

By: Wise

H.B. No. 2274

A BILL TO BE ENTITLED

AN ACT

1
2 relating to procedures and orders in certain suits affecting the
3 parent-child relationship.

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

5 SECTION 1. Section 107.001, Family Code, is amended by
6 amending Subsection (c) and adding Subsection (g) to read as
7 follows:

8 (c) In any other suit not specified in this section, the
9 court or an associate judge may appoint a guardian ad litem.

10 (g) In a suit affecting the parent-child relationship in
11 which the possession of or access to a child is at issue, the court:

12 (1) if there is no allegation of abuse or neglect of
13 the child, may appoint a guardian ad litem to represent the
14 interests of the child; and

15 (2) if an allegation of child abuse or neglect of the
16 child is made, shall appoint a guardian ad litem to represent the
17 interests of the child.

18 SECTION 2. Section 107.002, Family Code, is amended by
19 adding Subsection (g) to read as follows:

20 (g) A guardian ad litem appointed under this subchapter in a
21 suit in which the possession of or access to a child is at issue
22 shall make recommendations to the court regarding the child,
23 including recommendations with respect to the terms of an order
24 providing for:

1 (1) the possession of or access to the child; and

2 (2) support of the child.

3 SECTION 3. Subchapter A, Chapter 107, Family Code, is
4 amended by adding Section 107.004 to read as follows:

5 Sec. 107.004. COMPENSATION FOR GUARDIAN AD LITEM. (a) A
6 guardian ad litem appointed under Section 107.001(g) may be
7 appointed as a volunteer or may receive reasonable fees and
8 expenses in the amount set by the court to be paid by the child's
9 parents unless the parents are indigent.

10 (b) If the court or associate judge determines that one or
11 more of the parties are able to defray the costs of a guardian ad
12 litem's fees and expenses as determined by the reasonable and
13 customary fees for similar services in the county of jurisdiction,
14 the fees and expenses may be ordered paid by one or more of those
15 parties, or the court or associate judge may order one or more of
16 those parties to pay before a final hearing the fees and expenses
17 into the registry of the court or into an account authorized by the
18 court for the use and benefit of the guardian ad litem on order of
19 the court. The fees and expenses may be taxed as costs to be
20 assessed against one or more of the parties.

21 (c) If indigency of the parents is shown, the fees and
22 expenses of the guardian ad litem shall be paid from the general
23 funds of the county.

24 SECTION 4. Section 262.109, Family Code, is amended by
25 amending Subsection (c) and adding Subsections (e) and (f) to read
26 as follows:

27 (c) The written notice must include:

1 (1) the reasons why the department or agency is taking
2 possession of the child and the facts that led the department to
3 believe that the child should be taken into custody;

4 (2) the name of the person at the department or agency
5 that the parent, conservator, or other custodian may contact for
6 information relating to the child or a legal proceeding relating to
7 the child;

8 (3) a summary of legal rights of a parent,
9 conservator, guardian, or other custodian under this chapter and an
10 explanation of the probable legal procedures relating to the child;
11 ~~and~~

12 (4) a statement that the parent, conservator, or other
13 custodian has the right to hire an attorney; and

14 (5) a list of the names, addresses, and telephone
15 numbers of local social service agencies and organizations that
16 provide services for families and children.

17 (e) A list provided to a parent, conservator, or legal
18 guardian of a child as required by Subsection (c)(5) must be written
19 in a language the recipient is able to read.

20 (f) The department shall prepare and provide to each county
21 the list required by Subsection (c)(5) of social service agencies
22 and organizations that provide services for families and children
23 in that county. The department shall:

24 (1) review and update the list at least annually; and

25 (2) provide the updated list to each county.

26 SECTION 5. Sections 107.001 and 107.002, Family Code, as
27 amended by this Act, and Section 107.004, Family Code, as added by

1 this Act, apply only to a suit affecting the parent-child
2 relationship filed on or after the effective date of this Act. A
3 suit affecting the parent-child relationship filed before the
4 effective date of this Act is governed by the law in effect on the
5 date the suit was filed, and the former law is continued in effect
6 for that purpose.

7 SECTION 6. Section 262.109, Family Code, as amended by this
8 Act, applies only to the procedures relating to a child taken into
9 possession by a governmental entity under Chapter 262, Family Code,
10 on or after the effective date of this Act. The procedures relating
11 to a child taken into possession by a governmental entity before the
12 effective date of this Act are governed by the law in effect on the
13 date the child was taken into possession, and the former law is
14 continued in effect for that purpose.

15 SECTION 7. This Act takes effect September 1, 2003.