

By: Thompson of Harris

H.B. No. 2723

A BILL TO BE ENTITLED

AN ACT

relating to the appointment of an attorney ad litem for a parent in certain suits affecting the parent-child relationship.

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

SECTION 1. Section 107.013, Family Code, is amended by adding Subsection (a-1) and amending Subsections (b) and (d) to read as follows:

(a-1) In a suit described by Subsection (a), if a parent is not represented by an attorney at the parent's first appearance in court, the court shall inform the parent of:

(1) the right to be represented by an attorney; and

(2) if the parent is indigent and appears in opposition to the suit, the right to an attorney ad litem appointed by the court.

(b) If both parents of the child are entitled to the appointment of an attorney ad litem under this section and the court finds that the interests of the parents are not in conflict and that there is no history or pattern of past or present family violence by one parent directed against the other parent, a spouse, or a child of the parties, the court may appoint an attorney ad litem to represent the interests of both parents.

(d) The court shall require a [A] parent who claims indigence under Subsection (a) to [~~must~~] file an affidavit of indigence in accordance with Rule 145(b) of the Texas Rules of Civil

1 Procedure before the court may [~~can~~] conduct a hearing to determine
2 the parent's indigence under this section. The court may consider
3 additional evidence at that hearing, including evidence relating to
4 the parent's income, source of income, assets, property ownership,
5 benefits paid in accordance with a federal, state, or local public
6 assistance program, outstanding obligations, and necessary
7 expenses and the number and ages of the parent's dependents. If the
8 court determines the parent is indigent, the court shall appoint an
9 attorney ad litem to represent the parent.

10 SECTION 2. Part 1, Subchapter B, Chapter 107, Family Code,
11 is amended by adding Section 107.0141 to read as follows:

12 Sec. 107.0141. TEMPORARY APPOINTMENT OF ATTORNEY AD LITEM
13 FOR CERTAIN PARENTS. (a) The court may appoint an attorney ad
14 litem to represent the interests of a parent for a limited period
15 beginning at the time the court issues a temporary restraining
16 order or attachment of the parent's child under Chapter 262 and
17 ending on the court's determination of whether the parent is
18 indigent before commencement of the full adversary hearing.

19 (b) An attorney ad litem appointed for a parent under this
20 section:

21 (1) has the powers and duties of an attorney ad litem
22 appointed under Section 107.0131; and

23 (2) if applicable, shall:

24 (A) conduct an investigation regarding the
25 petitioner's due diligence in locating and serving citation on the
26 parent; and

27 (B) interview any party or other person who may

1 have information relating to the identity or location of the
2 parent.

3 (c) If the attorney ad litem identifies and locates the
4 parent, the attorney ad litem shall:

5 (1) inform the parent of the parent's right to be
6 represented by an attorney and of the parent's right to an attorney
7 ad litem appointed by the court, if the parent is indigent and
8 appears in opposition to the suit;

9 (2) if the parent claims indigence and requests an
10 attorney ad litem beyond the period of the temporary appointment
11 under this section, assist the parent in making a claim of indigence
12 for the appointment of an attorney ad litem; and

13 (3) assist the parent in preparing for the full
14 adversary hearing under Subchapter C, Chapter 262.

15 (d) If the court determines the parent is indigent, the
16 court may appoint the attorney ad litem to continue to represent the
17 parent under Section 107.013(a)(1).

18 (e) If the attorney ad litem is unable to identify or locate
19 the parent, the attorney ad litem shall submit to the court a
20 written summary of the attorney ad litem's efforts to identify or
21 locate the parent with a statement that the attorney ad litem was
22 unable to identify or locate the parent. On receipt of the summary
23 required by this subsection, the court shall discharge the attorney
24 ad litem from the appointment.

25 (f) If the attorney ad litem identifies or locates the
26 parent, and the court determines that the parent is not indigent,
27 the court shall discharge the attorney ad litem from the

1 appointment.

2 SECTION 3. Section 262.201(a-2), Family Code, is amended to
3 read as follows:

4 (a-2) If a parent claims indigence and requests the
5 appointment of an attorney before the full adversary hearing, the
6 court shall require the parent to complete and file with the court
7 an affidavit of indigence. The court may consider additional
8 ~~[hear]~~ evidence to determine whether the parent is indigent,
9 including evidence relating to the parent's income, source of
10 income, assets, property ownership, benefits paid in accordance
11 with a federal, state, or local public assistance program,
12 outstanding obligations, and necessary expenses and the number and
13 ages of the parent's dependents. If the appointment of an attorney
14 for the parent is requested, the court shall make a determination of
15 indigence before commencement of the full advisory hearing. If the
16 court determines the parent is indigent, the court shall appoint an
17 attorney to represent the parent.

18 SECTION 4. The changes in law made by this Act apply only to
19 a suit affecting the parent-child relationship filed on or after
20 the effective date of this Act. A suit affecting the parent-child
21 relationship filed before the effective date of this Act is
22 governed by the law in effect on the date the suit was filed, and the
23 former law is continued in effect for that purpose.

24 SECTION 5. This Act takes effect September 1, 2015.