

By: Zaffirini

S.B. No. 61

A BILL TO BE ENTITLED

AN ACT

relating to selection of an attorney by an indigent parent as attorney ad litem for the parent in certain suits affecting the parent-child relationship.

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

SECTION 1. Sections 107.013(a) and (a-1), Family Code, are amended to read as follows:

(a) Subject to Section 107.01301, in ~~in~~ a suit filed by a governmental entity under Subtitle E in which termination of the parent-child relationship or the appointment of a conservator for a child is requested, the court shall appoint an attorney ad litem to represent the interests of:

(1) an indigent parent of the child who responds in opposition to the termination or appointment;

(2) a parent served by citation by publication;

(3) an alleged father who failed to register with the registry under Chapter 160 and whose identity or location is unknown; and

(4) an alleged father who registered with the paternity registry under Chapter 160, but the petitioner's attempt to personally serve citation at the address provided to the registry and at any other address for the alleged father known by the petitioner has been unsuccessful.

(a-1) In a suit described by Subsection (a), if a parent is

not represented by an attorney at the parent's first appearance in court, the court shall inform the parent of:

(1) the right to be represented by an attorney; and

(2) if the parent is indigent and appears in opposition to the suit, the right to an attorney ad litem appointed by the court or an attorney selected by the parent and compensated by the county under Section 107.01301.

SECTION 2. Part 1, Subchapter B, Chapter 107, Family Code, is amended by adding Section 107.01301 to read as follows:

Sec. 107.01301. SELECTION OF ATTORNEY AD LITEM BY INDIGENT PARENT. (a) A parent who the court has determined is indigent for the purposes of Section 107.013 may select an attorney to represent the parent in a suit described by Section 107.013(a).

(b) An attorney selected by a parent under Subsection (a) must:

(1) be licensed to practice law in this state;

(2) be in good standing with the State Bar of Texas;

and

(3) meet the applicable continuing education requirements of Section 107.0131.

(c) The selection of an attorney by a parent under Subsection (a) is independent of any appointment system implemented by the court, including the rotation system described by Section 37.004, Government Code. The court may not take any action that influences, directs, or interferes with the selection of an attorney by a parent under Subsection (a).

(d) An attorney selected by a parent under Subsection (a)

1 shall serve as the parent's counsel of record upon filing with the  
2 court a notice of appearance and, if the parent is represented by  
3 other counsel, a motion to substitute counsel with the court. The  
4 filing of the notice and, if applicable, the motion is a ministerial  
5 act and does not require the approval of the court. The court's  
6 review of a notice and motion filed under this subsection shall be  
7 limited to confirming the attorney meets the requirements of  
8 Subsection (b). Upon confirming an attorney selected by a parent  
9 under Subsection (a) meets the requirements of Subsection (b), the  
10 court shall:

11 (1) grant the attorney's motion to substitute counsel,  
12 if applicable; and

13 (2) terminate the appointment of any previously  
14 appointed attorney ad litem for the parent.

15 (e) A court may not:

16 (1) deny or delay approval of a motion under  
17 Subsection (d) except to confirm that the attorney meets the  
18 requirements of Subsection (b); or

19 (2) impose any additional requirements on the attorney  
20 other than those described by Subsection (b).

21 (f) An attorney serving as attorney ad litem for a parent  
22 under this section:

23 (1) has the powers and duties described by Section  
24 [107.0131](#) or [107.0132](#), as applicable; and

25 (2) is subject to disciplinary action as provided by  
26 Section [107.0133](#).

27 (g) Payment for services rendered by an attorney serving as

attorney ad litem for a parent under this section shall be:

(1) equal to the payments made to an attorney appointed under Section 107.013 to serve as attorney ad litem for an indigent parent;

(2) made in accordance with existing payment procedures applicable to an attorney appointed under Section 107.013 to serve as attorney ad litem for an indigent parent; and

(3) paid from the general funds of the county.

(h) A court may not adopt or enforce local rules that conflict with this section, impose additional requirements on the selection of an attorney under this section, or otherwise interfere with the right of a parent to select an attorney under Subsection (a). Interference with the selection of an attorney by a parent under Subsection (a) for financial gain or favoritism is a violation of judicial ethics and may subject a judge to discipline under the Code of Judicial Conduct or prosecution under the penal laws of this state, including Section 36.02 or 36.08, Penal Code, as applicable.

(i) This section does not limit the authority of a court to remove an attorney for good cause under applicable law.

(j) The Office of Court Administration of the Texas Judicial System may adopt rules necessary to implement this section.

SECTION 3. The change in law made by this Act applies only to a suit affecting the parent-child relationship that is filed on or after the effective date of this Act. A suit affecting the parent-child relationship filed before the effective date of this Act is governed by the law in effect on the date the suit was filed,

1 and the former law is continued in effect for that purpose.

2       SECTION 4. As soon as practicable after the effective date  
3 of this Act but not later than March 1, 2026, the Office of Court  
4 Administration of the Texas Judicial System shall adopt rules  
5 necessary to implement Section 107.01301, Family Code, as added by  
6 this Act.

7       SECTION 5. This Act takes effect on the 91st day after the  
8 last day of the legislative session.