

1-1 By: Garcia S.B. No. 1931
1-2 (In the Senate - Filed March 13, 2015; March 25, 2015, read
1-3 first time and referred to Committee on State Affairs;
1-4 April 22, 2015, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 22, 2015,
1-6 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 S.B. No. 1931 By: Ellis

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

1-21 relating to the appointment of an attorney ad litem for a parent in
1-22 certain suits affecting the parent-child relationship.

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

1-24 SECTION 1. Section 107.013, Family Code, is amended by
1-25 adding Subsection (a-1) and amending Subsections (b) and (d) to
1-26 read as follows:

1-27 (a-1) In a suit described by Subsection (a), if a parent is
1-28 not represented by an attorney at the parent's first appearance in
1-29 court, the court shall inform the parent of:

1-30 (1) the right to be represented by an attorney; and

1-31 (2) if the parent is indigent and appears in
1-32 opposition to the suit, the right to an attorney ad litem appointed
1-33 by the court.

1-34 (b) If both parents of the child are entitled to the
1-35 appointment of an attorney ad litem under this section and the court
1-36 finds that the interests of the parents are not in conflict and that
1-37 there is no history or pattern of past or present family violence by
1-38 one parent directed against the other parent, a spouse, or a child
1-39 of the parties, the court may appoint an attorney ad litem to
1-40 represent the interests of both parents.

1-41 (d) The court shall require a [A] parent who claims
1-42 indigence under Subsection (a) to [must] file an affidavit of
1-43 indigence in accordance with Rule 145(b) of the Texas Rules of Civil
1-44 Procedure before the court may [can] conduct a hearing to determine
1-45 the parent's indigence under this section. The court may consider
1-46 additional evidence at that hearing, including evidence relating to
1-47 the parent's income, source of income, assets, property ownership,
1-48 benefits paid in accordance with a federal, state, or local public
1-49 assistance program, outstanding obligations, and necessary
1-50 expenses and the number and ages of the parent's dependents. If the
1-51 court determines the parent is indigent, the court shall appoint an
1-52 attorney ad litem to represent the parent.

1-53 SECTION 2. Part 1, Subchapter B, Chapter 107, Family Code,
1-54 is amended by adding Section 107.0141 to read as follows:

1-55 Sec. 107.0141. TEMPORARY APPOINTMENT OF ATTORNEY AD LITEM
1-56 FOR CERTAIN PARENTS. (a) The court may appoint an attorney ad
1-57 litem to represent the interests of a parent for a limited period
1-58 beginning at the time the court issues a temporary restraining
1-59 order or attachment of the parent's child under Chapter 262 and
1-60 ending on the court's determination of whether the parent is

2-1 indigent before commencement of the full adversary hearing.

2-2 (b) An attorney ad litem appointed for a parent under this
2-3 section:

2-4 (1) has the powers and duties of an attorney ad litem
2-5 appointed under Section 107.0131; and

2-6 (2) if applicable, shall:

2-7 (A) conduct an investigation regarding the
2-8 petitioner's due diligence in locating and serving citation on the
2-9 parent; and

2-10 (B) interview any party or other person who may
2-11 have information relating to the identity or location of the
2-12 parent.

2-13 (c) If the attorney ad litem identifies and locates the
2-14 parent, the attorney ad litem shall:

2-15 (1) inform the parent of the parent's right to be
2-16 represented by an attorney and of the parent's right to an attorney
2-17 ad litem appointed by the court, if the parent is indigent and
2-18 appears in opposition to the suit;

2-19 (2) if the parent claims indigence and requests an
2-20 attorney ad litem beyond the period of the temporary appointment
2-21 under this section, assist the parent in making a claim of indigence
2-22 for the appointment of an attorney ad litem; and

2-23 (3) assist the parent in preparing for the full
2-24 adversary hearing under Subchapter C, Chapter 262.

2-25 (d) If the court determines the parent is indigent, the
2-26 court may appoint the attorney ad litem to continue to represent the
2-27 parent under Section 107.013(a)(1).

2-28 (e) If the attorney ad litem is unable to identify or locate
2-29 the parent, the attorney ad litem shall submit to the court a
2-30 written summary of the attorney ad litem's efforts to identify or
2-31 locate the parent with a statement that the attorney ad litem was
2-32 unable to identify or locate the parent. On receipt of the summary
2-33 required by this subsection, the court shall discharge the attorney
2-34 ad litem from the appointment.

2-35 (f) If the attorney ad litem identifies or locates the
2-36 parent, and the court determines that the parent is not indigent,
2-37 the court shall discharge the attorney ad litem from the
2-38 appointment.

2-39 SECTION 3. Section 262.201(a-2), Family Code, is amended to
2-40 read as follows:

2-41 (a-2) If a parent claims indigence and requests the
2-42 appointment of an attorney before the full adversary hearing, the
2-43 court shall require the parent to complete and file with the court
2-44 an affidavit of indigence. The court may consider additional
2-45 [~~hear~~] evidence to determine whether the parent is indigent,
2-46 including evidence relating to the parent's income, source of
2-47 income, assets, property ownership, benefits paid in accordance
2-48 with a federal, state, or local public assistance program,
2-49 outstanding obligations, and necessary expenses and the number and
2-50 ages of the parent's dependents. If the appointment of an attorney
2-51 for the parent is requested, the court shall make a determination of
2-52 indigence before commencement of the full adversary hearing. If
2-53 the court determines the parent is indigent, the court shall
2-54 appoint an attorney to represent the parent.

2-55 SECTION 4. The changes in law made by this Act apply only to
2-56 a suit affecting the parent-child relationship filed on or after
2-57 the effective date of this Act. A suit affecting the parent-child
2-58 relationship filed before the effective date of this Act is
2-59 governed by the law in effect on the date the suit was filed, and the
2-60 former law is continued in effect for that purpose.

2-61 SECTION 5. This Act takes effect September 1, 2015.

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