

1 AN ACT

2 relating to the appointment of counsel in certain suits affecting
3 the parent-child relationship.

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

5 SECTION 1. Chapter 107, Family Code, is amended by adding
6 Subchapters E and F to read as follows:

7 SUBCHAPTER E. OFFICE OF CHILD REPRESENTATION AND OFFICE OF PARENT
8 REPRESENTATION

9 Sec. 107.061. DEFINITION. In this subchapter,
10 "governmental entity" includes a county, a group of counties, a
11 department of a county, an administrative judicial region created
12 by Section 74.042, Government Code, and any entity created under
13 the Interlocal Cooperation Act as permitted by Chapter 791,
14 Government Code.

15 Sec. 107.062. APPLICABILITY. This subchapter applies to a
16 suit filed by a governmental entity seeking termination of the
17 parent-child relationship or the appointment of a conservator for a
18 child in which appointment of an attorney is required under Section
19 107.012 or 107.013.

20 Sec. 107.063. NONPROFIT FUNDING. This subchapter does not
21 limit or prevent a nonprofit corporation from receiving and using
22 money obtained from other entities to provide legal representation
23 and services as authorized by this subchapter.

24 Sec. 107.064. OFFICE OF CHILD REPRESENTATION. An office of

1 child representation is an entity that uses public money to provide
2 legal representation and services for a child in a suit filed by a
3 governmental entity seeking termination of the parent-child
4 relationship or the appointment of a conservator for the child in
5 which appointment is mandatory for a child under Section 107.012.

6 Sec. 107.065. OFFICE OF PARENT REPRESENTATION. An office of
7 parent representation is an entity that uses public money to
8 provide legal representation and services for a parent in a suit
9 filed by a governmental entity seeking termination of the
10 parent-child relationship or the appointment of a conservator for a
11 child in which appointment is mandatory for a parent under Section
12 107.013.

13 Sec. 107.066. CREATION OF OFFICE OF CHILD REPRESENTATION OR
14 OFFICE OF PARENT REPRESENTATION. (a) An office described by
15 Section 107.064 or 107.065 may be a governmental entity or a
16 nonprofit corporation operating under a written agreement with a
17 governmental entity, other than an individual judge or court.

18 (b) The commissioners court of any county, on written
19 approval of a judge of a statutory county court or a district court
20 having family law jurisdiction in the county, may create an office
21 of child representation, an office of parent representation, or
22 both offices by establishing a department of the county or
23 designating under a contract a nonprofit corporation to perform the
24 duties of an office.

25 (c) The commissioners courts of two or more counties may
26 enter into a written agreement to jointly create and jointly fund a
27 regional office of child representation, a regional office of

1 parent representation, or both regional offices.

2 (d) In creating an office of child representation or office
3 of parent representation under this section, the commissioners
4 court shall specify or the commissioners courts shall jointly
5 specify, as applicable:

6 (1) the duties of the office;

7 (2) the types of cases to which the office may be
8 appointed under this chapter and the courts in which an attorney
9 employed by the office may be required to appear;

10 (3) if the office is a nonprofit corporation, the term
11 during which the contract designating the office is effective and
12 how that contract may be renewed on expiration of the term; and

13 (4) if an oversight board is established under Section
14 107.072 for the office, the powers and duties that have been
15 delegated to the oversight board.

16 Sec. 107.067. NONPROFIT AS OFFICE. (a) Before contracting
17 with a nonprofit corporation to serve as an office of child
18 representation or office of parent representation, the
19 commissioners court or commissioners courts, as applicable, must
20 solicit proposals for the office.

21 (b) After considering each proposal for an office of child
22 representation or office of parent representation submitted by a
23 nonprofit corporation, the commissioners court or commissioners
24 courts, as applicable, shall select a proposal that reasonably
25 demonstrates that the office will provide adequate quality
26 representation for children for whom appointed counsel is required
27 under Section 107.012 or for parents for whom appointed counsel is

1 required under Section 107.013, as applicable.

2 (c) The total cost of the proposal may not be the sole
3 consideration in selecting a proposal.

4 Sec. 107.068. PLAN OF OPERATION FOR OFFICE. The applicable
5 commissioners court or commissioners courts shall require a written
6 plan of operation from an entity serving as an office of child
7 representation or office of parent representation. The plan must
8 include:

9 (1) a budget for the office, including salaries;

10 (2) a description of each personnel position,
11 including the chief counsel position;

12 (3) the maximum allowable caseloads for each attorney
13 employed by the office;

14 (4) provisions for training personnel and attorneys
15 employed by the office;

16 (5) a description of anticipated overhead costs for
17 the office;

18 (6) policies regarding the use of licensed
19 investigators and expert witnesses by the office; and

20 (7) a policy to ensure that the chief of the office and
21 other attorneys employed by the office do not provide
22 representation to a child, a parent, or an alleged father, as
23 applicable, if doing so would create a conflict of interest.

24 Sec. 107.069. OFFICE PERSONNEL. (a) An office of child
25 representation or office of parent representation must be directed
26 by a chief counsel who:

27 (1) is a member of the State Bar of Texas;

1 (2) has practiced law for at least three years; and

2 (3) has substantial experience in the practice of
3 child welfare law.

4 (b) An office of child representation or office of parent
5 representation may employ attorneys, licensed investigators,
6 licensed social workers, and other personnel necessary to perform
7 the duties of the office as specified by the commissioners court or
8 commissioners courts.

9 (c) An attorney for the office of child representation or
10 office of parent representation must comply with any applicable
11 continuing education and training requirements of Sections [107.004](#)
12 and [107.0131](#) before accepting representation.

13 (d) Except as authorized by this chapter, the chief counsel
14 and other attorneys employed by an office of child representation
15 or office of parent representation may not:

16 (1) engage in the private practice of child welfare
17 law; or

18 (2) accept anything of value not authorized by this
19 chapter for services rendered under this chapter.

20 (e) A judge may remove from a case a person who violates
21 Subsection (d).

22 Sec. 107.070. APPOINTMENTS IN COUNTY IN WHICH OFFICE
23 CREATED. (a) If there is an office of child representation or
24 office of parent representation serving a county, a court in that
25 county shall appoint for a child or parent, as applicable, an
26 attorney from the office in a suit filed in the county by a
27 governmental entity seeking termination of the parent-child

1 relationship or the appointment of a conservator for the child,
2 unless there is a conflict of interest or other reason to appoint a
3 different attorney from the list maintained by the court of
4 attorneys qualified for appointment under Section 107.012 or
5 107.013.

6 (b) An office of child representation or office of parent
7 representation may not accept an appointment if:

8 (1) a conflict of interest exists;

9 (2) the office has insufficient resources to provide
10 adequate representation;

11 (3) the office is incapable of providing
12 representation in accordance with the rules of professional
13 conduct;

14 (4) the appointment would require one or more
15 attorneys at the office to have a caseload that exceeds the maximum
16 allowable caseload; or

17 (5) the office shows other good cause for not
18 accepting the appointment.

19 (c) An office of parent representation may investigate the
20 financial condition of any person the office is appointed to
21 represent under Section 107.013. The office shall report the
22 results of the investigation to the appointing judge. The judge may
23 hold a hearing to determine if the person is indigent and entitled
24 to appointment of representation under Section 107.013.

25 (d) If it is necessary to appoint an attorney who is not
26 employed by an office of child representation or office of parent
27 representation for one or more parties, the attorney is entitled to

1 the compensation provided by Section 107.015.

2 Sec. 107.071. FUNDING OF OFFICE. An office of child
3 representation or office of parent representation is entitled to
4 receive money for personnel costs and expenses incurred in
5 operating as an office in amounts set by the commissioners court and
6 paid out of the appropriate county fund, or jointly fixed by the
7 commissioners courts and proportionately paid out of each
8 appropriate county fund if the office serves more than one county.

9 Sec. 107.072. OVERSIGHT BOARD. (a) The commissioners court
10 of a county or the commissioners courts of two or more counties may
11 establish an oversight board for an office of child representation
12 or office of parent representation created in accordance with this
13 subchapter.

14 (b) A commissioners court that establishes an oversight
15 board under this section shall appoint members of the board.
16 Members may include one or more of the following:

17 (1) an attorney with substantial experience in child
18 welfare law;

19 (2) the judge of a trial court having family law
20 jurisdiction in the county or counties for which the office was
21 created;

22 (3) a county commissioner; and

23 (4) a county judge.

24 (c) A commissioners court may delegate to the oversight
25 board any power or duty of the commissioners court to provide
26 oversight of an office of child representation or office of parent
27 representation under this subchapter, including:

1 (1) recommending selection and removal of a chief
2 counsel of the office;

3 (2) setting policy for the office; and

4 (3) developing a budget proposal for the office.

5 (d) An oversight board established under this section may
6 not access privileged or confidential information.

7 (e) A judge who serves on an oversight board under this
8 section has judicial immunity in a suit arising from the
9 performance of a power or duty described by Subsection (c).

10 SUBCHAPTER F. MANAGED ASSIGNED COUNSEL PROGRAM FOR THE
11 REPRESENTATION OF CERTAIN CHILDREN AND PARENTS

12 Sec. 107.101. DEFINITIONS. In this subchapter:

13 (1) "Governmental entity" includes a county, a group
14 of counties, a department of a county, an administrative judicial
15 region created by Section 74.042, Government Code, and any entity
16 created under the Interlocal Cooperation Act as permitted by
17 Chapter 791, Government Code.

18 (2) "Program" means a managed assigned counsel program
19 created under this subchapter.

20 Sec. 107.102. MANAGED ASSIGNED COUNSEL PROGRAM. (a) A
21 managed assigned counsel program may be operated with public money
22 for the purpose of appointing counsel to provide legal
23 representation and services for a child or parent in a suit filed by
24 a governmental entity seeking termination of the parent-child
25 relationship or the appointment of a conservator for the child in
26 which appointment is mandatory for a child under Section 107.012 or
27 for a parent under Section 107.013.

1 (b) The program may be operated by a governmental entity,
2 nonprofit corporation, or local bar association under a written
3 agreement with a governmental entity, other than an individual
4 judge or court.

5 Sec. 107.103. CREATION OF MANAGED ASSIGNED COUNSEL PROGRAM.

6 (a) The commissioners court of a county, on written approval of a
7 judge of a statutory county court or a district court having family
8 law jurisdiction in the county, may appoint a governmental entity,
9 nonprofit corporation, or local bar association to operate a
10 managed assigned counsel program for the legal representation of:

11 (1) a child in a suit in which appointment is mandatory
12 under Section 107.012; or

13 (2) a parent in a suit in which appointment is
14 mandatory under Section 107.013.

15 (b) The commissioners courts of two or more counties may
16 enter into a written agreement to jointly appoint and fund a
17 governmental entity, nonprofit corporation, or bar association to
18 operate a program that provides legal representation for children,
19 parents, or both children and parents.

20 (c) In appointing an entity to operate a program under this
21 subchapter, the commissioners court shall specify or the
22 commissioners courts shall jointly specify:

23 (1) the types of cases in which the program may appoint
24 counsel under this section, and the courts in which the counsel
25 appointed by the program may be required to appear; and

26 (2) the term of any agreement establishing a program
27 and how the agreement may be terminated or renewed.

1 Sec. 107.104. PLAN FOR PROGRAM REQUIRED. The commissioners
2 court or commissioners courts shall require a written plan of
3 operation from an entity operating a program under this subchapter.

4 The plan of operation must include:

5 (1) a budget for the program, including salaries;

6 (2) a description of each personnel position,
7 including the program's director;

8 (3) the maximum allowable caseload for each attorney
9 appointed under the program;

10 (4) provisions for training personnel of the program
11 and attorneys appointed under the program;

12 (5) a description of anticipated overhead costs for
13 the program;

14 (6) a policy regarding licensed investigators and
15 expert witnesses used by attorneys appointed under the program;

16 (7) a policy to ensure that appointments are
17 reasonably and impartially allocated among qualified attorneys;
18 and

19 (8) a policy to ensure that an attorney appointed
20 under the program does not accept appointment in a case that
21 involves a conflict of interest for the attorney.

22 Sec. 107.105. PROGRAM DIRECTOR; PERSONNEL. (a) Unless a
23 program uses a review committee appointed under Section 107.106, a
24 program under this subchapter must be directed by a person who:

25 (1) is a member of the State Bar of Texas;

26 (2) has practiced law for at least three years; and

27 (3) has substantial experience in the practice of

1 child welfare law.

2 (b) A program may employ personnel necessary to perform the
3 duties of the program and enter into contracts necessary to perform
4 the program's duties as specified by the commissioners court or
5 commissioners courts under this subchapter.

6 Sec. 107.106. REVIEW COMMITTEE. (a) The governmental
7 entity, nonprofit corporation, or local bar association operating a
8 program may appoint a review committee of three or more individuals
9 to approve attorneys for inclusion on the program's public
10 appointment list.

11 (b) Each member of the committee:

12 (1) must meet the requirements described by Section
13 107.105(a) for the program director;

14 (2) may not be employed as a prosecutor; and

15 (3) may not be included on or apply for inclusion on
16 the public appointment list.

17 Sec. 107.107. APPOINTMENT FROM PROGRAM'S PUBLIC APPOINTMENT
18 LIST. (a) The judge of a county served by a program shall make any
19 appointment required under Section 107.012 or 107.013 in a suit
20 filed in the county by a governmental entity seeking termination of
21 the parent-child relationship or the appointment of a conservator
22 for the child from the program's public appointment list, unless
23 there is a conflict of interest or other reason to appoint a
24 different attorney from the list maintained by the court of
25 attorneys qualified for appointment under Section 107.012 or
26 107.013.

27 (b) The program's public appointment list from which an

1 attorney is appointed under this section must contain the names of
2 qualified attorneys, each of whom:

3 (1) applies to be included on the list;

4 (2) meets any applicable requirements, including any
5 education and training programs required under Sections 107.004 and
6 107.0131; and

7 (3) is approved by the program director or review
8 committee, as applicable.

9 Sec. 107.108. FUNDING OF PROGRAM. (a) A program is entitled
10 to receive money for personnel costs and expenses incurred in
11 amounts set by the commissioners court and paid out of the
12 appropriate county fund or jointly fixed by the commissioners
13 courts and proportionately paid out of each appropriate county fund
14 if the program serves more than one county.

15 (b) An attorney appointed under the program is entitled to
16 reasonable fees as provided by Section 107.015.

17 SECTION 2. This Act takes effect September 1, 2015.

President of the Senate

Speaker of the House

I certify that H.B. No. 3003 was passed by the House on April 30, 2015, by the following vote: Yeas 139, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3003 on May 21, 2015, by the following vote: Yeas 142, Nays 2, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3003 was passed by the Senate, with amendments, on May 20, 2015, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor