

By: West

S.B. No. 333

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the appointment of an attorney ad litem for a child in
3 the conservatorship of the Department of Family and Protective
4 Services.

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

6 SECTION 1. Section 107.016, Family Code, is amended to read
7 as follows:

8 Sec. 107.016. CONTINUED REPRESENTATION; DURATION OF
9 APPOINTMENT. In a suit filed by a governmental entity in which
10 termination of the parent-child relationship or appointment of the
11 entity as conservator of the child is requested:

12 (1) an order appointing the Department of Family and
13 Protective Services as the child's managing conservator may provide
14 for the continuation of the appointment of the guardian ad litem for
15 the child for any period during the time the child remains in the
16 conservatorship of the department, as set by the court;

17 (2) subject to Section 263.4042, an order appointing
18 the Department of Family and Protective Services as the child's
19 managing conservator shall [~~may~~] provide for the continuation of
20 the appointment of the attorney ad litem for the child as long as
21 the child remains in the conservatorship of the department; and

22 (3) an attorney appointed under this subchapter to
23 serve as an attorney ad litem for a parent or an alleged father
24 continues to serve in that capacity until the earliest of:

1 (A) the date the suit affecting the parent-child
2 relationship is dismissed;

3 (B) the date all appeals in relation to any final
4 order terminating parental rights are exhausted or waived; or

5 (C) the date the attorney is relieved of the
6 attorney's duties or replaced by another attorney after a finding
7 of good cause is rendered by the court on the record.

8 SECTION 2. Subchapter E, Chapter 263, Family Code, is
9 amended by adding Section 263.4042 to read as follows:

10 Sec. 263.4042. CONTINUED APPOINTMENT OF ATTORNEY AD LITEM
11 AFTER FINAL ORDER. (a) On the entry of a final order terminating
12 the parent-child relationship and naming the Department of Family
13 and Protective Services as the child's managing conservator, the
14 court may discharge the attorney ad litem appointed for the child if
15 the court finds that the child:

16 (1) resides in the home identified in the child's
17 permanency plan as the child's permanent home;

18 (2) has an attorney ad litem or guardian ad litem who
19 does not object to the child's permanency plan; and

20 (3) has resided in the home described by Subdivision
21 (1) for at least three months.

22 (b) If a court renders an order discharging a child's
23 attorney ad litem under Subsection (a), at each permanency hearing
24 following the final order held under Section 263.501, the court
25 shall make the findings required by Section 263.5031.

26 SECTION 3. Section 263.5031, Family Code, is amended to
27 read as follows:

1 Sec. 263.5031. PERMANENCY HEARINGS FOLLOWING FINAL
2 ORDER. (a) At each permanency hearing after the court renders a
3 final order, the court shall:

4 (1) identify all persons and parties present at the
5 hearing;

6 (2) review the efforts of the department or other
7 agency in notifying persons entitled to notice under Section
8 [263.0021](#); and

9 (3) review the permanency progress report to
10 determine:

11 (A) the safety and well-being of the child and
12 whether the child's needs, including any medical or special needs,
13 are being adequately addressed;

14 (B) whether the department placed the child with
15 a relative or other designated caregiver and the continuing
16 necessity and appropriateness of the placement of the child,
17 including with respect to a child who has been placed outside of
18 this state, whether the placement continues to be in the best
19 interest of the child;

20 (C) if the child is placed in institutional care,
21 whether efforts have been made to ensure that the child is placed in
22 the least restrictive environment consistent with the child's best
23 interest and special needs;

24 (D) the appropriateness of the primary and
25 alternative permanency goals for the child, whether the department
26 has made reasonable efforts to finalize the permanency plan,
27 including the concurrent permanency goals, in effect for the child,

1 and whether:

2 (i) the department has exercised due
3 diligence in attempting to place the child for adoption if parental
4 rights to the child have been terminated and the child is eligible
5 for adoption; or

6 (ii) another permanent placement,
7 including appointing a relative as permanent managing conservator
8 or returning the child to a parent, is appropriate for the child;

9 (E) for a child whose permanency goal is another
10 planned permanent living arrangement:

11 (i) the desired permanency outcome for the
12 child, by asking the child;

13 (ii) whether, as of the date of the hearing,
14 another planned permanent living arrangement is the best permanency
15 plan for the child and, if so, provide compelling reasons why it
16 continues to not be in the best interest of the child to:

17 (a) return home;

18 (b) be placed for adoption;

19 (c) be placed with a legal guardian;

20 or

21 (d) be placed with a fit and willing
22 relative;

23 (iii) whether the department has conducted
24 an independent living skills assessment under Section
25 [264.121\(a-3\)](#);

26 (iv) whether the department has addressed
27 the goals identified in the child's permanency plan, including the

1 child's housing plan, and the results of the independent living
2 skills assessment;

3 (v) if the youth is 16 years of age or
4 older, whether there is evidence that the department has provided
5 the youth with the documents and information listed in Section
6 [264.121\(e\)](#); and

7 (vi) if the youth is 18 years of age or
8 older or has had the disabilities of minority removed, whether
9 there is evidence that the department has provided the youth with
10 the documents and information listed in Section [264.121\(e-1\)](#);

11 (F) if the child is 14 years of age or older,
12 whether services that are needed to assist the child in
13 transitioning from substitute care to independent living are
14 available in the child's community;

15 (G) whether the child is receiving appropriate
16 medical care and has been provided the opportunity, in a
17 developmentally appropriate manner, to express the child's opinion
18 on any medical care provided;

19 (H) for a child receiving psychotropic
20 medication, whether the child:

21 (i) has been provided appropriate
22 nonpharmacological interventions, therapies, or strategies to meet
23 the child's needs; or

24 (ii) has been seen by the prescribing
25 physician, physician assistant, or advanced practice nurse at least
26 once every 90 days;

27 (I) whether an education decision-maker for the

1 child has been identified, the child's education needs and goals
2 have been identified and addressed, and there are major changes in
3 the child's school performance or there have been serious
4 disciplinary events;

5 (J) for a child for whom the department has been
6 named managing conservator in a final order that does not include
7 termination of parental rights, whether to order the department to
8 provide services to a parent for not more than six months after the
9 date of the permanency hearing if:

10 (i) the child has not been placed with a
11 relative or other individual, including a foster parent, who is
12 seeking permanent managing conservatorship of the child; and

13 (ii) the court determines that further
14 efforts at reunification with a parent are:

15 (a) in the best interest of the child;

16 and

17 (b) likely to result in the child's
18 safe return to the child's parent; and

19 (K) whether the department has identified a
20 family or other caring adult who has made a permanent commitment to
21 the child.

22 (b) At each permanency hearing after the court renders a
23 final order, the court:

24 (1) for a child who is not represented by an attorney
25 ad litem shall:

26 (A) determine whether the child requires
27 representation by an attorney ad litem under Section 107.016; and

1 (B) if the court declines to appoint an attorney
2 ad litem for the child, state the reason for declining to appoint an
3 attorney ad litem; and

4 (2) for a child who is represented by an attorney ad
5 litem:

6 (A) shall consider the need for continued
7 appointment of the attorney ad litem for the child; and

8 (B) may discharge the attorney ad litem appointed
9 for the child if the court finds that:

10 (i) the child is eligible for adoption and
11 living in the home identified in the permanency plan as the child's
12 permanent home;

13 (ii) the child's attorney ad litem or
14 guardian ad litem does not object to the child's permanency plan;
15 and

16 (iii) the child has resided in the home
17 described by Subparagraph (i) for at least three months.

18 SECTION 4. The changes in law made by this Act apply to a
19 suit affecting the parent-child relationship filed before, on, or
20 after the effective date of this Act.

21 SECTION 5. This Act takes effect September 1, 2019.