

BILL ANALYSIS

C.S.H.B. 1078
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State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, a minor who wishes to circumvent parental involvement in having an abortion may seek judicial approval for the abortion, known by some as judicial bypass, and must be represented in court by an attorney and a guardian ad litem. Currently, in judicial bypass cases, the attorney is also allowed to act as a minor's guardian ad litem. The guardian ad litem is appointed by the court to look out for the best interest of the minor. Interested parties contend that it is a conflict of interest for the attorney, who may be paid by an abortion provider, to also act as the guardian ad litem. C.S.H.B. 1078 addresses this conflict of interest situation.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1078 amends the Family Code, in provisions relating to an application for a court order authorizing a pregnant minor who wishes to have an abortion without notifying either of her parents or a managing conservator or guardian, to prohibit the court from appointing the minor's guardian ad litem to serve as the minor's attorney and to remove the court's authority to make such an appointment if the guardian ad litem is licensed to practice law in this state. The bill prohibits the court from appointing the minor's attorney to serve as the minor's guardian ad litem.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1078 omits a provision included in the original requiring a court in which an applicable application is filed to enter an order authorizing a minor to consent to the performance of an abortion without notifying either of her parents or a managing conservator or guardian if the court determines by a preponderance of the evidence that all of the following conditions apply: the minor is mature and sufficiently well informed to make the decision to have an abortion performed, such notification would not be in the minor's best interest, and such notification may lead to physical, sexual, or emotional abuse of the minor.