interested parties a notice of the proposed transfer and the
9 application for authorization, including with the notice:

10 (1) a copy of the transferee's application;

11 (2) a copy of the transfer agreement;

12 (3) a copy of the disclosure statement
13 required under Section [~~3 of the Structured Settlement~~
14 ~~Protection Act~~] 39-1A-3 NMSA 1978;

15 (4) a listing of each of the payee's
16 dependents, together with each dependent's age;

17 (5) notice that any interested party is
18 entitled to support, oppose or otherwise respond to the
19 transferee's application, either in person or by counsel, by
20 submitting written comments to the court or by participating in
21 the hearing; and

22 (6) notice of the time and place of the
23 hearing and notification of the manner in which and the time by
24 which written responses to the application must be filed to be
25 considered by the court.

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1 C. Written responses to the application under
2 Paragraph (6) of Subsection B of this section shall be filed on
3 or before the fifteenth day after the date the transferee's
4 notice is served.

5 D. Upon the filing of an application for the
6 transfer of structured settlement payment rights, the court
7 shall appoint a guardian ad litem for the payee to make an
8 independent assessment and to advise the court whether the
9 proposed transfer is in the best interests of the payee. In
10 advising the court, the guardian ad litem shall consider:

11 (1) the reasonable preference of the payee, in
12 light of the payee's age, mental capacity, maturity level,
13 understanding of the terms of the agreement and stated purpose
14 for the transfer;

15 (2) if the periodic payments are intended to
16 cover future income or losses or future medical expenses,
17 whether the payee has means of support aside from the
18 structured settlement to meet these obligations;

19 (3) whether the payee can meet the financial
20 needs of, and obligations to, the payee's dependents if the
21 transfer is allowed to proceed, including child support and
22 spousal maintenance;

23 (4) whether the payee completed previous
24 transactions involving the payee's structured settlement
25 payment rights and the timing, amount, stated purpose and

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1 actual use of the proceeds;

2 (5) the impact of the proposed transfer on
3 current or future eligibility of the payee or the payee's
4 dependents for public benefits; and

5 (6) any other factors or facts that the court
6 or the guardian ad litem determines to be relevant.

7 E. The guardian ad litem may consult with a
8 certified public accountant, an actuary or other licensed
9 professional for independent professional advice. All costs
10 and reasonable fees for the guardian ad litem shall be borne by
11 the transferee in an amount determined by the court.

12 F. The guardian ad litem shall file an interim
13 report with the court no later than ten days prior to the date
14 of the scheduled hearing.

15 G. Written responses to the interim report of the
16 guardian ad litem shall be filed with the court no later than
17 five days before the scheduled hearing.

18 H. The guardian ad litem shall file a final report
19 with the court no later than two days before the date of the
20 scheduled hearing."