

1-1 By: Thompson of Harris (Senate Sponsor - Garcia) H.B. No. 3003
1-2 (In the Senate - Received from the House May 4, 2015;
1-3 May 4, 2015, read first time and referred to Committee on State
1-4 Affairs; May 12, 2015, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
1-6 May 12, 2015, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Huffman	X		
1-10	Ellis	X		
1-11	Birdwell	X		
1-12	Creighton	X		
1-13	Estes	X		
1-14	Fraser	X		
1-15	Nelson	X		
1-16	Schwertner	X		
1-17	Zaffirini	X		

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 3003 By: Zaffirini

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to the appointment of counsel in certain suits affecting
1-22 the parent-child relationship.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Chapter 107, Family Code, is amended by adding
1-25 Subchapters E and F to read as follows:

1-26 SUBCHAPTER E. OFFICE OF CHILD REPRESENTATION AND OFFICE OF PARENT
1-27 REPRESENTATION

1-28 Sec. 107.061. DEFINITION. In this subchapter,
1-29 "governmental entity" includes a county, a group of counties, a
1-30 department of a county, an administrative judicial region created
1-31 by Section 74.042, Government Code, and any entity created under
1-32 the Interlocal Cooperation Act as permitted by Chapter 791,
1-33 Government Code.

1-34 Sec. 107.062. APPLICABILITY. This subchapter applies to a
1-35 suit filed by a governmental entity seeking termination of the
1-36 parent-child relationship or the appointment of a conservator for a
1-37 child in which appointment of an attorney is required under Section
1-38 107.012 or 107.013.

1-39 Sec. 107.063. NONPROFIT FUNDING. This subchapter does not
1-40 limit or prevent a nonprofit corporation from receiving and using
1-41 money obtained from other entities to provide legal representation
1-42 and services as authorized by this subchapter.

1-43 Sec. 107.064. OFFICE OF CHILD REPRESENTATION. An office of
1-44 child representation is an entity that uses public money to provide
1-45 legal representation and services for a child in a suit filed by a
1-46 governmental entity seeking termination of the parent-child
1-47 relationship or the appointment of a conservator for the child in
1-48 which appointment is mandatory for a child under Section 107.012.

1-49 Sec. 107.065. OFFICE OF PARENT REPRESENTATION. An office of
1-50 parent representation is an entity that uses public money to
1-51 provide legal representation and services for a parent in a suit
1-52 filed by a governmental entity seeking termination of the
1-53 parent-child relationship or the appointment of a conservator for a
1-54 child in which appointment is mandatory for a parent under Section
1-55 107.013.

1-56 Sec. 107.066. CREATION OF OFFICE OF CHILD REPRESENTATION OR
1-57 OFFICE OF PARENT REPRESENTATION. (a) An office described by
1-58 Section 107.064 or 107.065 may be a governmental entity or a
1-59 nonprofit corporation operating under a written agreement with a
1-60 governmental entity, other than an individual judge or court.

2-1 (b) The commissioners court of any county, on written
2-2 approval of a judge of a statutory county court or a district court
2-3 having family law jurisdiction in the county, may create an office
2-4 of child representation, an office of parent representation, or
2-5 both offices by establishing a department of the county or
2-6 designating under a contract a nonprofit corporation to perform the
2-7 duties of an office.

2-8 (c) The commissioners courts of two or more counties may
2-9 enter into a written agreement to jointly create and jointly fund a
2-10 regional office of child representation, a regional office of
2-11 parent representation, or both regional offices.

2-12 (d) In creating an office of child representation or office
2-13 of parent representation under this section, the commissioners
2-14 court shall specify or the commissioners courts shall jointly
2-15 specify, as applicable:

2-16 (1) the duties of the office;

2-17 (2) the types of cases to which the office may be
2-18 appointed under this chapter and the courts in which an attorney
2-19 employed by the office may be required to appear;

2-20 (3) if the office is a nonprofit corporation, the term
2-21 during which the contract designating the office is effective and
2-22 how that contract may be renewed on expiration of the term; and

2-23 (4) if an oversight board is established under Section
2-24 107.072 for the office, the powers and duties that have been
2-25 delegated to the oversight board.

2-26 Sec. 107.067. NONPROFIT AS OFFICE. (a) Before contracting
2-27 with a nonprofit corporation to serve as an office of child
2-28 representation or office of parent representation, the
2-29 commissioners court or commissioners courts, as applicable, must
2-30 solicit proposals for the office.

2-31 (b) After considering each proposal for an office of child
2-32 representation or office of parent representation submitted by a
2-33 nonprofit corporation, the commissioners court or commissioners
2-34 courts, as applicable, shall select a proposal that reasonably
2-35 demonstrates that the office will provide adequate quality
2-36 representation for children for whom appointed counsel is required
2-37 under Section 107.012 or for parents for whom appointed counsel is
2-38 required under Section 107.013, as applicable.

2-39 (c) The total cost of the proposal may not be the sole
2-40 consideration in selecting a proposal.

2-41 Sec. 107.068. PLAN OF OPERATION FOR OFFICE. The applicable
2-42 commissioners court or commissioners courts shall require a written
2-43 plan of operation from an entity serving as an office of child
2-44 representation or office of parent representation. The plan must
2-45 include:

2-46 (1) a budget for the office, including salaries;

2-47 (2) a description of each personnel position,
2-48 including the chief counsel position;

2-49 (3) the maximum allowable caseloads for each attorney
2-50 employed by the office;

2-51 (4) provisions for training personnel and attorneys
2-52 employed by the office;

2-53 (5) a description of anticipated overhead costs for
2-54 the office;

2-55 (6) policies regarding the use of licensed
2-56 investigators and expert witnesses by the office; and

2-57 (7) a policy to ensure that the chief of the office and
2-58 other attorneys employed by the office do not provide
2-59 representation to a child, a parent, or an alleged father, as
2-60 applicable, if doing so would create a conflict of interest.

2-61 Sec. 107.069. OFFICE PERSONNEL. (a) An office of child
2-62 representation or office of parent representation must be directed
2-63 by a chief counsel who:

2-64 (1) is a member of the State Bar of Texas;

2-65 (2) has practiced law for at least three years; and

2-66 (3) has substantial experience in the practice of
2-67 child welfare law.

2-68 (b) An office of child representation or office of parent
2-69 representation may employ attorneys, licensed investigators,

3-1 licensed social workers, and other personnel necessary to perform
3-2 the duties of the office as specified by the commissioners court or
3-3 commissioners courts.

3-4 (c) An attorney for the office of child representation or
3-5 office of parent representation must comply with any applicable
3-6 continuing education and training requirements of Sections 107.004
3-7 and 107.0131 before accepting representation.

3-8 (d) Except as authorized by this chapter, the chief counsel
3-9 and other attorneys employed by an office of child representation
3-10 or office of parent representation may not:

3-11 (1) engage in the private practice of child welfare
3-12 law; or

3-13 (2) accept anything of value not authorized by this
3-14 chapter for services rendered under this chapter.

3-15 (e) A judge may remove from a case a person who violates
3-16 Subsection (d).

3-17 Sec. 107.070. APPOINTMENTS IN COUNTY IN WHICH OFFICE

3-18 CREATED. (a) If there is an office of child representation or

3-19 office of parent representation serving a county, a court in that

3-20 county shall appoint for a child or parent, as applicable, an

3-21 attorney from the office in a suit filed in the county by a

3-22 governmental entity seeking termination of the parent-child

3-23 relationship or the appointment of a conservator for the child,

3-24 unless there is a conflict of interest or other reason to appoint a

3-25 different attorney from the list maintained by the court of

3-26 attorneys qualified for appointment under Section 107.012 or

3-27 107.013.

3-28 (b) An office of child representation or office of parent

3-29 representation may not accept an appointment if:

3-30 (1) a conflict of interest exists;

3-31 (2) the office has insufficient resources to provide

3-32 adequate representation;

3-33 (3) the office is incapable of providing

3-34 representation in accordance with the rules of professional

3-35 conduct;

3-36 (4) the appointment would require one or more

3-37 attorneys at the office to have a caseload that exceeds the maximum

3-38 allowable caseload; or

3-39 (5) the office shows other good cause for not

3-40 accepting the appointment.

3-41 (c) An office of parent representation may investigate the

3-42 financial condition of any person the office is appointed to

3-43 represent under Section 107.013. The office shall report the

3-44 results of the investigation to the appointing judge. The judge may

3-45 hold a hearing to determine if the person is indigent and entitled

3-46 to appointment of representation under Section 107.013.

3-47 (d) If it is necessary to appoint an attorney who is not

3-48 employed by an office of child representation or office of parent

3-49 representation for one or more parties, the attorney is entitled to

3-50 the compensation provided by Section 107.015.

3-51 Sec. 107.071. FUNDING OF OFFICE. An office of child

3-52 representation or office of parent representation is entitled to

3-53 receive money for personnel costs and expenses incurred in

3-54 operating as an office in amounts set by the commissioners court and

3-55 paid out of the appropriate county fund, or jointly fixed by the

3-56 commissioners courts and proportionately paid out of each

3-57 appropriate county fund if the office serves more than one county.

3-58 Sec. 107.072. OVERSIGHT BOARD. (a) The commissioners court

3-59 of a county or the commissioners courts of two or more counties may

3-60 establish an oversight board for an office of child representation

3-61 or office of parent representation created in accordance with this

3-62 subchapter.

3-63 (b) A commissioners court that establishes an oversight

3-64 board under this section shall appoint members of the board.

3-65 Members may include one or more of the following:

3-66 (1) an attorney with substantial experience in child

3-67 welfare law;

3-68 (2) the judge of a trial court having family law

3-69 jurisdiction in the county or counties for which the office was

4-1 created;
4-2 (3) a county commissioner; and
4-3 (4) a county judge.
4-4 (c) A commissioners court may delegate to the oversight
4-5 board any power or duty of the commissioners court to provide
4-6 oversight of an office of child representation or office of parent
4-7 representation under this subchapter, including:
4-8 (1) recommending selection and removal of a chief
4-9 counsel of the office;
4-10 (2) setting policy for the office; and
4-11 (3) developing a budget proposal for the office.
4-12 (d) An oversight board established under this section may
4-13 not access privileged or confidential information.
4-14 (e) A judge who serves on an oversight board under this
4-15 section has judicial immunity in a suit arising from the
4-16 performance of a power or duty described by Subsection (c).
4-17 SUBCHAPTER F. MANAGED ASSIGNED COUNSEL PROGRAM FOR THE
4-18 REPRESENTATION OF CERTAIN CHILDREN AND PARENTS
4-19 Sec. 107.101. DEFINITIONS. In this subchapter:
4-20 (1) "Governmental entity" includes a county, a group
4-21 of counties, a department of a county, an administrative judicial
4-22 region created by Section 74.042, Government Code, and any entity
4-23 created under the Interlocal Cooperation Act as permitted by
4-24 Chapter 791, Government Code.
4-25 (2) "Program" means a managed assigned counsel program
4-26 created under this subchapter.
4-27 Sec. 107.102. MANAGED ASSIGNED COUNSEL PROGRAM. (a) A
4-28 managed assigned counsel program may be operated with public money
4-29 for the purpose of appointing counsel to provide legal
4-30 representation and services for a child or parent in a suit filed by
4-31 a governmental entity seeking termination of the parent-child
4-32 relationship or the appointment of a conservator for the child in
4-33 which appointment is mandatory for a child under Section 107.012 or
4-34 for a parent under Section 107.013.
4-35 (b) The program may be operated by a governmental entity,
4-36 nonprofit corporation, or local bar association under a written
4-37 agreement with a governmental entity, other than an individual
4-38 judge or court.
4-39 Sec. 107.103. CREATION OF MANAGED ASSIGNED COUNSEL PROGRAM.
4-40 (a) The commissioners court of a county, on written approval of a
4-41 judge of a statutory county court or a district court having family
4-42 law jurisdiction in the county, may appoint a governmental entity,
4-43 nonprofit corporation, or local bar association to operate a
4-44 managed assigned counsel program for the legal representation of:
4-45 (1) a child in a suit in which appointment is mandatory
4-46 under Section 107.012; or
4-47 (2) a parent in a suit in which appointment is
4-48 mandatory under Section 107.013.
4-49 (b) The commissioners courts of two or more counties may
4-50 enter into a written agreement to jointly appoint and fund a
4-51 governmental entity, nonprofit corporation, or bar association to
4-52 operate a program that provides legal representation for children,
4-53 parents, or both children and parents.
4-54 (c) In appointing an entity to operate a program under this
4-55 subchapter, the commissioners court shall specify or the
4-56 commissioners courts shall jointly specify:
4-57 (1) the types of cases in which the program may appoint
4-58 counsel under this section, and the courts in which the counsel
4-59 appointed by the program may be required to appear; and
4-60 (2) the term of any agreement establishing a program
4-61 and how the agreement may be terminated or renewed.
4-62 Sec. 107.104. PLAN FOR PROGRAM REQUIRED. The commissioners
4-63 court or commissioners courts shall require a written plan of
4-64 operation from an entity operating a program under this subchapter.
4-65 The plan of operation must include:
4-66 (1) a budget for the program, including salaries;
4-67 (2) a description of each personnel position,
4-68 including the program's director;
4-69 (3) the maximum allowable caseload for each attorney

- 5-1 appointed under the program;
- 5-2 (4) provisions for training personnel of the program
- 5-3 and attorneys appointed under the program;
- 5-4 (5) a description of anticipated overhead costs for
- 5-5 the program;
- 5-6 (6) a policy regarding licensed investigators and
- 5-7 expert witnesses used by attorneys appointed under the program;
- 5-8 (7) a policy to ensure that appointments are
- 5-9 reasonably and impartially allocated among qualified attorneys;
- 5-10 and
- 5-11 (8) a policy to ensure that an attorney appointed
- 5-12 under the program does not accept appointment in a case that
- 5-13 involves a conflict of interest for the attorney.

5-14 Sec. 107.105. PROGRAM DIRECTOR; PERSONNEL. (a) Unless a
 5-15 program uses a review committee appointed under Section 107.106, a
 5-16 program under this subchapter must be directed by a person who:

- 5-17 (1) is a member of the State Bar of Texas;
- 5-18 (2) has practiced law for at least three years; and
- 5-19 (3) has substantial experience in the practice of
- 5-20 child welfare law.

5-21 (b) A program may employ personnel necessary to perform the
 5-22 duties of the program and enter into contracts necessary to perform
 5-23 the program's duties as specified by the commissioners court or
 5-24 commissioners courts under this subchapter.

5-25 Sec. 107.106. REVIEW COMMITTEE. (a) The governmental
 5-26 entity, nonprofit corporation, or local bar association operating a
 5-27 program may appoint a review committee of three or more individuals
 5-28 to approve attorneys for inclusion on the program's public
 5-29 appointment list.

5-30 (b) Each member of the committee:

- 5-31 (1) must meet the requirements described by Section
- 5-32 107.105(a) for the program director;
- 5-33 (2) may not be employed as a prosecutor; and
- 5-34 (3) may not be included on or apply for inclusion on
- 5-35 the public appointment list.

5-36 Sec. 107.107. APPOINTMENT FROM PROGRAM'S PUBLIC APPOINTMENT
 5-37 LIST. (a) The judge of a county served by a program shall make any
 5-38 appointment required under Section 107.012 or 107.013 in a suit
 5-39 filed in the county by a governmental entity seeking termination of
 5-40 the parent-child relationship or the appointment of a conservator
 5-41 for the child from the program's public appointment list, unless
 5-42 there is a conflict of interest or other reason to appoint a
 5-43 different attorney from the list maintained by the court of
 5-44 attorneys qualified for appointment under Section 107.012 or
 5-45 107.013.

5-46 (b) The program's public appointment list from which an
 5-47 attorney is appointed under this section must contain the names of
 5-48 qualified attorneys, each of whom:

- 5-49 (1) applies to be included on the list;
- 5-50 (2) meets any applicable requirements, including any
- 5-51 education and training programs required under Sections 107.004 and
- 5-52 107.0131; and
- 5-53 (3) is approved by the program director or review
- 5-54 committee, as applicable.

5-55 Sec. 107.108. FUNDING OF PROGRAM. (a) A program is entitled
 5-56 to receive money for personnel costs and expenses incurred in
 5-57 amounts set by the commissioners court and paid out of the
 5-58 appropriate county fund or jointly fixed by the commissioners
 5-59 courts and proportionately paid out of each appropriate county fund
 5-60 if the program serves more than one county.

5-61 (b) An attorney appointed under the program is entitled to
 5-62 reasonable fees as provided by Section 107.015.

5-63 SECTION 2. This Act takes effect September 1, 2015.