

BILL ANALYSIS

Senate Research Center
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S.B. 715
By: Harris
Jurisprudence
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In a suit affecting the parent-child relationship the judge appoints a guardian ad litem, attorney ad litem, and/or amicus attorney to represent the child or children involved. Current law provides these representatives with immediate access to the child and any information relating to the child. A child's records regarding social services, law enforcement, school, and records of a trust or account are readily available to these representatives. However, access to a child's relevant medical, mental health, or drug or alcohol treatment records is only available through a court order or release. A complete understanding of the child's history and circumstance is necessary for these representatives to fulfill their responsibilities to the child and to the court.

S.B. 715 will provide a guardian ad litem, attorney ad litem, and/or amicus attorney access to a child's relevant medical and mental health records without a court order.

A child's drug or alcohol treatment record will still require a court order or release. The disclosure of a confidential record does not affect the confidentiality of that record, and a person who receives access to confidential records is prohibited from disclosing the record further without a court order or release.

As proposed, S.B. 715 amends current law relating to access to a child's medical records by the child's attorney ad litem, guardian ad litem, or amicus attorney.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 107.006, Family Code, by amending Subsections (a) and (c) and adding Subsection (d), as follows:

(a) Requires the court, in conjunction with an appointment under this chapter, other than an appointment of an attorney ad litem for an adult or a parent, to issue an order authorizing the attorney ad litem, guardian ad litem for the child, or amicus attorney to have immediate access to the child and any information relating to the child. Deletes existing text providing for an exception to this subsection as provided by Subsection (c).

(c) Requires the custodian of a medical, mental health, or drug or alcohol treatment record of a child that is privileged or confidential under other law, without requiring a further order or release, to release the record to a person authorized to access the record under Subsection (a), except that a child's drug or alcohol treatment record that is confidential under 42 U.S.C. Section 290dd-2 may only be released as provided under applicable federal regulations. Deletes existing text authorizing a medical, mental health, or drug or alcohol treatment record of a child that is privileged or confidential under other law to be released to a person appointed under Subsection (a) only in accordance with other law.

(d) Provides that the disclosure of a confidential record under this section does not affect the confidentiality of the record, and prohibits the person provided access to the record from disclosing the record further except as provided by court order or other law.

SECTION 2. Effective date: upon passage or September 1, 2011.