

By: Wu

H.B. No. 3895

Substitute the following for H.B. No. 3895:

By: Ramos

C.S.H.B. No. 3895

A BILL TO BE ENTITLED

1 AN ACT

2 relating to guardians ad litem for children who are in the juvenile
3 justice system and the child protective services system.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 51.11, Family Code, is amended by
6 amending Subsection (a) and adding Subsections (a-1), (d), and (e)
7 to read as follows:

8 (a) In this section:

9 (1) "Dual-system child" means a child who, at any time
10 before the child's 18th birthday, was referred to the juvenile
11 justice system and was involved in the child welfare system by
12 being:

13 (A) placed in the temporary or permanent managing
14 conservatorship of the Department of Family and Protective
15 Services;

16 (B) the subject of a family-based safety services
17 case with the Department of Family and Protective Services;

18 (C) an alleged victim of abuse or neglect in an
19 active case being investigated by the Department of Family and
20 Protective Services child protective investigations division; or

21 (D) a victim in a case in which the Department of
22 Family and Protective Services investigation concluded that there
23 was a reason to believe that abuse or neglect occurred.

24 (2) "Dual-status child" means a dual-system child who

1 is involved with both the child welfare and juvenile justice
2 systems at the same time.

3 (a-1) If a child appears before the juvenile court without a
4 parent or guardian, the court shall appoint a guardian ad litem to
5 protect the interests of the child. The juvenile court need not
6 appoint a guardian ad litem if a parent or guardian appears with the
7 child.

8 (d) The juvenile court may appoint the guardian ad litem
9 appointed under Chapter 107 for a child in a suit affecting the
10 parent-child relationship filed by the Department of Family and
11 Protective Services to serve as the guardian ad litem for the child
12 in a proceeding held under this title.

13 (e) A non-attorney guardian ad litem in a case involving a
14 dual-system child may not:

15 (1) investigate any charges involving a dual-status
16 child that are pending with the juvenile court; or

17 (2) offer testimony concerning the guilt or innocence
18 of a dual-status child.

19 SECTION 2. Section 54.01(c), Family Code, is amended to
20 read as follows:

21 (c) At the detention hearing, the court may consider written
22 reports from probation officers, professional court employees,
23 guardians ad litem appointed under Section 51.11(d), or
24 professional consultants in addition to the testimony of witnesses.
25 Prior to the detention hearing, the court shall provide the
26 attorney for the child with access to all written matter to be
27 considered by the court in making the detention decision. The court

1 may order counsel not to reveal items to the child or the child's
2 [~~his~~] parent, guardian, or guardian ad litem if such disclosure
3 would materially harm the treatment and rehabilitation of the child
4 or would substantially decrease the likelihood of receiving
5 information from the same or similar sources in the future.

6 SECTION 3. Section 54.02(e), Family Code, is amended to
7 read as follows:

8 (e) At the transfer hearing the court may consider written
9 reports from probation officers, professional court employees,
10 guardians ad litem appointed under Section 51.11(d), or
11 professional consultants in addition to the testimony of witnesses.
12 At least five days prior to the transfer hearing, the court shall
13 provide the attorney for the child and the prosecuting attorney
14 with access to all written matter to be considered by the court in
15 making the transfer decision. The court may order counsel not to
16 reveal items to the child or the child's parent, guardian, or
17 guardian ad litem if such disclosure would materially harm the
18 treatment and rehabilitation of the child or would substantially
19 decrease the likelihood of receiving information from the same or
20 similar sources in the future.

21 SECTION 4. Section 54.04(b), Family Code, is amended to
22 read as follows:

23 (b) At the disposition hearing, the juvenile court,
24 notwithstanding the Texas Rules of Evidence or Chapter 37, Code of
25 Criminal Procedure, may consider written reports from probation
26 officers, professional court employees, guardians ad litem
27 appointed under Section 51.11(d), or professional consultants in

1 addition to the testimony of witnesses. On or before the second day
2 before the date of the disposition hearing, the court shall provide
3 the attorney for the child and the prosecuting attorney with access
4 to all written matter to be considered by the court in disposition.
5 The court may order counsel not to reveal items to the child or the
6 child's parent, guardian, or guardian ad litem if such disclosure
7 would materially harm the treatment and rehabilitation of the child
8 or would substantially decrease the likelihood of receiving
9 information from the same or similar sources in the future.

10 SECTION 5. Section 54.05(e), Family Code, is amended to
11 read as follows:

12 (e) After the hearing on the merits or facts, the court may
13 consider written reports from probation officers, professional
14 court employees, guardians ad litem appointed under Section
15 51.11(d), or professional consultants in addition to the testimony
16 of other witnesses. On or before the second day before the date of
17 the hearing to modify disposition, the court shall provide the
18 attorney for the child and the prosecuting attorney with access to
19 all written matter to be considered by the court in deciding whether
20 to modify disposition. The court may order counsel not to reveal
21 items to the child or the child's [~~his~~] parent, guardian, or
22 guardian ad litem if such disclosure would materially harm the
23 treatment and rehabilitation of the child or would substantially
24 decrease the likelihood of receiving information from the same or
25 similar sources in the future.

26 SECTION 6. Section 54.11(d), Family Code, is amended to
27 read as follows:

1 (d) At a hearing under this section the court may consider
2 written reports and supporting documents from probation officers,
3 professional court employees, guardians ad litem appointed under
4 Section 51.11(d), professional consultants, employees of the Texas
5 Juvenile Justice Department, or employees of a post-adjudication
6 secure correctional facility in addition to the testimony of
7 witnesses. On or before the fifth day before the date of the
8 hearing, the court shall provide the attorney for the person to be
9 transferred or released under supervision with access to all
10 written matter to be considered by the court. All written matter is
11 admissible in evidence at the hearing.

12 SECTION 7. Section 107.011, Family Code, is amended by
13 adding Subsection (e) to read as follows:

14 (e) The court may appoint the person appointed as guardian
15 ad litem for the child under Section 51.11 to also serve as the
16 guardian ad litem for the child under this section if the person is
17 qualified under this chapter to serve as guardian ad litem.

18 SECTION 8. This Act takes effect September 1, 2021.