

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 41  
By: Zaffirini  
State Affairs  
3/12/2019  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Current ad litem rotation requirements are discouraging judges from appointing pro bono attorneys and volunteers who are not next on the rotation list or who do not have the time to register to be added to the list. What's more, clerks and judges are overburdened by the amount of reporting under current law, including appointments of pro bono attorneys and volunteers.

S.B. 41 would exempt pro bono attorney or volunteer appointments from existing rotation and reporting requirements. These changes would implement a recommendation of the Access to Justice Commission to allow courts to appoint pro bono attorneys to more cases and reduce the amount of time judges spend reporting information regarding these appointments. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 41 amends current law relating to exemptions to reporting and list requirements for certain attorneys ad litem, guardians ad litem, amicus attorneys, mediators, and guardians.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 36.003, Government Code, as follows:

Sec. 36.003. EXEMPTION. Provides that the reporting requirements of Section 36.004 (Report on Appointments) do not apply to:

- (1)–(2) makes no changes to these subdivisions;
- (3)–(4) makes nonsubstantive changes to these subdivisions;
- (5) an attorney ad litem, guardian ad litem, amicus attorney, or mediator providing services without expectation or receipt of compensation; or
- (6) an attorney ad litem, guardian ad litem, amicus attorney, or mediator providing services as a volunteer of a nonprofit organization that provides pro bono legal services to the indigent.

SECTION 2. Amends Section 37.002, Government Code, as follows:

Sec. 37.002. EXEMPTION. Provides that the appointment requirements of Section 37.004 (Appointment of Attorneys Ad Litem, Guardians Ad Litem, Mediators, and Guardians; Maintenance of Lists) do not apply to:

- (1)–(2) makes no changes to these subdivisions;
- (3)–(4) makes nonsubstantive changes to these subdivisions;

(5) an attorney ad litem, guardian ad litem, amicus attorney, or mediator providing services without expectation or receipt of compensation; or

(6) an attorney ad litem, guardian ad litem, amicus attorney, or mediator providing services as a volunteer of a nonprofit organization that provides pro bono legal services to the indigent.

SECTION 3. Amends Section 37.004, Government Code, by amending Subsection (a) and adding Subsections (d-1) and (g), as follows:

(a) Requires a court using a rotation system, except as provided by Subsections (c), (d), and (d-1), rather than Subsections (c) and (d), in each case in which the appointment of an attorney ad litem, guardian ad litem, or guardian is necessary, to appoint the person whose name appears first on the applicable list maintained by the court as required by Section 37.003 (Lists of Attorneys Ad Litem, Guardians Ad Litem, Mediators, and Guardians).

(d-1) Authorizes the court to appoint a person included on the applicable list whose name does not appear first on the list or a person who meets statutory or other requirements to serve and who is not included on the list if, within 30 days preceding the date of appointment, an initial declaration of a state of disaster is made for the area served by the court.

(g) Defines "declaration of a state of disaster" for purposes of this section.

SECTION 4. Effective date: September 1, 2019.