**BILL ANALYSIS**

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| Senate Research Center | S.B. 1838 |
|  | By: Zaffirini |
|  | Jurisprudence |
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**AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Current law governing fee schedules for court-appointed attorneys in child protection cases lacks clarity, resulting in inconsistencies across counties. While counties are required to submit fee schedules biennially, the law does not clearly specify how these schedules should apply to attorneys representing children and indigent parents in child protection cases. References to statutes primarily addressing criminal defense have further contributed to confusion, leading to disparities in compensation and, in some cases, the absence of a standardized fee schedule altogether.

S.B. 1838 would clarify and standardize the rules surrounding fee schedules for attorneys appointed to represent children and indigent parents in Department of Family and Protective Services (DFPS) cases. By establishing a standardized fee schedule, S.B. 1838 would ensure consistency in attorney compensation across counties. This reform would promote fairness and transparency, eliminating wide variations in fees and ensuring attorneys handling child protection cases are appropriately compensated. Clear statutory guidance would provide counties with a uniform framework, ensuring fair and predictable compensation in DFPS-related cases.

As proposed, S.B. 1838 amends current law relating to the appointment of attorneys ad litem and the compensation of certain attorneys ad litem in suits affecting the parent-child relationship filed by a governmental entity.

**RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

**SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 107.015, Family Code, by amending Subsections (a) and (c) and adding Subsections (e) and (f), as follows:

(a) Provides that an attorney appointed under Chapter 107 (Special Appointments, Child Custody Evaluations, and Adoption Evaluations), Chapter 262 (Procedures in Suit by Governmental Entity to Protect Health and Safety of Child), or Chapter 264 (Child Welfare Services) to serve as an attorney ad litem for a child, an attorney in the dual role, or an attorney ad litem for a parent is entitled to reasonable fees and expenses in the amount set by the court to be paid by the parents of the child unless the parents are indigent.

(c) Requires an attorney ad litem appointed to represent a child or parent in a suit filed by a governmental entity under Title 5 (The Parent-Child Relationship and the Suit Affecting the Parent-Child Relationship) who is not an employee of an office of child representation, office of parent representation, or other entity that uses public money to provide legal representation to children or parents in a suit filed by a governmental entity under Title 5, if indigency of the parents is shown, to be paid from the general funds of the county according to the fee schedule adopted under Section 107.0155, rather than that applies to an attorney appointed to represent a child in a suit under Title 3 (Juvenile Justice Code) as provided by Chapter 51 (General Provisions).

(e) Authorizes a court to remove a person from the list maintained by the court of persons qualified for appointment as attorney or guardian ad litem if, after notice and a hearing, the court determines the person submitted a voucher or claim for payment under Subsection (d) (relating to requiring a person appointed as a guardian ad litem or attorney ad litem to complete and submit to the court a voucher or claim for payment) for services the person did not perform.

(f) Authorizes a person whose voucher or claim for payment under Subsection (d) was denied or modified by the court or has not been approved by the court by the 60th day after the date the voucher or claim for payment was submitted to file a petition addressed to the presiding judge of the administrative judicial region to compel payment or to appeal the denial or modification of the payment. Requires the presiding judge of the administrative judicial region to review the petition for payment filed under Section 107.015 (Attorney Fees), determine the amount due to the petitioner, and order the commissioners court to pay that amount not later than the 45th day after the date a petition is filed under this subsection. Authorizes the presiding judge of the administrative judicial region to hold a hearing in a proceeding described by this subsection.

SECTION 2. Amends Part 1, Subchapter B, Chapter 107, Family Code, by adding Section 107.0155, as follows:

Sec. 107.0155. FEE SCHEDULE FOR CERTAIN ATTORNEYS AD LITEM. (a) Requires each court in a county hearing suits filed by a governmental entity under Title 5 to jointly develop, adopt, and submit to the commissioners court of the county a fee schedule for the compensation of an attorney ad litem described by Section 107.015(c) that includes certain payments and reimbursement for reasonable and necessary expenses.

(b) Requires that a fee schedule adopted under Subsection (a) describe with specificity services and expenses eligible for payment or reimbursement, include an hourly or fixed payment rate based on certain information, and include a form for the itemization of services and expenses for a claim for payment under Section 107.015(d).

SECTION 3. Amends Section 107.252, Family Code, as follows:

Sec. 107.252. APPLICABILITY. Provides that Subchapter G (Office of Child Representation and Office of Parent Representation) applies to a suit filed by a governmental entity seeking termination of the parent-child relationship or the appointment of a conservator for a child in which appointment of an attorney is required under Section 107.012 (Mandatory Appointment of Attorney Ad Litem for Child) or 107.013 (Mandatory Appointment of Attorney Ad Litem for Parents) or a suit filed under Subtitle E (Protection of the Child).

SECTION 4. Amends Section 107.254, Family Code, as follows:

Sec. 107.254. OFFICE OF CHILD REPRESENTATION. Provides that an office of child representation is an entity that uses public money to provide legal representation and services for a child in a suit filed by a governmental entity seeking termination of the parent-child relationship or the appointment of a conservator for the child in which appointment is mandatory for a child under Section 107.012 or suits filed under Subtitle E.

SECTION 5. Amends Section 107.255, Family Code, as follows:

Sec. 107.255. OFFICE OF PARENT REPRESENTATION. Provides that an office of parent representation is an entity that uses public money to provide legal representation and services for a parent in a suit filed by a governmental entity seeking termination of the parent-child relationship or the appointment of a conservator for a child in which appointment is mandatory for a parent under Section 107.013 or suits filed under Subtitle E.

SECTION 6. Amends Section 107.260(a), Family Code, as follows:

(a) Requires a court in a county, if there is an office of child representation or office of parent representation serving that county, to appoint for a child or parent, as applicable, an attorney from the office in a suit filed in the county by a governmental entity in which appointment of an attorney is required under Section 107.012, 107.013, or Subtitle E, rather than an attorney from the office in a suit filed in the county by a governmental entity seeking termination of the parent-child relationship, unless there is a conflict of interest or other reason to appoint a different attorney from the list maintained by the court of attorneys qualified for appointment under Section 107.012 or 107.013.

SECTION 7. Amends Section 107.302(a), Family Code, as follows:

(a) Authorizes a managed assigned counsel program to be operated with public money for the purpose of appointing counsel to provide legal representation and services for a child or parent in a suit filed by a governmental entity in which appointment is mandatory for a child under Section 107.012, for a parent under Section 107.013, or Subtitle E.

SECTION 8. Amends Section 107.037(a), Family Code, as follows:

(a) Requires the judge of a county served by a program to make any appointment required under Section 107.012, 107.013, or Subtitle E, rather than required under Section 107.012 or 107.013 in a suit filed in the county by a governmental entity seeking termination of the parent-child relationship or the appointment of a conservator for the child, from the program's public appointment list, unless there is a conflict of interest or other reason to appoint a different attorney from the list maintained by the court of attorneys qualified for appointment under Section 107.012 or 107.013.

SECTION 9. Makes application of Sections 107.252, 107.254, 107.255, 107.260(a), 107.302(a), and 107.307(a), Family Code, as amended by this Act, prospective.

SECTION 10. (a) Requires the courts in each county hearing suits filed by a governmental entity under Title 5, Family Code, not later than January 1, 2026, to adopt the fee schedule required by Section 107.0155, Family Code, as added by this Act.

(b) Makes application of Section 107.015(c), Family Code, as amended by this Act, prospective to January 1, 2026.

SECTION 11. Effective date: September 1, 2025.