

AN ACT

relating to the powers and duties of an attorney ad litem appointed for a parent or an alleged father in certain suits affecting the parent-child relationship.

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

SECTION 1. Part 1, Subchapter B, Chapter 107, Family Code, is amended by adding Sections 107.0131, 107.0132, and 107.0133 to read as follows:

Sec. 107.0131. POWERS AND DUTIES OF ATTORNEY AD LITEM FOR PARENT. (a) An attorney ad litem appointed under Section 107.013 to represent the interests of a parent:

(1) shall:

(A) subject to Rules 4.02, 4.03, and 4.04, Texas Disciplinary Rules of Professional Conduct, and within a reasonable time after the appointment, interview:

(i) the parent, unless the parent's location is unknown;

(ii) each person who has significant knowledge of the case; and

(iii) the parties to the suit;

(B) investigate the facts of the case;

(C) to ensure competent representation at hearings, mediations, pretrial matters, and the trial on the merits:

1                   (i) obtain and review copies of all court  
2 files in the suit during the attorney ad litem's course of  
3 representation; and

4                   (ii) when necessary, conduct formal  
5 discovery under the Texas Rules of Civil Procedure or the discovery  
6 control plan;

7                   (D) take any action consistent with the parent's  
8 interests that the attorney ad litem considers necessary to  
9 expedite the proceedings;

10                  (E) encourage settlement and the use of  
11 alternative forms of dispute resolution;

12                  (F) review and sign, or decline to sign, a  
13 proposed or agreed order affecting the parent;

14                  (G) meet before each court hearing with the  
15 parent, unless the court:

16                   (i) finds at that hearing that the attorney  
17 ad litem has shown good cause why the attorney ad litem's compliance  
18 is not feasible; or

19                   (ii) on a showing of good cause, authorizes  
20 the attorney ad litem to comply by conferring with the parent, as  
21 appropriate, by telephone or video conference;

22                  (H) become familiar with the American Bar  
23 Association's standards of practice for attorneys who represent  
24 parents in abuse and neglect cases;

25                  (I) complete at least three hours of continuing  
26 legal education relating to child protection law as described by  
27 Subsection (b) as soon as practicable after the attorney ad litem is

appointed, unless the court finds that the attorney ad litem has  
experience equivalent to that education; and

(J) abide by the parent's objectives of  
representation;

(2) must be trained in child protection law or have  
experience determined by the court to be equivalent to that  
training; and

(3) is entitled to:

(A) request clarification from the court if the  
role of the attorney ad litem is ambiguous;

(B) request a hearing or trial on the merits;

(C) consent or refuse to consent to an interview  
of the parent by another attorney;

(D) receive a copy of each pleading or other  
paper filed with the court;

(E) receive notice of each hearing in the suit;

(F) participate in any case staffing conducted by  
the Department of Family and Protective Services in which the  
parent is invited to participate, including, as appropriate, a case  
staffing to develop a family plan of service, a family group  
conference, a permanency conference, a mediation, a case staffing  
to plan for the discharge and return of the child to the parent, and  
any other case staffing that the department determines would be  
appropriate for the parent to attend, but excluding any internal  
department staffing or staffing between the department and the  
department's legal representative; and

(G) attend all legal proceedings in the suit.

1        (b) The continuing legal education required by Subsection  
2 (a)(1)(I) must:

3            (1) be low-cost and available to persons throughout  
4 this state, including on the Internet provided through the State  
5 Bar of Texas; and

6            (2) focus on the duties of an attorney ad litem in, and  
7 the procedures of and best practices for, a proceeding under  
8 Chapter 262 or 263.

9        Sec. 107.0132. POWERS AND DUTIES OF ATTORNEY AD LITEM FOR  
10 ALLEGED FATHER. (a) An attorney ad litem appointed under Section  
11 107.013 to represent the interests of an alleged father shall:

12            (1) conduct an investigation regarding the  
13 petitioner's due diligence in locating the alleged father,  
14 including by verifying that the petitioner has obtained a  
15 certificate of the results of a search of the paternity registry  
16 under Chapter 160;

17            (2) interview any party or other person who has  
18 significant knowledge of the case who may have information relating  
19 to the identity or location of the alleged father; and

20            (3) conduct an independent investigation to identify  
21 or locate the alleged father, as applicable.

22        (b) If the attorney ad litem identifies and locates the  
23 alleged father, the attorney ad litem shall:

24            (1) provide to each party and the court the alleged  
25 father's name and address and any other locating information; and

26            (2) if appropriate, request the court's approval for  
27 the attorney ad litem to assist the alleged father in establishing

1 paternity.

2 (c) If the alleged father is adjudicated to be a parent of  
3 the child and is determined by the court to be indigent, the court  
4 may appoint the attorney ad litem to continue to represent the  
5 father's interests as a parent under Section 107.013(a)(1) or (c).

6 (d) If the attorney ad litem is unable to identify or locate  
7 the alleged father, the attorney ad litem shall submit to the court  
8 a written summary of the attorney ad litem's efforts to identify or  
9 locate the alleged father with a statement that the attorney ad  
10 litem was unable to identify or locate the alleged father.

11 Sec. 107.0133. DISCIPLINE OF ATTORNEY AD LITEM FOR PARENT  
12 OR ALLEGED FATHER. An attorney ad litem appointed for a parent or  
13 an alleged father who fails to perform the duties required by  
14 Section 107.0131 or 107.0132, as applicable, is subject to  
15 disciplinary action under Subchapter E, Chapter 81, Government  
16 Code.

17 SECTION 2. Sections 107.0131, 107.0132, and 107.0133,  
18 Family Code, as added by this Act, apply only to an attorney ad  
19 litem in a suit affecting the parent-child relationship appointed  
20 on or after the effective date of this Act. An attorney ad litem  
21 appointed before that date is governed by the law in effect on the  
22 date the attorney ad litem was appointed, and the former law is  
23 continued in effect for that purpose.

24 SECTION 3. This Act takes effect September 1, 2011.

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President of the Senate

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Speaker of the House

I hereby certify that S.B. No. 1026 passed the Senate on April 21, 2011, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 25, 2011, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

I hereby certify that S.B. No. 1026 passed the House, with amendment, on May 23, 2011, by the following vote: Yeas 142, Nays 0, one present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor