By: Harris   S.B. No. 1026

A BILL TO BE ENTITLED

1   AN ACT

2 relating to the powers and duties of an attorney ad litem appointed

3 for a parent in certain suits affecting the parent-child

4 relationship.

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

6   SECTION 1. Subchapter B, Chapter 107, Family Code, is

7 amended by adding Sections 107.0131 and 107.0132 to read as

8 follows:

9   Sec. 107.0131. POWERS AND DUTIES OF ATTORNEY AD LITEM FOR

10 PARENT. (a) An attorney ad litem appointed under Section 107.013

11 to represent the interests of a parent, including an alleged

12 father:

13   (1) shall:

14   (A) subject to Rules 4.02, 4.03, and 4.04, Texas

15 Disciplinary Rules of Professional Conduct, and within a reasonable

16 time after the appointment, interview:

17   (i) the parent, unless the parent's

18 location is unknown;

19   (ii) each person who has significant

20 knowledge of the case; and

21   (iii) the parties to the suit;

22   (B) investigate the facts of the case;

23   (C) obtain and review copies of relevant records;

24   (D) take any action consistent with the parent's

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1 interests that the attorney ad litem considers necessary to

2 expedite the proceedings;

3   (E) encourage settlement and the use of

4 alternative forms of dispute resolution;

5   (F) review and sign, or decline to sign, a

6 proposed or agreed order affecting the parent;

7   (G) meet before each court hearing with the

8 parent, unless the court:

9   (i) finds at that hearing that the attorney

10 ad litem has shown good cause why the attorney ad litem's compliance

11 is not feasible or in the best interest of the parent; or

12   (ii) on a showing of good cause, authorizes

13 the attorney ad litem to comply by conferring with the parent, as

14 appropriate, by telephone or video conference;

15   (H) become familiar with the American Bar

16 Association's standards of practice for attorneys who represent

17 parents in abuse and neglect cases; and

18   (I) complete at least three hours of continuing

19 legal education relating to child protection law as described by

20 Subsection (b) as soon as practicable after the attorney ad litem is

21 appointed, unless the court finds that the attorney ad litem has

22 experience equivalent to that education;

23   (2) must be trained in child protection law or have

24 experience determined by the court to be equivalent to that

25 training; and

26   (3) is entitled to:

27   (A) request clarification from the court if the

1 role of the attorney ad litem is ambiguous;

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

3 (C) consent or refuse to consent to an interview

4 of the parent by another attorney;

5 (D) receive a copy of each pleading or other

6 paper filed with the court;

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

8 (F) participate in any case staffing concerning

9 the parent or child conducted by an authorized agency; and

10 (G) attend all legal proceedings in the suit.

11 (b) The continuing legal education required by Subsection

12 (a)(1)(I) must:

13 (1) be low-cost and available to persons throughout

14 this state, including on the Internet provided through the State

15 Bar of Texas; and

16 (2) focus on the duties of an attorney ad litem in, and

17 the procedures of and best practices for, a proceeding under

18 Chapter 262 or 263.

19 Sec. 107.0132. DISCIPLINE OF ATTORNEY AD LITEM FOR PARENT.

20 An attorney ad litem appointed for a parent, including an alleged

21 father, who fails to perform the duties required by Section

22 107.0131 is subject to disciplinary action under Subchapter E,

23 Chapter 81, Government Code.

24 SECTION 2. Sections 107.0131 and 107.0132, Family Code, as

25 added by this Act, apply only to an attorney ad litem in a suit

26 affecting the parent-child relationship appointed on or after the

27 effective date of this Act. An attorney ad litem appointed before

1 that date is governed by the law in effect on the date the attorney

2 ad litem was appointed, and the former law is continued in effect

3 for that purpose.

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