87R14038 SCL-F

By:  Schaefer H.B. No. 4034

A BILL TO BE ENTITLED

AN ACT

relating to the appointment of an attorney ad litem to represent an unborn child during a court proceeding authorizing a pregnant minor to consent to an abortion.

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

SECTION 1.  Section 33.001, Family Code, is amended by adding Subdivision (4-a) to read as follows:

(4-a)  "Unborn child" has the meaning assigned by Section 171.061, Health and Safety Code.

SECTION 2.  Section 33.003, Family Code, is amended by amending Subsections (b), (h), and (l) and adding Subsections (e-1), (f-1), and (f-2) to read as follows:

(b)  The application must be filed in:

(1)  a county court at law, court having probate jurisdiction, or district court, including a family district court, in the minor's county of residence;

(2)  if the minor's parent, managing conservator, or guardian is a presiding judge of a court described by Subdivision (1):

(A)  a county court at law, court having probate jurisdiction, or district court, including a family district court, in a contiguous county; or

(B)  a county court at law, court having probate jurisdiction, or district court, including a family district court, in the county where the minor intends to obtain the abortion; or

(3)  if the minor's county of residence has a population of less than 10,000:

(A)  a court described by Subdivision (1);

(B)  a county court at law, court having probate jurisdiction, or district court, including a family district court, in a contiguous county; or

(C)  a county court at law, court having probate jurisdiction, or district court, including a family district court, in the county in which the facility at which the minor intends to obtain the abortion is located[~~; or~~

[~~(4)  a county court at law, court having probate jurisdiction, or district court, including a family district court, in the county in which the facility at which the minor intends to obtain the abortion is located, if the minor is not a resident of this state~~].

(e-1)  The minor's guardian ad litem appointed under Subsection (e) is entitled to have access to the minor and information related to the minor in accordance with Section 107.006.

(f-1)  The court shall appoint an attorney ad litem to represent an unborn child during a proceeding under this section. The unborn child's attorney ad litem is entitled to have access to the minor and information related to the minor in accordance with Section 107.006.

(f-2)  The attorney general shall develop and maintain a registry listing the name of and contact information for attorneys qualified to serve as attorneys ad litem in this state who voluntarily notify the attorney general of their willingness to serve, or on request of the attorney general consent to serve, as attorneys ad litem for an unborn child in proceedings under this section.

(h)  The court shall rule on an application submitted under this section and shall issue written findings of fact and conclusions of law not later than 5 p.m. on the fifth business day after the date the application is filed with the court. On request by the minor, the minor's guardian ad litem, or the unborn child's attorney ad litem, the court shall grant an extension of the period specified by this subsection. If a request for an extension is made, the court shall rule on an application and shall issue written findings of fact and conclusions of law not later than 5 p.m. on the fifth business day after the date the minor or attorney ad litem, as applicable, states that the minor or attorney ad litem [~~she~~] is ready to proceed to hearing. Proceedings under this section shall be given precedence over other pending matters to the extent necessary to assure that the court reaches a decision promptly, regardless of whether an extension [~~the minor~~] is granted [~~an extension~~] under this subsection.

(l)  An order of the court issued under this section is confidential and privileged and is not subject to disclosure under Chapter 552, Government Code, or discovery, subpoena, or other legal process. The order may not be released to any person but the pregnant minor, the pregnant minor's guardian ad litem, the unborn child's attorney ad litem, the pregnant minor's attorney, the physician who is to perform the abortion, another person designated to receive the order by the minor, or a governmental agency or attorney in a criminal or administrative action seeking to assert or protect the interest of the minor. The supreme court may adopt rules to permit confidential docketing of an application under this section.

SECTION 3.  Sections 33.004(b) and (c), Family Code, are amended to read as follows:

(b)  The court of appeals shall rule on an appeal under this section not later than 5 p.m. on the fifth business day after the date the notice of appeal is filed with the court that denied the application. On request by the minor, the minor's guardian ad litem, or the unborn child's attorney ad litem, the court shall grant an extension of the period specified by this subsection. If a request for an extension is made, the court shall rule on the appeal not later than 5 p.m. on the fifth business day after the date the minor or attorney ad litem, as applicable, states that the minor or attorney ad litem [~~she~~] is ready to proceed. Proceedings under this section shall be given precedence over other pending matters to the extent necessary to assure that the court reaches a decision promptly, regardless of whether an extension [~~the minor~~] is granted [~~an extension~~] under this subsection.

(c)  A ruling of the court of appeals issued under this section is confidential and privileged and is not subject to disclosure under Chapter 552, Government Code, or discovery, subpoena, or other legal process. The ruling may not be released to any person but the pregnant minor, the pregnant minor's guardian ad litem, the unborn child's attorney ad litem, the pregnant minor's attorney, another person designated to receive the ruling by the minor, or a governmental agency or attorney in a criminal or administrative action seeking to assert or protect the interest of the minor. The supreme court may adopt rules to permit confidential docketing of an appeal under this section.

SECTION 4.  Section 33.006, Family Code, is amended to read as follows:

Sec. 33.006.  GUARDIAN AD LITEM AND ATTORNEY AD LITEM IMMUNITY. A guardian ad litem appointed for a pregnant minor under this chapter or attorney ad litem appointed for an unborn child who is [~~and~~] acting in the course and scope of the appointment is not liable for damages arising from an act or omission of the guardian or attorney ad litem committed in good faith. The immunity granted by this section does not apply if the conduct of the guardian or attorney ad litem is committed in a manner described by Sections 107.009(b)(1)-(3) [~~107.003(b)(1)-(4)~~].

SECTION 5.  Section 33.007(a), Family Code, is amended to read as follows:

(a)  A court acting under Section 33.003 or 33.004 may issue an order requiring the state to pay:

(1)  the cost of any attorney ad litem and any guardian ad litem appointed for the minor or any attorney ad litem appointed for an unborn child;

(2)  notwithstanding Sections 33.003(n) and 33.004(e), the costs of court associated with the application or appeal; and

(3)  any court reporter's fees incurred.

SECTION 6.  To the extent of any conflict, this Act prevails over another Act of the 87th Legislature, Regular Session, 2021, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 7.  This Act takes effect September 1, 2021.