

House Bill 3003
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

SUBCHAPTER E. OFFICE OF FAMILY REPRESENTATION

Sec. 107.061. DEFINITIONS. In this subchapter:

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

(2) "Office" means an office of family representation created under this subchapter.

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

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

Sec. 107.064. OFFICE OF FAMILY REPRESENTATION. (a) An office of family representation is an entity that uses public money to provide legal representation and services for a child or parent in a suit filed by a governmental entity seeking termination of the parent-child relationship or the

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

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

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

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

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

No equivalent provision. (But see Sec. 107.064 and Sec. 107.065 below.)

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appointment of a conservator for the child in which appointment is mandatory for a child under Section 107.012 or for a parent under Section 107.013.

(b) An office may be a governmental entity or a nonprofit corporation operating under a written agreement with a governmental entity, other than an individual judge or court.

No equivalent provision. *(But see Sec. 107.064(a) above.)*

No equivalent provision. *(But see Sec. 107.064(a) above.)*

Sec. 107.065. CREATION OF OFFICE OF FAMILY REPRESENTATION.

No equivalent provision. *(But see Sec. 107.064(b) above.)*

(a) The commissioners court of any county, on written approval of a judge of a statutory county court or a district

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

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

Sec. 107.066. CREATION OF OFFICE OF CHILD REPRESENTATION OR OFFICE OF PARENT REPRESENTATION.

(a) An office described by Section 107.064 or 107.065 may be a governmental entity or a nonprofit corporation operating under a written agreement with a governmental entity, other than an individual judge or court.

(b) The commissioners court of any county, on written approval of a judge of a statutory county court or a district

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court having family law jurisdiction in the county, may create an office of family representation by establishing a department of the county or designating under a contract a nonprofit corporation to perform the duties of an office.

(b) The commissioners courts of two or more counties may enter into a written agreement to jointly create and jointly fund a regional office.

(c) In creating an office under this section, the commissioners court shall specify or the commissioners courts shall jointly specify, as applicable:

(1) the duties of the office;

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

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

(4) if an oversight board is established under Section 107.071 for the office, the powers and duties that have been delegated to the oversight board.

Sec. 107.066. NONPROFIT AS OFFICE. (a) Before contracting with a nonprofit corporation to serve as an office, the commissioners court or commissioners courts, as applicable, must solicit proposals for the office.

(b) After considering each proposal for an office submitted by a nonprofit corporation, the commissioners court or commissioners courts, as applicable, shall select a proposal

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court having family law jurisdiction in the county, may create an office of child representation, an office of parent representation, or both offices by establishing a department of the county or designating under a contract a nonprofit corporation to perform the duties of an office.

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

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

(1) the duties of the office;

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

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

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

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

(b) After considering each proposal for an office of child representation or office of parent representation submitted by a nonprofit corporation, the commissioners court or

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that reasonably demonstrates that the office will provide adequate quality representation for children and parents for whom appointed counsel is required under Section 107.012 or 107.013.

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

Sec. 107.067. PLAN OF OPERATION FOR OFFICE. The applicable commissioners court or commissioners courts shall require a written plan of operation from an entity serving as an office. The plan must include:

- (1) a budget for the office, including salaries;
- (2) a description of each personnel position, including the chief counsel position;
- (3) the maximum allowable caseloads for each attorney employed by the office;
- (4) provisions for training personnel and attorneys employed by the office;
- (5) a description of anticipated overhead costs for the office;
- (6) policies regarding the use of licensed investigators and expert witnesses by the office; and
- (7) a policy to ensure that the chief of the office and other attorneys employed by the office do not provide representation to a child, a parent, or an alleged father if doing so would create a conflict of interest that has not been waived by the client.

Sec. 107.068. OFFICE PERSONNEL. (a) An office must be directed by a chief counsel who:

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commissioners courts, as applicable, shall select a proposal that reasonably demonstrates that the office will provide adequate quality representation for children for whom appointed counsel is required under Section 107.012 or for parents for whom appointed counsel is required under Section 107.013, as applicable.

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

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

- (1) a budget for the office, including salaries;
- (2) a description of each personnel position, including the chief counsel position;
- (3) the maximum allowable caseloads for each attorney employed by the office;
- (4) provisions for training personnel and attorneys employed by the office;
- (5) a description of anticipated overhead costs for the office;
- (6) policies regarding the use of licensed investigators and expert witnesses by the office; and
- (7) a policy to ensure that the chief of the office and other attorneys employed by the office do not provide representation to a child, a parent, or an alleged father, as applicable, if doing so would create a conflict of interest.

Sec. 107.069. OFFICE PERSONNEL. (a) An office of child representation or office of parent representation must be

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

(b) An office may employ attorneys, licensed investigators, licensed social workers, and other personnel necessary to perform the duties of the office as specified by the commissioners court or commissioners courts.

(c) An attorney for the office must comply with any applicable continuing education and training requirements of Sections 107.004 and 107.0131 before accepting representation.

(d) Except as authorized by this chapter, the chief counsel and other attorneys employed by an office may not:

(1) engage in the private practice of child welfare law; or
(2) accept anything of value not authorized by this chapter for services rendered under this chapter.

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

Sec. 107.069. APPOINTMENTS IN COUNTY IN WHICH OFFICE CREATED. (a) If there is an office serving a county, a court in that county shall appoint an attorney from the office in a suit filed in the county by a governmental entity seeking termination of the parent-child relationship or the appointment of a conservator for the child, unless there is a conflict of interest or other reason to appoint a different attorney from the list maintained by the court of attorneys qualified for appointment under Section 107.012 or 107.013.

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directed by a chief counsel who:
(1) is a member of the State Bar of Texas;
(2) has practiced law for at least three years; and
(3) has substantial experience in the practice of child welfare law.

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

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

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

(1) engage in the private practice of child welfare law; or
(2) accept anything of value not authorized by this chapter for services rendered under this chapter.

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

Sec. 107.070. APPOINTMENTS IN COUNTY IN WHICH OFFICE CREATED. (a) If there is an office of child representation or office of parent representation serving a county, a court in that county shall appoint for a child or parent, as applicable, an attorney from the office in a suit filed in the county by a governmental entity seeking termination of the parent-child relationship or the appointment of a conservator for the child, unless there is a conflict of interest or other reason to appoint a different attorney from the list

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(b) An office may not accept an appointment if:

- (1) a conflict of interest exists;
- (2) the office has insufficient resources to provide adequate representation;
- (3) the office is incapable of providing representation in accordance with the rules of professional conduct; or

(4) the office shows other good cause for not accepting the appointment.

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

(d) If it is necessary to appoint an attorney who is not employed by an office for one or more parties, the attorney is entitled to the compensation provided by Section 107.015.

Sec. 107.070. FUNDING OF OFFICE. (a) An office is entitled to receive money for personnel costs and expenses incurred in operating as an office in amounts set by the commissioners court and paid out of the appropriate county fund, or jointly fixed by the commissioners courts and proportionately paid out of each appropriate county fund if the

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maintained by the court of attorneys qualified for appointment under Section 107.012 or 107.013.

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

- (1) a conflict of interest exists;
- (2) the office has insufficient resources to provide adequate representation;
- (3) the office is incapable of providing representation in accordance with the rules of professional conduct;

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

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

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

(d) If it is necessary to appoint an attorney who is not employed by an office of child representation or office of parent representation for one or more parties, the attorney is entitled to the compensation provided by Section 107.015.

Sec. 107.071. FUNDING OF OFFICE. An office of child representation or office of parent representation is entitled to receive money for personnel costs and expenses incurred in operating as an office in amounts set by the commissioners court and paid out of the appropriate county fund, or jointly fixed by the commissioners courts and proportionately paid

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office serves more than one county.

(b) Any fees ordered by the court under Section 107.015 to be paid by a party shall be paid to the office and used for attorney salaries and other administrative costs.

Sec. 107.071. OVERSIGHT BOARD. (a) The commissioners court of a county or the commissioners courts of two or more counties may establish an oversight board for an office created in accordance with this subchapter.

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

- (1) an attorney with substantial experience in child welfare law;
- (2) the judge of a trial court having family law jurisdiction in the county or counties for which the office was created;
- (3) a county commissioner; and
- (4) a county judge.

(c) A commissioners court may delegate to the oversight board any power or duty of the commissioners court to provide oversight of the office under this subchapter, including:

- (1) recommending selection and removal of a chief counsel of the office;
- (2) setting policy for the office; and
- (3) developing a budget proposal for the office.

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

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out of each appropriate county fund if the office serves more than one county.

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

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

- (1) an attorney with substantial experience in child welfare law;
- (2) the judge of a trial court having family law jurisdiction in the county or counties for which the office was created;
- (3) a county commissioner; and
- (4) a county judge.

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

- (1) recommending selection and removal of a chief counsel of the office;
- (2) setting policy for the office; and
- (3) developing a budget proposal for the office.

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

(e) A judge who serves on an oversight board under this section has judicial immunity in a suit arising from the

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performance of a power or duty described by Subsection (c).

SUBCHAPTER F. MANAGED ASSIGNED COUNSEL PROGRAM

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

Sec. 107.101. DEFINITIONS. In this subchapter:

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

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

Sec. 107.101. DEFINITIONS. In this subchapter:

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

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

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

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

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

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

Sec. 107.103. CREATION OF MANAGED ASSIGNED COUNSEL PROGRAM. (a) The commissioners court of a county, on written approval of a judge of a statutory county

Sec. 107.103. CREATION OF MANAGED ASSIGNED COUNSEL PROGRAM. (a) The commissioners court of a county, on written approval of a judge of a statutory county

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court or a district court having family law jurisdiction in the county, may appoint a governmental entity, nonprofit corporation, or local bar association to operate a managed assigned counsel program.

(b) The commissioners courts of two or more counties may enter into a written agreement to jointly appoint and fund a governmental entity, nonprofit corporation, or bar association to operate a program.

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

- (1) the types of cases in which the program may appoint counsel under this section, and the courts in which the counsel appointed by the program may be required to appear; and
- (2) the term of any agreement establishing a program and how the agreement may be terminated or renewed.

Sec. 107.104. PLAN FOR PROGRAM REQUIRED. The commissioners court or commissioners courts shall require a written plan of operation from an entity operating a program under this section. The plan of operation must include:

- (1) a budget for the program, including salaries;
- (2) a description of each personnel position, including the program's director;
- (3) the maximum allowable caseload for each attorney appointed under the program;
- (4) provisions for training personnel of the program and

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court or a district court having family law jurisdiction in the county, may appoint a governmental entity, nonprofit corporation, or local bar association to operate a managed assigned counsel program for the legal representation of:

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

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

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

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

- (1) the types of cases in which the program may appoint counsel under this section, and the courts in which the counsel appointed by the program may be required to appear; and
- (2) the term of any agreement establishing a program and how the agreement may be terminated or renewed.

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

- (1) a budget for the program, including salaries;
- (2) a description of each personnel position, including the program's director;
- (3) the maximum allowable caseload for each attorney appointed under the program;
- (4) provisions for training personnel of the program and

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attorneys appointed under the program;

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

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

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

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

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

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

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

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

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

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

(b) Each member of the committee:

(1) must meet the requirements described by Section

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attorneys appointed under the program;

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

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

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

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

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

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

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

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

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

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

(b) Each member of the committee:

(1) must meet the requirements described by Section

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107.105(a) for the program director;
(2) may not be employed as a prosecutor; and
(3) may not be included on or apply for inclusion on the public appointment list.

Sec. 107.107. APPOINTMENT FROM PROGRAM'S PUBLIC APPOINTMENT LIST. (a) The judge of a county served by a program shall make any appointment required under Section 107.012 or 107.013 in a suit filed in the county by a governmental entity seeking termination of the parent-child relationship or the appointment of a conservator for the child from the program's public appointment list.

(b) The program's public appointment list from which an attorney is appointed under this section must contain the names of qualified attorneys, each of whom:
(1) applies to be included on the list;
(2) meets any applicable requirements, including any education and training programs required under Sections 107.004 and 107.0131; and
(3) is approved by the program director or review committee, as applicable.

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

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107.105(a) for the program director;
(2) may not be employed as a prosecutor; and
(3) may not be included on or apply for inclusion on the public appointment list.

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

(b) The program's public appointment list from which an attorney is appointed under this section must contain the names of qualified attorneys, each of whom:
(1) applies to be included on the list;
(2) meets any applicable requirements, including any education and training programs required under Sections 107.004 and 107.0131; and
(3) is approved by the program director or review committee, as applicable.

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

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

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

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

SECTION 2. Same as House version.

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