

By: Wu

H.B. No. 3895

A BILL TO BE ENTITLED

AN ACT

relating to guardians ad litem for children who are in the juvenile justice system and the child protective services system.

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

SECTION 1. Section 51.11, Family Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) The juvenile court may appoint the guardian ad litem appointed under Chapter 107 for a child in a suit affecting the parent-child relationship filed by the Department of Family and Protective Services to serve as the guardian ad litem for the child in a proceeding held under this title.

(e) A guardian ad litem may not investigate any charges involving the child that are pending with the juvenile court.

SECTION 2. Section 54.01(c), Family Code, is amended to read as follows:

(c) At the detention hearing, the court may consider written reports from probation officers, professional court employees, guardians ad litem appointed under Section 51.11(d), or professional consultants in addition to the testimony of witnesses. Prior to the detention hearing, the court shall provide the attorney for the child with access to all written matter to be considered by the court in making the detention decision. The court may order counsel not to reveal items to the child or his parent, guardian, or guardian ad litem if such disclosure would materially

1 harm the treatment and rehabilitation of the child or would  
2 substantially decrease the likelihood of receiving information  
3 from the same or similar sources in the future.

4 SECTION 3. Section 54.02(e), Family Code, is amended to  
5 read as follows:

6 (e) At the transfer hearing the court may consider written  
7 reports from probation officers, professional court employees,  
8 guardians ad litem appointed under Section 51.11(d), or  
9 professional consultants in addition to the testimony of witnesses.  
10 At least five days prior to the transfer hearing, the court shall  
11 provide the attorney for the child and the prosecuting attorney  
12 with access to all written matter to be considered by the court in  
13 making the transfer decision. The court may order counsel not to  
14 reveal items to the child or the child's parent, guardian, or  
15 guardian ad litem if such disclosure would materially harm the  
16 treatment and rehabilitation of the child or would substantially  
17 decrease the likelihood of receiving information from the same or  
18 similar sources in the future.

19 SECTION 4. Section 54.04(b), Family Code, is amended to  
20 read as follows:

21 (b) At the disposition hearing, the juvenile court,  
22 notwithstanding the Texas Rules of Evidence or Chapter 37, Code of  
23 Criminal Procedure, may consider written reports from probation  
24 officers, professional court employees, guardians ad litem  
25 appointed under Section 51.11(d), or professional consultants in  
26 addition to the testimony of witnesses. On or before the second day  
27 before the date of the disposition hearing, the court shall provide

1 the attorney for the child and the prosecuting attorney with access  
2 to all written matter to be considered by the court in disposition.  
3 The court may order counsel not to reveal items to the child or the  
4 child's parent, guardian, or guardian ad litem if such disclosure  
5 would materially harm the treatment and rehabilitation of the child  
6 or would substantially decrease the likelihood of receiving  
7 information from the same or similar sources in the future.

8 SECTION 5. Section 54.05(e), Family Code, is amended to  
9 read as follows:

10 (e) After the hearing on the merits or facts, the court may  
11 consider written reports from probation officers, professional  
12 court employees, guardians ad litem appointed under Section  
13 51.11(d), or professional consultants in addition to the testimony  
14 of other witnesses. On or before the second day before the date of  
15 the hearing to modify disposition, the court shall provide the  
16 attorney for the child and the prosecuting attorney with access to  
17 all written matter to be considered by the court in deciding whether  
18 to modify disposition. The court may order counsel not to reveal  
19 items to the child or his parent, guardian, or guardian ad litem if  
20 such disclosure would materially harm the treatment and  
21 rehabilitation of the child or would substantially decrease the  
22 likelihood of receiving information from the same or similar  
23 sources in the future.

24 SECTION 6. Section 54.11(d), Family Code, is amended to  
25 read as follows:

26 (d) At a hearing under this section the court may consider  
27 written reports and supporting documents from probation officers,

1 professional court employees, guardians ad litem appointed under  
2 Section 51.11(d), professional consultants, employees of the Texas  
3 Juvenile Justice Department, or employees of a post-adjudication  
4 secure correctional facility in addition to the testimony of  
5 witnesses. On or before the fifth day before the date of the  
6 hearing, the court shall provide the attorney for the person to be  
7 transferred or released under supervision with access to all  
8 written matter to be considered by the court. All written matter is  
9 admissible in evidence at the hearing.

10 SECTION 7. Section 107.011, Family Code, is amended by  
11 adding Subsections (e) and (f) to read as follows:

12 (e) The court may appoint the person appointed as guardian  
13 ad litem for the child under Section 51.11 to also serve as the  
14 guardian ad litem for the child under this section.

15 (f) Notwithstanding any other law, a guardian ad litem  
16 appointed under this section for a child may not investigate any  
17 pending criminal or juvenile charges involving the child.

18 SECTION 8. This Act takes effect September 1, 2021.