

By: Garcia

H.B. No. 2541

A BILL TO BE ENTITLED

AN ACT

1
2 relating to policies and procedures regarding children placed by
3 the Department of Family and Protective Services in a residential
4 treatment center or program.

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

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

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

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

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

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

18 (C) the parties to the suit;

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

21 (A) expressed objectives; and

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

24 (3) consider the child's expressed objectives without

1 being bound by those objectives;

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

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

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

9 (1) shall:

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

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

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

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

27 SECTION 2. Section 107.004, Family Code, is amended by

1 adding Subsection (f) to read as follows:

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

6 (1) shall:

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

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

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

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

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

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

26 (E) advocate to the court for the child's
27 specific desires regarding the requested placement in accordance

1 with Subsection (a)(2); and

2 (2) may, as appropriate:

3 (A) request a placement conference; and

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

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

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

14 (1) shall:

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

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

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

22 (iii) the parties to the suit;

23 (B) investigate the facts of the case;

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

27 (i) obtain and review copies of all court

1 files in the suit during the attorney ad litem's course of
2 representation; and

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

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

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

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

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

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

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

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

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

26 (J) complete at least three hours of continuing
27 legal education relating to representing parents in child

1 protection cases as described by Subsection (b) as soon as
2 practicable after the attorney ad litem is appointed, unless the
3 court finds that the attorney ad litem has experience equivalent to
4 that education; and

5 (2) is entitled to:

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

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

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

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

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

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

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

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

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

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