

By: Campos

H.B. No. 1499

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the duties of court-appointed guardians ad litem,  
3 attorneys ad litem, and amicus attorneys in certain suits affecting  
4 the parent-child relationship.

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

6 SECTION 1. Sections 107.002(b) and (i), Family Code, are  
7 amended to read as follows:

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

10 (1) not later than the seventh business day [~~within a~~  
11 ~~reasonable time~~] after the date of the appointment, interview:

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

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

17 (C) the parties to the suit;

18 (2) seek to elicit in a developmentally appropriate  
19 manner the child's expressed objectives;

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

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

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

1 (i) A guardian ad litem appointed to represent a child in  
2 the managing conservatorship of the Department of Family and  
3 Protective Services shall, at least 72 hours before each scheduled  
4 hearing under Chapter 263, determine whether the child's  
5 educational needs and goals have been identified and addressed.

6 SECTION 2. Section 107.003(a), Family Code, is amended to  
7 read as follows:

8 (a) An attorney ad litem appointed to represent a child or  
9 an amicus attorney appointed to assist the court:

10 (1) shall:

11 (A) subject to Rules 4.02, 4.03, and 4.04, Texas  
12 Disciplinary Rules of Professional Conduct, and not later than the  
13 seventh business day [~~within a reasonable time~~] after the date of  
14 the appointment, interview:

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

17 (ii) each person who has significant  
18 knowledge of the child's history and condition, including any  
19 foster parent of the child; and

20 (iii) the parties to the suit;

21 (B) seek to elicit in a developmentally  
22 appropriate manner the child's expressed objectives of  
23 representation;

24 (C) consider the impact on the child in  
25 formulating the attorney's presentation of the child's expressed  
26 objectives of representation to the court;

27 (D) investigate the facts of the case to the

1 extent the attorney considers appropriate;

2 (E) obtain and review copies of relevant records  
3 relating to the child as provided by Section 107.006;

4 (F) participate in the conduct of the litigation  
5 to the same extent as an attorney for a party;

6 (G) take any action consistent with the child's  
7 interests that the attorney considers necessary to expedite the  
8 proceedings;

9 (H) encourage settlement and the use of  
10 alternative forms of dispute resolution; and

11 (I) review and sign, or decline to sign, a  
12 proposed or agreed order affecting the child;

13 (2) must be trained in child advocacy or have  
14 experience determined by the court to be equivalent to that  
15 training; and

16 (3) is entitled to:

17 (A) request clarification from the court if the  
18 role of the attorney is ambiguous;

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

20 (C) consent or refuse to consent to an interview  
21 of the child by another attorney;

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

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

25 (F) participate in any case staffing concerning  
26 the child conducted by the Department of Family and Protective  
27 Services; and

1 (G) attend all legal proceedings in the suit.

2 SECTION 3. Sections 107.004(d-1), (d-2), and (d-3), Family  
3 Code, are amended to read as follows:

4 (d-1) A meeting required by Subsection (d) must take place:

5 (1) at least 72 hours [~~a sufficient time~~] before the  
6 hearing to allow the attorney ad litem to prepare for the hearing in  
7 accordance with the child's expressed objectives of  
8 representation; and

9 (2) in a private setting that allows for confidential  
10 communications between the attorney ad litem and the child or  
11 individual with whom the child ordinarily resides, as applicable.

12 (d-2) An attorney ad litem appointed to represent a child in  
13 the managing conservatorship of the Department of Family and  
14 Protective Services or a child who is the subject of a proceeding  
15 under Chapter 264 shall, at least 72 hours before each scheduled  
16 hearing under Chapter 263 or 264, determine whether the child's  
17 educational needs and goals have been identified and addressed.

18 (d-3) An attorney ad litem appointed to represent a child in  
19 the managing conservatorship of the Department of Family and  
20 Protective Services or a child who is the subject of a proceeding  
21 under Chapter 264 shall, at least once each month, [~~periodically~~  
22 ~~continue to~~] review the child's safety and well-being, including  
23 any effects of trauma to the child, and take appropriate action,  
24 including requesting a review hearing when necessary to address an  
25 issue of concern.

26 SECTION 4. Section 107.011(a), Family Code, is amended to  
27 read as follows:

1           (a) Except as otherwise provided by this subchapter, in a  
2 suit filed by a governmental entity seeking termination of the  
3 parent-child relationship or the appointment of a conservator for a  
4 child, the court shall appoint a guardian ad litem to represent the  
5 best interests of the child immediately after the filing of the  
6 petition but not later than 72 hours before the full adversary  
7 hearing.

8           SECTION 5. Section 107.012, Family Code, is amended to read  
9 as follows:

10           Sec. 107.012. MANDATORY APPOINTMENT OF ATTORNEY AD LITEM  
11 FOR CHILD. In a suit filed by a governmental entity requesting  
12 termination of the parent-child relationship or to be named  
13 conservator of a child, the court shall appoint an attorney ad litem  
14 to represent the interests of the child immediately after the  
15 filing, but not later than 72 hours before the full adversary  
16 hearing, to ensure adequate representation of the child.

17           SECTION 6. Section 107.0131(a), Family Code, is amended to  
18 read as follows:

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

21                   (1) shall:

22                           (A) subject to Rules 4.02, 4.03, and 4.04, Texas  
23 Disciplinary Rules of Professional Conduct, and not later than the  
24 seventh business day [~~within a reasonable time~~] after the date of  
25 the appointment, interview:

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

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

3 (iii) the parties to the suit;

4 (B) investigate the facts of the case;

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

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

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

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

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

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

21 (G) meet with the parent at least 72 hours before  
22 each court hearing [~~with the parent~~], unless the court:

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

26 (ii) on a showing of good cause, authorizes  
27 the attorney ad litem to comply by conferring with the parent, as

1 appropriate, by telephone or video conference;

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

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

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

13 (2) is entitled to:

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

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

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

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

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

22 (F) participate in any case staffing conducted by  
23 the Department of Family and Protective Services in which the  
24 parent is invited to participate, including, as appropriate, a case  
25 staffing to develop a family plan of service, a family group  
26 conference, a permanency conference, a mediation, a case staffing  
27 to plan for the discharge and return of the child to the parent, and

1 any other case staffing that the department determines would be  
2 appropriate for the parent to attend, but excluding any internal  
3 department staffing or staffing between the department and the  
4 department's legal representative; and

5 (G) attend all legal proceedings in the suit.

6 SECTION 7. The changes in law made by this Act apply only to  
7 a suit affecting the parent-child relationship filed on or after  
8 the effective date of this Act. A suit affecting the parent-child  
9 relationship filed before that date is governed by the law in effect  
10 on the date the suit was filed, and that law is continued in effect  
11 for that purpose.

12 SECTION 8. This Act takes effect September 1, 2023.