

By: Sanford, et al.

H.B. No. 1171

A BILL TO BE ENTITLED

AN ACT

1
2 relating to appointment of an attorney ad litem or guardian ad litem
3 to represent an unborn child during a court proceeding authorizing
4 a pregnant minor to consent to an abortion.

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

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

8 (4-a) "Unborn child" has the meaning assigned by
9 Section 171.061, Health and Safety Code.

10 SECTION 2. Section 33.003, Family Code, is amended by
11 adding Subsections (f-1) and (f-2) and amending Subsection (l) to
12 read as follows:

13 (f-1) The court may appoint an attorney ad litem or guardian
14 ad litem to represent an unborn child during a proceeding under this
15 section.

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

24 (l) An order of the court issued under this section is

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

12 SECTION 3. Section 33.004(c), Family Code, is amended to
13 read as follows:

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

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

27 Sec. 33.006. GUARDIAN AD LITEM AND ATTORNEY AD LITEM

1 IMMUNITY. A guardian ad litem appointed for a pregnant minor under
2 this chapter or attorney ad litem or guardian ad litem appointed for
3 an unborn child who is [~~and~~] acting in the course and scope of the
4 appointment is not liable for damages arising from an act or
5 omission of the guardian or attorney ad litem committed in good
6 faith. The immunity granted by this section does not apply if the
7 conduct of the guardian or attorney ad litem is committed in a
8 manner described by Sections 107.009(b)(1)-(3)
9 [~~107.003(b)(1)-(4)~~].

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

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

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

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

18 (3) any court reporter's fees incurred.

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

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