88R12032 MLH-F

By:  Garcia H.B. No. 2541

A BILL TO BE ENTITLED

AN ACT

relating to policies and procedures regarding children placed by the Department of Family and Protective Services in a residential treatment center or program.

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

SECTION 1.  Section 107.002, Family Code, is amended by amending Subsection (b) and adding Subsection (j) to read as follows:

(b)  A guardian ad litem appointed for the child under this chapter shall:

(1)  within a reasonable time after the appointment, interview:

(A)  the child in a developmentally appropriate manner, if the child is four years of age or older;

(B)  each person who has significant knowledge of the child's history and condition, including educators, child welfare service providers, and any foster parent of the child; and

(C)  the parties to the suit;

(2)  seek to elicit in a developmentally appropriate manner the child's:

(A)  expressed objectives; and

(B)  opinion of and concerns regarding the child's current or proposed placement;

(3)  consider the child's expressed objectives without being bound by those objectives;

(4)  encourage settlement and the use of alternative forms of dispute resolution; and

(5)  perform any specific task directed by the court.

(j)  If a child is or may be placed in a residential treatment center as defined by Section 263.001, a qualified residential treatment program as defined by Section 263.00201, or a similar treatment setting, the guardian ad litem:

(1)  shall:

(A)  review any available information related to the child's needs, including the child and adolescent needs and strengths assessment, any psychological evaluations, discharge notices from current or past placements, recent incident reports, and counseling notes;

(B)  review any available information regarding whether the placement is appropriate to meet the child's specific needs; and

(C)  provide to the court by report or testimony a recommendation regarding the placement that is in the best interest of the child; and

(2)  as appropriate, may request a placement conference and participate in any conferences conducted by the Department of Family and Protective Services or the child's treatment team related to initial and ongoing placement in a residential treatment center, qualified residential treatment program, or similar treatment setting.

SECTION 2.  Section 107.004, Family Code, is amended by adding Subsection (f) to read as follows:

(f)  If a child is considered for placement in a residential treatment center as defined by Section 263.001, a qualified residential treatment program as defined by Section 263.00201, or a similar treatment setting, the attorney ad litem:

(1)  shall:

(A)  review any available information related to the child's needs, including the child and adolescent needs and strengths assessment, any psychological evaluations, discharge notices from current or past placements, recent incident reports, and counseling notes;

(B)  review any available information regarding whether the placement is appropriate to meet the child's specific needs;

(C)  meet with the child before any hearing to allow the attorney ad litem to:

(i)  prepare for the hearing in accordance with the child's expressed representation objectives; and

(ii)  elicit, in a developmentally appropriate manner, the child's opinion of and concerns regarding the child's current or proposed placement;

(D)  advise the child in a developmentally appropriate manner regarding the Department of Family and Protective Services' request or recommendation for placement and the likelihood of the request being granted; and

(E)  advocate to the court for the child's specific desires regarding the requested placement in accordance with Subsection (a)(2); and

(2)  may, as appropriate:

(A)  request a placement conference; and

(B)  participate in any conferences conducted by the Department of Family and Protective Services or the child's treatment team related to initial and ongoing placement in a residential treatment center, qualified residential treatment program, or similar treatment setting unless there is good cause shown for excluding the attorney ad litem.

SECTION 3.  Section 107.0131(a), Family Code, is amended to read as follows:

(a)  An attorney ad litem appointed under Section 107.013 to represent the interests of a parent:

(1)  shall:

(A)  subject to Rules 4.02, 4.03, and 4.04, Texas Disciplinary Rules of Professional Conduct, and within a reasonable time after the appointment, interview:

(i)  the parent, unless the parent's location is unknown;

(ii)  each person who has significant knowledge of the case; and

(iii)  the parties to the suit;

(B)  investigate the facts of the case;

(C)  to ensure competent representation at hearings, mediations, pretrial matters, and the trial on the merits:

(i)  obtain and review copies of all court files in the suit during the attorney ad litem's course of representation; and

(ii)  when necessary, conduct formal discovery under the Texas Rules of Civil Procedure or the discovery control plan;

(D)  take any action consistent with the parent's interests that the attorney ad litem considers necessary to expedite the proceedings;

(E)  encourage settlement and the use of alternative forms of dispute resolution;

(F)  review and sign, or decline to sign, a proposed or agreed order affecting the parent;

(G)  meet before each court hearing with the parent, unless the court:

(i)  finds at that hearing that the attorney ad litem has shown good cause why the attorney ad litem's compliance is not feasible; or

(ii)  on a showing of good cause, authorizes the attorney ad litem to comply by conferring with the parent, as appropriate, by telephone or video conference;

(H)  abide by the parent's objectives for representation;

(I)  become familiar with the American Bar Association's standards of practice for attorneys who represent parents in abuse and neglect cases; and

(J)  complete at least three hours of continuing legal education relating to representing parents in child protection cases as described by Subsection (b) as soon as practicable after the attorney ad litem is appointed, unless the court finds that the attorney ad litem has experience equivalent to that education; and

(2)  is entitled to:

(A)  request clarification from the court if the role of the attorney ad litem is ambiguous;

(B)  request a hearing or trial on the merits;

(C)  consent or refuse to consent to an interview of the parent by another attorney;

(D)  receive a copy of each pleading or other paper filed with the court;

(E)  receive notice of each hearing in the suit;

(F)  participate in any case staffing conducted by the Department of Family and Protective Services in which the parent is invited to participate, including, as appropriate, a case staffing to develop a family plan of service, a family group conference, a permanency conference, a mediation, a case staffing to plan for the discharge and return of the child to the parent, a case staffing related to a placement in a residential treatment center as defined by Section 263.001 or qualified residential treatment program as defined by Section 263.00201, and any other case staffing that the department determines would be appropriate for the parent to attend, but excluding any internal department staffing or staffing between the department and the department's legal representative; and

(G)  attend all legal proceedings in the suit.

SECTION 4.  Section 263.001(a), Family Code, is amended by adding Subdivision (3-c) to read as follows:

(3-c)  "Residential treatment center" means a general residential operation licensed under Chapter 42, Human Resources Code, that provides treatment services.

SECTION 5.  This Act takes effect September 1, 2023.