

1-1 By: Watson S.B. No. 1767
1-2 (In the Senate - Filed March 11, 2009; March 20, 2009, read
1-3 first time and referred to Committee on Jurisprudence;
1-4 April 27, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 4, Nays 0; April 27, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1767 By: Watson

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to practices and procedures in child abuse and neglect
1-11 cases.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter A, Chapter 107, Family Code, is
1-14 amended by adding Section 107.0041 to read as follows:

1-15 Sec. 107.0041. PROCEDURES FOR APPOINTING ATTORNEY AD LITEM.
1-16 Before appointing an attorney to serve as an attorney ad litem, the
1-17 court must consider:

1-18 (1) the ability of the attorney to handle the ad litem
1-19 duties;

1-20 (2) the complexity of the case and the time required to
1-21 adequately represent the child's interests; and

1-22 (3) whether the attorney, during a previous attorney
1-23 ad litem appointment for the court, failed to perform the duties
1-24 required by Sections 107.003 and 107.004.

1-25 SECTION 2. Section 263.401, Family Code, is amended by
1-26 amending Subsection (c) and adding Subsection (b-1) to read as
1-27 follows:

1-28 (b-1) If, after commencement of the initial trial on the
1-29 merits in the time described by Subsection (a), the court grants a
1-30 motion for new trial, the suit may not be dismissed under Subsection
1-31 (a). If the court retains the suit on the court's docket, the court
1-32 shall render an order in which the court:

1-33 (1) schedules a new date, not later than the 180th day
1-34 after the date the motion for new trial is granted, on which the
1-35 suit will be dismissed if the new trial has not commenced;

1-36 (2) makes further temporary orders for the safety and
1-37 welfare of the child as necessary to avoid further delay in
1-38 resolving the suit; and

1-39 (3) sets the trial on the merits to commence on a date
1-40 not later than the date specified under Subdivision (1).

1-41 (c) If the court grants an extension under Subsection (b) or
1-42 a new trial under Subsection (b-1) but does not commence the trial
1-43 on the merits before the required new date for dismissal [under
1-44 Subsection (b)], the court shall dismiss the suit. The court may
1-45 not grant an additional extension that extends the suit beyond the
1-46 required date for dismissal under Subsection (b) or (b-1).

1-47 SECTION 3. Subtitle F, Title 2, Government Code, is amended
1-48 by adding Chapter 78 to read as follows:

1-49 CHAPTER 78. COURT DESIGN AND RENOVATION

1-50 Sec. 78.001. DEFINITION. In this chapter, "commission"
1-51 means the Permanent Judicial Commission for Children, Youth and
1-52 Families established by the supreme court.

1-53 Sec. 78.002. ACCOMMODATIONS FOR CHILDREN IN COURTS.

1-54 (a) The commission shall develop guidelines for courts to use in
1-55 developing or creating a child-friendly environment in the court
1-56 for children who must attend hearings as part of a child abuse or
1-57 neglect case.

1-58 (b) The commission shall notify the district or county clerk
1-59 of each county of the existence of the guidelines. The commission's
1-60 notice must request the clerk to notify the appropriate judges of
1-61 the existence of the guidelines.

1-62 (c) Each newly created trial court that hears child abuse
1-63 and neglect cases shall consider implementing the guidelines

developed under Subsection (a).

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

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

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

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