

By: Dutton

H.B. No. 3245

A BILL TO BE ENTITLED

AN ACT

relating to eliminating the court appointed advocates.

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

SECTION 1. Section 29.0151(e), Education Code, is amended to read as follows:

(e) The district may appoint a person who has been appointed to serve as a child's guardian ad litem ~~[or as a court-certified volunteer advocate, as provided under Section 107.031(c), Family Code,~~] as the child's surrogate parent.

SECTION 2. Section 107.001(5), Family Code, is amended to read as follows:

(5) "Guardian ad litem" means a person appointed to represent the best interests of a child. The term includes:

(A) ~~[a volunteer advocate from a charitable organization described by Subchapter C who is appointed by the court as the child's guardian ad litem,~~

~~[(B)]~~ a professional, other than an attorney, who holds a relevant professional license and whose training relates to the determination of a child's best interests;

(B) ~~[(C)]~~ an adult having the competence, training, and expertise determined by the court to be sufficient to represent the best interests of the child; or

(C) ~~[(D)]~~ an attorney ad litem appointed to serve in the dual role.

1 SECTION 3. Section 107.011(b), Family Code, is amended to
2 read as follows:

3 (b) The guardian ad litem appointed for a child under this
4 section may be:

5 (1) ~~[a charitable organization composed of volunteer~~
6 ~~advocates or an individual volunteer advocate appointed under~~
7 ~~Subchapter C,~~

8 ~~[(2)]~~ an adult having the competence, training, and
9 expertise determined by the court to be sufficient to represent the
10 best interests of the child; or

11 (2) ~~[(3)]~~ an attorney appointed in the dual role.

12 SECTION 4. Section 107.022, Family Code, is amended to read
13 as follows:

14 Sec. 107.022. CERTAIN PROHIBITED APPOINTMENTS. In a suit
15 other than a suit filed by a governmental entity requesting
16 termination of the parent-child relationship or appointment of the
17 entity as conservator of the child, the court may not appoint [+

18 ~~[(1)]~~ an attorney to serve in the dual role ~~[, or~~

19 ~~[(2)] a volunteer advocate to serve as guardian ad~~
20 ~~litem for a child unless the training of the volunteer advocate is~~
21 ~~designed for participation in suits other than suits filed by a~~
22 ~~governmental entity requesting termination of the parent-child~~
23 ~~relationship or appointment of the entity as conservator of the~~
24 ~~child].~~

25 SECTION 5. Section 107.023(a), Family Code, is amended to
26 read as follows:

27 (a) In a suit other than a suit filed by a governmental

1 entity requesting termination of the parent-child relationship or
2 appointment of the entity as conservator of the child, in addition
3 to the attorney's fees that may be awarded under Chapter 106, the
4 following persons are entitled to reasonable fees and expenses in
5 an amount set by the court and ordered to be paid by one or more
6 parties to the suit:

7 (1) an attorney appointed as an amicus attorney or as
8 an attorney ad litem for the child; and

9 (2) a professional who holds a relevant professional
10 license and who is appointed as guardian ad litem for the child[~~7~~
11 ~~other than a volunteer advocate~~].

12 SECTION 6. Section 202.002(a), Family Code, is amended to
13 read as follows:

14 (a) A friend of the court may coordinate nonjudicial efforts
15 to improve compliance with a court order relating to child support
16 or possession of or access to a child by use of:

17 (1) telephone communication;

18 (2) written communication;

19 (3) [~~one or more volunteer advocates under Chapter~~
20 ~~107,~~

21 [~~4~~] informal pretrial consultation;

22 (4) [~~5~~] one or more of the alternate dispute
23 resolution methods under Chapter 154, Civil Practice and Remedies
24 Code;

25 (5) [~~6~~] a licensed social worker;

26 (6) [~~7~~] a family mediator; and

27 (7) [~~8~~] employment agencies, retraining programs,

1 and any similar resources to ensure that both parents can meet their
2 financial obligations to the child.

3 SECTION 7. Section 263.0021(b), Family Code, is amended to
4 read as follows:

5 (b) The following persons are entitled to at least 10 days'
6 notice of a hearing under this chapter and are entitled to present
7 evidence and be heard at the hearing:

8 (1) the department;

9 (2) the foster parent, preadoptive parent, relative of
10 the child providing care, or director or director's designee of the
11 group home or general residential operation where the child is
12 residing;

13 (3) each parent of the child;

14 (4) the managing conservator or guardian of the child;

15 (5) an attorney ad litem appointed for the child under
16 Chapter 107, if the appointment was not dismissed in the final
17 order;

18 (6) a guardian ad litem appointed for the child under
19 Chapter 107, if the appointment was not dismissed in the final
20 order;

21 ~~(7) [a volunteer advocate appointed for the child~~
22 ~~under Chapter 107, if the appointment was not dismissed in the final~~
23 ~~order,~~

24 ~~[(8)]~~ the child if:

25 (A) the child is 10 years of age or older; or

26 (B) the court determines it is appropriate for
27 the child to receive notice; and

1 (8) [~~(9)~~] any other person or agency named by the
2 court to have an interest in the child's welfare.

3 SECTION 8. Section 263.0025(e), Family Code, is amended to
4 read as follows:

5 (e) The court may appoint a child's guardian ad litem [~~or~~
6 ~~court-certified volunteer advocate, as provided by Section~~
7 ~~107.031(e),~~] as the child's surrogate parent.

8 SECTION 9. Section 263.008(b), Family Code, is amended to
9 read as follows:

10 (b) It is the policy of this state that each child in foster
11 care be informed of the child's rights provided by state or federal
12 law or policy that relate to:

13 (1) abuse, neglect, exploitation, discrimination, and
14 harassment;

15 (2) food, clothing, shelter, and education;

16 (3) medical, dental, vision, and mental health
17 services, including the right of the child to consent to treatment;

18 (4) emergency behavioral intervention, including what
19 methods are permitted, the conditions under which it may be used,
20 and the precautions that must be taken when administering it;

21 (5) placement with the child's siblings and contact
22 with members of the child's family;

23 (6) privacy and searches, including the use of storage
24 space, mail, and the telephone;

25 (7) participation in school-related extracurricular
26 or community activities;

27 (8) interaction with persons outside the foster care

1 system, including teachers, church members, mentors, and friends;

2 (9) contact and communication with caseworkers,
3 attorneys ad litem, and guardians ad litem[~~, and court-appointed~~
4 ~~special advocates~~];

5 (10) religious services and activities;

6 (11) confidentiality of the child's records;

7 (12) job skills, personal finances, and preparation
8 for adulthood;

9 (13) participation in a court hearing that involves
10 the child;

11 (14) participation in the development of service and
12 treatment plans;

13 (15) if the child has a disability, the advocacy and
14 protection of the rights of a person with that disability; and

15 (16) any other matter affecting the child's ability to
16 receive care and treatment in the least restrictive environment
17 that is most like a family setting, consistent with the best
18 interests and needs of the child.

19 SECTION 10. Section 263.303(a), Family Code, is amended to
20 read as follows:

21 (a) Not later than the 10th day before the date set for each
22 permanency hearing before a final order is rendered, the department
23 shall file with the court and provide to each party, the child's
24 attorney ad litem, and the child's guardian ad litem[~~, and the~~
25 ~~child's volunteer advocate~~] a permanency progress report unless the
26 court orders a different period for providing the report.

27 SECTION 11. Section 263.602(d), Family Code, is amended to

1 read as follows:

2 (d) Notice of an extended foster care review hearing shall
3 be given as provided by Rule 21a, Texas Rules of Civil Procedure, to
4 the following persons, each of whom has a right to present evidence
5 and be heard at the hearing:

6 (1) the young adult who is the subject of the suit;

7 (2) the department;

8 (3) the foster parent with whom the young adult is
9 placed and the administrator of a child-placing agency responsible
10 for placing the young adult, if applicable;

11 (4) the director of the residential child-care
12 facility or other approved provider with whom the young adult is
13 placed, if applicable;

14 (5) each parent of the young adult whose parental
15 rights have not been terminated and who is still actively involved
16 in the life of the young adult;

17 (6) a legal guardian of the young adult, if
18 applicable; and

19 (7) the young adult's attorney ad litem and[7]
20 guardian ad litem[~~7~~ and volunteer advocate], the appointment of
21 which has not been previously dismissed by the court.

22 SECTION 12. Section 263.605, Family Code, is amended to
23 read as follows:

24 Sec. 263.605. CONTINUED OR RENEWED APPOINTMENT OF ATTORNEY
25 AD LITEM, GUARDIAN AD LITEM, OR VOLUNTEER ADVOCATE. A court with
26 extended jurisdiction under this subchapter may continue or renew
27 the appointment of an attorney ad litem or[7] guardian ad litem[~~7~~ or

1 ~~volunteer advocate~~] for the young adult to assist the young adult in
2 accessing services the young adult is entitled to receive from the
3 department or any other public or private service provider.

4 SECTION 13. Section 264.015(c), Family Code, is amended to
5 read as follows:

6 (c) To the extent that resources are available, the
7 department shall assist the following entities in developing
8 training in trauma-informed programs and services and in locating
9 money and other resources to assist the entities in providing
10 trauma-informed programs and services:

- 11 (1) ~~[court-appointed special advocate programs;~~
12 ~~(2)]~~ children's advocacy centers;
13 (2) (2) ~~(3)]~~ local community mental health centers
14 created under Section 534.001, Health and Safety Code; and
15 (3) (3) ~~(4)]~~ domestic violence shelters.

16 SECTION 14. Sections 264.018(e) and (f), Family Code, are
17 amended to read as follows:

18 (e) Not later than 48 hours before the department changes
19 the residential child-care facility of a child in the managing
20 conservatorship of the department, the department shall provide
21 notice of the change to:

- 22 (1) the child's parent;
23 (2) an attorney ad litem appointed for the child under
24 Chapter 107;
25 (3) a guardian ad litem appointed for the child under
26 Chapter 107; and
27 (4) ~~[a volunteer advocate appointed for the child~~

1 ~~under Chapter 107; and~~

2 ~~[(5)]~~ the licensed administrator of the child-placing
3 agency responsible for placing the child or the licensed
4 administrator's designee.

5 (f) Except as provided by Subsection (d-1), as soon as
6 possible but not later than the 10th day after the date the
7 department becomes aware of a significant event affecting a child
8 in the conservatorship of the department, the department shall
9 provide notice of the significant event to:

10 (1) the child's parent;

11 (2) an attorney ad litem appointed for the child under
12 Chapter 107;

13 (3) a guardian ad litem appointed for the child under
14 Chapter 107;

15 (4) ~~[a volunteer advocate appointed for the child~~
16 ~~under Chapter 107;~~

17 ~~[(5)]~~ the licensed administrator of the child-placing
18 agency responsible for placing the child or the licensed
19 administrator's designee;

20 (5) ~~[(6)]~~ a foster parent, prospective adoptive
21 parent, relative of the child providing care to the child, or
22 director of the group home or general residential operation where
23 the child is residing; and

24 (6) ~~[(7)]~~ any other person determined by a court to
25 have an interest in the child's welfare.

26 SECTION 15. Section 264.107(e), Family Code, is amended to
27 read as follows:

1 (e) In making placement decisions, the department shall:

2 (1) except when making an emergency placement that
3 does not allow time for the required consultations, consult with
4 the child's caseworker, attorney ad litem, and guardian ad litem
5 ~~[and with any court-appointed volunteer advocate for the child];~~
6 and

7 (2) use clinical protocols to match a child to the most
8 appropriate placement resource.

9 SECTION 16. Section [264.1213](#), Family Code, is amended to
10 read as follows:

11 Sec. 264.1213. RECORDS AND DOCUMENTS FOR CHILDREN AGING OUT
12 OF FOSTER CARE. The department in cooperation with ~~[volunteer~~
13 ~~advocates from a charitable organization described by Subchapter C,~~
14 ~~Chapter [107](#), and]~~ the Department of Public Safety shall develop
15 procedures to ensure that a foster child obtains a driver's license
16 or personal identification card before the child leaves the
17 conservatorship of the department.

18 SECTION 17. Section [264.1261](#)(b), Family Code, as added by
19 Chapter 319 (S.B. 11), Acts of the 85th Legislature, Regular
20 Session, 2017, is amended to read as follows:

21 (b) Appropriate department management personnel from a
22 child protective services region in which community-based care has
23 not been implemented, in collaboration with foster care providers
24 and~~[~~ ~~7]~~ faith-based entities~~[, and child advocates]~~ in that region,
25 shall use data collected by the department on foster care capacity
26 needs and availability of each type of foster care and kinship
27 placement in the region to create a plan to address the substitute

1 care capacity needs in the region. The plan must identify both
2 short-term and long-term goals and strategies for addressing those
3 capacity needs.

4 SECTION 18. Section 264.155, Family Code, is amended to
5 read as follows:

6 Sec. 264.155. REQUIRED CONTRACT PROVISIONS. A contract
7 with a single source continuum contractor to provide
8 community-based care services in a catchment area must include
9 provisions that:

10 (1) establish a timeline for the implementation of
11 community-based care in the catchment area, including a timeline
12 for implementing:

13 (A) case management services for children,
14 families, and relative and kinship caregivers receiving services in
15 the catchment area; and

16 (B) family reunification support services to be
17 provided after a child receiving services from the contractor is
18 returned to the child's family;

19 (2) establish conditions for the single source
20 continuum contractor's access to relevant department data and
21 require the participation of the contractor in the data access and
22 standards governance council created under Section 264.159;

23 (3) require the single source continuum contractor to
24 create a single process for the training and use of alternative
25 caregivers for all child-placing agencies in the catchment area to
26 facilitate reciprocity of licenses for alternative caregivers
27 between agencies, including respite and overnight care providers,

1 as those terms are defined by department rule;

2 (4) require the single source continuum contractor to
3 maintain a diverse network of service providers that offer a range
4 of foster capacity options and that can accommodate children from
5 diverse cultural backgrounds;

6 (5) allow the department to conduct a performance
7 review of the contractor beginning 18 months after the contractor
8 has begun providing case management and family reunification
9 support services to all children and families in the catchment area
10 and determine if the contractor has achieved any performance
11 outcomes specified in the contract;

12 (6) following the review under Subdivision (5), allow
13 the department to:

14 (A) impose financial penalties on the contractor
15 for failing to meet any specified performance outcomes; or

16 (B) award financial incentives to the contractor
17 for exceeding any specified performance outcomes;

18 (7) require the contractor to give preference for
19 employment to employees of the department:

20 (A) whose position at the department is impacted
21 by the implementation of community-based care; and

22 (B) who are considered by the department to be
23 employees in good standing;

24 (8) require the contractor to provide preliminary and
25 ongoing community engagement plans to ensure communication and
26 collaboration with local stakeholders in the catchment area,
27 including any of the following:

- 1 (A) community faith-based entities;
- 2 (B) the judiciary;
- 3 (C) ~~[court-appointed special advocates;~~
- 4 ~~[(D)]~~ child advocacy centers;
- 5 (D) ~~[(E)]~~ service providers;
- 6 (E) ~~[(F)]~~ foster families;
- 7 (F) ~~[(G)]~~ biological parents;
- 8 (G) ~~[(H)]~~ foster youth and former foster youth;
- 9 (H) ~~[(I)]~~ relative or kinship caregivers;
- 10 (I) ~~[(J)]~~ child welfare boards, if applicable;
- 11 (J) ~~[(K)]~~ attorneys ad litem;
- 12 (K) ~~[(L)]~~ attorneys that represent parents
- 13 involved in suits filed by the department; and
- 14 (L) ~~[(M)]~~ any other stakeholders, as determined
- 15 by the contractor; and

16 (9) require that the contractor comply with any
17 applicable court order issued by a court of competent jurisdiction
18 in the case of a child for whom the contractor has assumed case
19 management responsibilities or an order imposing a requirement on
20 the department that relates to functions assumed by the contractor.

21 SECTION 19. Section 264.408(a), Family Code, is amended to
22 read as follows:

23 (a) The files, reports, records, communications, and
24 working papers used or developed in providing services under this
25 chapter are confidential and not subject to public release under
26 Chapter 552, Government Code, and may only be disclosed for
27 purposes consistent with this chapter. Disclosure may be made to:

1 (1) the department, department employees, law
2 enforcement agencies, prosecuting attorneys, medical
3 professionals, and other state or local agencies that provide
4 services to children and families; and

5 (2) the attorney for the alleged victim who is the
6 subject of the records [~~and a court-appointed volunteer advocate~~
7 ~~appointed for the alleged victim under Section 107.031~~].

8 SECTION 20. Section 36.003, Government Code, is amended to
9 read as follows:

10 Sec. 36.003. EXEMPTION. The reporting requirements of
11 Section 36.004 do not apply to:

12 (1) a mediation conducted by an alternative dispute
13 resolution system established under Chapter 152, Civil Practice and
14 Remedies Code;

15 (2) information made confidential under state or
16 federal law, including applicable rules;

17 (3) a guardian ad litem [~~or other person appointed~~
18 ~~under a program authorized by Section 107.031, Family Code~~];

19 (4) an attorney ad litem, guardian ad litem, amicus
20 attorney, or mediator appointed under a domestic relations office
21 established under Chapter 203, Family Code;

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

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

1 indigent.

2 SECTION 21. Section 37.002, Government Code, is amended to
3 read as follows:

4 Sec. 37.002. EXEMPTION. The appointment requirements of
5 Section 37.004 do not apply to:

6 (1) a mediation conducted by an alternative dispute
7 resolution system established under Chapter 152, Civil Practice and
8 Remedies Code;

9 (2) a guardian ad litem [~~or other person appointed~~
10 ~~under a program authorized by Section 107.031, Family Code~~];

11 (3) an attorney ad litem, guardian ad litem, amicus
12 attorney, or mediator appointed under a domestic relations office
13 established under Chapter 203, Family Code;

14 (4) a person other than an attorney or a private
15 professional guardian appointed to serve as a guardian as defined
16 by Section 1002.012, Estates Code;

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

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

24 SECTION 22. Section 497.012(b), Government Code, is amended
25 to read as follows:

26 (b) If the department determines that it is economically
27 feasible, the department shall repair or refurbish the surplus or

1 salvage data processing equipment. The department shall sell the
2 repaired or refurbished data processing equipment, in the following
3 order of preference, to:

4 (1) a school district;

5 (2) a state agency; or

6 (3) a political subdivision of the state[~~, or~~

7 [~~(4) a statewide organization described by Section
8 264.603(a), Family Code, or a local volunteer advocate program, as
9 defined by Section 264.601, Family Code, for use by children or
10 youth in foster care]~~].

11 SECTION 23. Section 40.021(b), Human Resources Code, is
12 amended to read as follows:

13 (b) The council is composed of nine members of the public
14 appointed by the governor. In making appointments to the council,
15 the governor shall consider persons who have a demonstrated
16 knowledge of the department and the health and human services
17 system in general, including former department employees,
18 [~~court-appointed special advocates,~~] foster care providers, and
19 employees of child advocacy centers.

20 SECTION 24. Section 244.0105(a), Human Resources Code, is
21 amended to read as follows:

22 (a) Not later than the 10th day before the date of a
23 permanency hearing under Subchapter D, Chapter 263, Family Code, or
24 Subchapter F, Chapter 263, Family Code, regarding a child for whom
25 the Department of Family and Protective Services has been appointed
26 managing conservator, a department caseworker shall submit a
27 written report regarding the child's commitment to the department

1 to:

2 (1) the court;

3 (2) the Department of Family and Protective Services;

4 and

5 (3) any attorney ad litem or guardian ad litem
6 appointed for the child~~;~~ ~~and~~

7 [~~4) any volunteer advocate appointed for the child~~].

8 SECTION 25. Section 244.0106(c), Human Resources Code, is
9 amended to read as follows:

10 (c) The rules adopted under this section must require:

11 (1) the Department of Family and Protective Services
12 to:

13 (A) provide the department with access to
14 relevant health and education information regarding a child; and

15 (B) require a child's caseworker to visit the
16 child in person at least once each month while the child is
17 committed to the department;

18 (2) the department to:

19 (A) provide the Department of Family and
20 Protective Services with relevant health and education information
21 regarding a child;

22 (B) permit communication, including in person,
23 by telephone, and by mail, between a child committed to the
24 department and:

25 (i) the Department of Family and Protective
26 Services; and

27 (ii) the attorney ad litem and~~;~~ the

1 guardian ad litem~~[, and the volunteer advocate]~~ for the child; and

2 (C) provide the Department of Family and
3 Protective Services and any attorney ad litem or guardian ad litem
4 for the child with timely notice of the following events relating to
5 the child:

6 (i) a meeting designed to develop or revise
7 the individual case plan for the child;

8 (ii) in accordance with any participation
9 protocols to which the Department of Family and Protective Services
10 and the department agree, a medical appointment at which a person
11 authorized to consent to medical care must participate as required
12 by Section 266.004(i), Family Code;

13 (iii) an education meeting, including
14 admission, review, or dismissal meetings for a child receiving
15 special education;

16 (iv) a grievance or disciplinary hearing
17 for the child;

18 (v) a report of abuse or neglect of the
19 child; and

20 (vi) a significant change in medical
21 condition of the child, as defined by Section 264.018, Family Code;
22 and

23 (3) the Department of Family and Protective Services
24 and the department to participate in transition planning for the
25 child through release from detention, release under supervision,
26 and discharge.

27 SECTION 26. Section 244.052(c), Human Resources Code, is

1 amended to read as follows:

2 (c) The department shall on a quarterly basis provide to the
3 parent or[7] guardian[~~7~~,~~or designated advocate~~] of a child who is in
4 the custody of the department a report concerning the progress of
5 the child at the department, including:

6 (1) the academic and behavioral progress of the child;
7 and

8 (2) the results of any reexamination of the child
9 conducted under Section 244.002.

10 SECTION 27. Section 245.103(d), Human Resources Code, is
11 amended to read as follows:

12 (d) The department shall provide a report to the parent
13 or[7] guardian[~~7~~,~~or designated advocate~~] of a child whose length of
14 stay is extended under Section 245.102 explaining the panel's
15 reason for the extension.

16 SECTION 28. Section 245.104(b), Human Resources Code, is
17 amended to read as follows:

18 (b) The process to request reconsideration must provide
19 that:

20 (1) a child, a parent or[7] guardian[~~7~~,~~or designated~~
21 ~~advocate~~] of a child, an employee of the department, or a person who
22 provides volunteer services at a department facility may submit a
23 request for reconsideration of an extension order;

24 (2) the person submitting the request for
25 reconsideration of an extension order must state in the request the
26 reason for the request;

27 (3) after receiving a request for reconsideration of

1 an extension order, the panel shall reconsider an extension order
2 that:

3 (A) extends the child's stay in the custody of
4 the department by six months or more; or

5 (B) combined with previous extension orders will
6 result in an extension of the child's stay in the custody of the
7 department by six months or more;

8 (4) the panel's reconsideration of an extension order
9 includes consideration of the information submitted in the request;
10 and

11 (5) the panel shall send a written reply to the child,
12 the parent or [7] guardian [~~, or designated advocate~~] of the child,
13 and the person who made the request for reconsideration of an
14 extension order that includes an explanation of the panel's
15 decision after reconsidering the extension order, including an
16 indication that the panel has considered the information submitted
17 in the request.

18 SECTION 29. The following provisions are repealed:

19 (1) Subchapter C, Chapter 107, Family Code;

20 (2) Section 264.1261(b), Family Code, as added by
21 Chapter 822 (H.B. 1549), Acts of the 85th Legislature, Regular
22 Session, 2017;

23 (3) Subchapter G, Chapter 264, Family Code; and

24 (4) Section 504.611, Transportation Code.

25 SECTION 30. This Act takes effect September 1, 2021.