

By: Herrero

H.B. No. 1943

A BILL TO BE ENTITLED

AN ACT

relating to the appointment of guardians ad litem in suits affecting the parent-child relationship.

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

SECTION 1. Section 107.011, Family Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) The guardian ad litem appointed for a child under this section must ~~may~~ be ~~+~~

~~(1)~~ a charitable organization composed of volunteer advocates or an individual volunteer advocate appointed under Subchapter C if there is an organization or individual volunteer advocate in the county in which the court is located that is available to serve as guardian ad litem for the child.

(b-1) If the court is unable to appoint a guardian ad litem for the child as provided by Subsection (b), the court may appoint one of the following individuals to serve as guardian ad litem:

(1) ~~(2)~~ an adult having the competence, training, and expertise determined by the court to be sufficient to represent the best interests of the child; or

(2) ~~(3)~~ an attorney appointed in the dual role.

SECTION 2. Section 107.021, Family Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) A guardian ad litem for a child appointed under this

1 section must be a charitable organization composed of volunteer
2 advocates or an individual volunteer advocate appointed under
3 Subchapter C if there is an organization or individual volunteer
4 advocate in the county in which the court is located that is
5 available to serve as guardian ad litem for the child.

6 (d) If the court is unable to appoint a guardian ad litem for
7 the child as provided by Subsection (c), the court may appoint an
8 adult having the competence, training, and expertise determined by
9 the court to be sufficient to represent the best interests of the
10 child as guardian ad litem for the child.

11 SECTION 3. Section 107.031, Family Code, is amended to read
12 as follows:

13 Sec. 107.031. VOLUNTEER ADVOCATES AS GUARDIANS AD LITEM.

14 (a) In a suit filed by a governmental entity requesting termination
15 of the parent-child relationship or appointment of the entity as
16 conservator of the child, the court shall ~~may~~ appoint a
17 charitable organization composed of volunteer advocates whose
18 charter mandates the provision of services to allegedly abused and
19 neglected children or an individual who has received the court's
20 approved training regarding abused and neglected children and who
21 has been certified by the court to appear at court hearings as a
22 guardian ad litem for the child if there is an organization or
23 individual volunteer advocate in the county in which the court is
24 located that is available to serve as guardian ad litem ~~or as a~~
25 ~~volunteer advocate~~ for the child.

26 (b) In a suit other than a suit filed by a governmental
27 entity requesting termination of the parent-child relationship or

1 appointment of the entity as conservator of the child, the court
2 shall [~~may~~] appoint a charitable organization composed of volunteer
3 advocates whose training provides for the provision of services in
4 private custody disputes or a person who has received the court's
5 approved training regarding the subject matter of the suit and who
6 has been certified by the court to appear at court hearings as a
7 guardian ad litem for the child if there is an organization or
8 individual volunteer advocate in the county in which the court is
9 located that is available to serve as guardian ad litem [~~or as a~~
10 ~~volunteer advocate~~] for the child. A person appointed under this
11 subsection is not entitled to fees under Section 107.023.

12 (c) A court-certified volunteer advocate appointed as
13 guardian ad litem for a child under this section may be assigned to
14 act as a surrogate parent for the child, as provided by 20 U.S.C.
15 Section 1415(b), if:

16 (1) the child is in the conservatorship of the
17 Department of Family and Protective Services; and

18 (2) [~~the volunteer advocate is serving as guardian ad~~
19 ~~litem for the child; and~~

20 [~~3~~] a foster parent of the child is not acting as the
21 child's parent under Section 29.015, Education Code.

22 SECTION 4. The changes in law made by this Act apply only to
23 a suit affecting the parent-child relationship filed on or after
24 the effective date of this Act. A suit affecting the parent-child
25 relationship filed before the effective date of this Act is
26 governed by the law in effect on the date the suit was filed, and the
27 former law is continued in effect for that purpose.

1 SECTION 5. This Act takes effect September 1, 2009.