

By: Davis of Dallas

H.B. No. 743

A BILL TO BE ENTITLED

AN ACT

relating to the appointment and duties of an attorney ad litem for certain relatives in certain suits affecting the parent-child relationship.

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

SECTION 1. The heading to Section 107.013, Family Code, is amended to read as follows:

Sec. 107.013. MANDATORY APPOINTMENT OF ATTORNEY AD LITEM FOR PARENT OR RELATIVE.

SECTION 2. Section 107.013(a), Family Code, is amended to read as follows:

(a) In a suit filed by a governmental entity under Subtitle E in which termination of the parent-child relationship or the appointment of a conservator for a child is requested, the court shall appoint an attorney ad litem to represent the interests of:

(1) an indigent parent of the child who responds in opposition to the termination or appointment;

(2) a parent served by citation by publication;

(3) an alleged father who failed to register with the registry under Chapter 160 and whose identity or location is unknown; ~~and~~

(4) an alleged father who registered with the paternity registry under Chapter 160, but the petitioner's attempt to personally serve citation at the address provided to the

registry and at any other address for the alleged father known by the petitioner has been unsuccessful; and

(5) a person related to the child within the third degree of consanguinity as determined under Chapter 573, Government Code, who:

(A) files a motion requesting appointment as the child's managing conservator; and

(B) requests the appointment of an attorney ad litem.

SECTION 3. The heading to Section 107.0131, Family Code, is amended to read as follows:

Sec. 107.0131. POWERS AND DUTIES OF ATTORNEY AD LITEM FOR PARENT OR RELATIVE.

SECTION 4. Section 107.0131, Family Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) An attorney ad litem appointed under Section 107.013 to represent the interests of a relative requesting appointment as the child's managing conservator:

(1) shall:

(A) subject to Rules 4.02, 4.03, and 4.04, Texas Disciplinary Rules of Professional Conduct, and within a reasonable time after the appointment, interview:

(i) the relative;

(ii) each person who has significant knowledge of the case; and

(iii) the parties to the suit;

(B) investigate the facts of the case;

1 (C) to ensure competent representation at
2 hearings, mediations, pretrial matters, and the trial on the
3 merits;

4 (i) obtain and review copies of all court
5 files in the suit during the attorney ad litem's course of
6 representation; and

7 (ii) when necessary, conduct formal
8 discovery under the Texas Rules of Civil Procedure or the discovery
9 control plan;

10 (D) take any action consistent with the
11 relative's interests that the attorney ad litem considers necessary
12 to expedite the proceedings;

13 (E) encourage settlement and the use of
14 alternative forms of dispute resolution;

15 (F) review and sign, or decline to sign, a
16 proposed or agreed order affecting the relative; and

17 (G) abide by the relative's objectives for
18 representation; and

19 (2) is entitled to:

20 (A) request clarification from the court if the
21 role of the attorney ad litem is ambiguous;

22 (B) request a hearing or trial on the merits;

23 (C) consent or refuse to consent to an interview
24 of the relative by another attorney;

25 (D) receive a copy of each pleading or other
26 paper filed with the court;

27 (E) receive notice of each hearing in the suit;

1 (F) participate in any case staffing conducted by
2 the Department of Family and Protective Services in which the
3 relative is invited to participate, including, as appropriate, a
4 case staffing to develop a family plan of service, a family group
5 conference, a permanency conference, a mediation, a case staffing
6 to plan for the discharge and return of the child to the parent, and
7 any other case staffing that the department determines would be
8 appropriate for the relative to attend, but excluding any internal
9 department staffing or staffing between the department and the
10 department's legal representative; and

11 (G) attend all legal proceedings in the suit.

12 SECTION 5. Section 107.302(a), Family Code, is amended to
13 read as follows:

14 (a) A managed assigned counsel program may be operated with
15 public money for the purpose of appointing counsel to provide legal
16 representation and services for a child, ~~[or]~~ parent, or relative
17 in a suit filed by a governmental entity seeking termination of the
18 parent-child relationship or the appointment of a conservator for
19 the child in which appointment is mandatory for a child under
20 Section 107.012 or for a parent or relative under Section 107.013.

21 SECTION 6. Sections 107.303(a) and (b), Family Code, are
22 amended to read as follows:

23 (a) The commissioners court of a county, on written approval
24 of a judge of a statutory county court or a district court having
25 family law jurisdiction in the county, may appoint a governmental
26 entity, nonprofit corporation, or local bar association to operate
27 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 or relative 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:

(1) children; ~~and~~

(2) parents; ~~and~~

(3) relatives; or

(4) ~~both~~ children, ~~and~~ parents, and relatives.

SECTION 7. The changes in law made by this Act apply only to a suit affecting the parent-child relationship filed on or after the effective date of this Act. A suit affecting the parent-child relationship filed before that date is governed by the law in effect on the date the suit was filed, and that law is continued in effect for that purpose.

SECTION 8. This Act takes effect September 1, 2019.