

By: Watson

S.B. No. 1767

A BILL TO BE ENTITLED

AN ACT

relating to practices and procedures in child abuse and neglect cases.

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

SECTION 1. Subchapter A, Chapter 107, Family Code, is amended by adding Section 107.0041 to read as follows:

Sec. 107.0041. PROCEDURES FOR APPOINTING ATTORNEY AD LITEM. Before appointing an attorney to serve as an attorney ad litem, the court must consider:

(1) the ability of the attorney to handle the ad litem duties;

(2) the complexity of the case and the time required to adequately represent the child's interests; and

(3) whether the attorney, during a previous attorney ad litem appointment for that court, failed to perform the duties required by Sections 107.003 and 107.004.

SECTION 2. Section 263.401, Family Code, is amended by amending Subsection (c) and adding Subsection (b-1) to read as follows:

(b-1) If, after commencement of the initial trial on the merits in the time described by Subsection (a) or (b), the court grants a motion for new trial or a mistrial, the court may retain the suit on the court's docket. If the court retains the suit on the court's docket, the court shall render an order in which the court:

1 (1) schedules a new date, not later than the 180th day
2 after the date the motion for new trial or mistrial is granted, on
3 which the suit will be dismissed if the new trial has not commenced;

4 (2) makes further temporary orders for the safety and
5 welfare of the child as necessary to avoid further delay in
6 resolving the suit; and

7 (3) sets the trial on the merits to commence on a date
8 not later than the date specified under Subdivision (1).

9 (c) If the court grants an extension under Subsection (b) or
10 a new trial or mistrial under Subsection (b-1) but does not commence
11 the trial on the merits before the required new date for dismissal
12 [under Subsection (b)], the court shall dismiss the suit. The court
13 may not grant an additional extension that extends the suit beyond
14 the required date for dismissal under Subsection (b) or (b-1).

15 SECTION 3. Subtitle F, Title 2, Government Code, is amended
16 by adding Chapter 78 to read as follows:

17 CHAPTER 78. COURT DESIGN AND RENOVATION

18 Sec. 78.001. DEFINITION. In this chapter, "commission"
19 means the Permanent Judicial Commission for Children, Youth and
20 Families established by the supreme court.

21 Sec. 78.002. ACCOMMODATIONS FOR CHILDREN IN COURTS.

22 (a) The commission shall develop guidelines for courts to use in
23 developing or creating a child-friendly environment in the court
24 for children who must attend hearings as part of a child abuse or
25 neglect case.

26 (b) The commission shall notify the district or county clerk
27 of each county of the existence of the guidelines. The commission's

1 notice must request the clerk to notify the appropriate judges of
2 the existence of the guidelines.

3 (c) Each newly created trial court that hears child abuse
4 and neglect cases shall consider implementing the guidelines
5 developed under Subsection (a).

6 (d) The guidelines developed under Subsection (a) do not
7 affect or modify a law or rule of evidence applicable to a child's
8 testimony in a civil or criminal child abuse or neglect court case.

9 SECTION 4. The Permanent Judicial Commission for Children,
10 Youth and Families established by the Supreme Court of Texas shall
11 study the best practices for representation of children and parents
12 in child abuse and neglect cases, appropriate training and
13 education requirements for attorneys involved in child protective
14 services cases, and the potential need for more oversight and
15 enforcement. The study should identify specific means for
16 improving attorney training and should specifically address
17 substance abuse training. Not later than October 1, 2010, the
18 commission shall submit a report containing suggested statutory or
19 rule changes to the governor, the lieutenant governor, the speaker
20 of the house of representatives, and the chair of the standing
21 committee of each house of the legislature with primary
22 jurisdiction over child abuse and neglect issues.

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