

By: Cook

H.B. No. 2530

A BILL TO BE ENTITLED

AN ACT

relating to special appointments in suits affecting the parent-child relationship.

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

SECTION 1. Section 107.001(1), Family Code, is amended to read as follows:

(1) "Amicus attorney" means an attorney appointed by the court in a suit, other than a suit filed by a governmental entity, whose role is to provide legal services necessary to assist the court in protecting a child's best interests rather than to provide legal services to the child, including by acting as a witness or making recommendations to the court.

SECTION 2. The heading to Section 107.003, Family Code, is amended to read as follows:

Sec. 107.003. POWERS AND DUTIES OF ATTORNEY AD LITEM FOR CHILD ~~[AND AMICUS ATTORNEY]~~.

SECTION 3. Section 107.003(a), Family Code, is amended to read as follows:

(a) An attorney ad litem appointed to represent a child ~~[or an amicus attorney appointed to assist the court]~~:

(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:

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

3 (ii) each person who has significant  
4 knowledge of the child's history and condition, including any  
5 foster parent of the child; and

6 (iii) the parties to the suit;

7 (B) seek to elicit in a developmentally  
8 appropriate manner the child's expressed objectives of  
9 representation;

10 (C) consider the impact on the child in  
11 formulating the attorney's presentation of the child's expressed  
12 objectives of representation to the court;

13 (D) investigate the facts of the case to the  
14 extent the attorney considers appropriate;

15 (E) obtain and review copies of relevant records  
16 relating to the child as provided by Section [107.006](#);

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

19 (G) take any action consistent with the child's  
20 interests that the attorney considers necessary to expedite the  
21 proceedings;

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

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

26 (2) must be trained in child advocacy or have  
27 experience determined by the court to be equivalent to that

1 training; and

2 (3) is entitled to:

3 (A) request clarification from the court if the  
4 role of the attorney is ambiguous;

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

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

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

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

11 (F) participate in any case staffing concerning  
12 the child conducted by the Department of Family and Protective  
13 Services; and

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

15 SECTION 4. Section 107.007(a), Family Code, is amended to  
16 read as follows:

17 (a) An attorney ad litem or [7] an attorney serving in the  
18 dual role[~~, or an amicus attorney~~] may not:

19 (1) be compelled to produce attorney work product  
20 developed during the appointment as an attorney;

21 (2) be required to disclose the source of any  
22 information;

23 (3) submit a report into evidence; or

24 (4) testify in court except as authorized by Rule  
25 3.08, Texas Disciplinary Rules of Professional Conduct.

26 SECTION 5. Section 107.009, Family Code, is amended to read  
27 as follows:

1       Sec. 107.009. IMMUNITY. (a) A guardian ad litem, [~~an~~  
2 ~~attorney ad litem,~~] a child custody evaluator, or an adoption  
3 evaluator [~~amicus attorney~~] appointed under this chapter is not  
4 liable for civil damages arising from an action taken, a  
5 recommendation made, or an opinion given in the capacity of  
6 guardian ad litem, [~~attorney ad litem,~~] child custody evaluator, or  
7 adoption evaluator [~~amicus attorney~~].

8       (a-1) An attorney ad litem or amicus attorney appointed  
9 under this chapter is not liable for civil damages arising from an  
10 action taken in the capacity of attorney ad litem or amicus  
11 attorney.

12       (b) Subsections [~~Subsection~~] (a) and (a-1) do [~~does~~] not  
13 apply to an action taken, a recommendation made, or an opinion  
14 given:

15               (1) with conscious indifference or reckless disregard  
16 to the safety of another;

17               (2) in bad faith or with malice; or

18               (3) that is grossly negligent or wilfully wrongful.

19       SECTION 6. Part 2, Subchapter B, Chapter 107, Family Code,  
20 is amended by adding Sections 107.024, 107.0245, 107.025, 107.0255,  
21 107.026, 107.0265, 107.027, and 107.0275 to read as follows:

22       Sec. 107.024. APPOINTMENT OF AMICUS ATTORNEY. (a) The  
23 court, after notice and hearing or on agreement of the parties, may  
24 appoint an amicus attorney in a suit.

25       (b) In determining whether to make an appointment under this  
26 section, the court:

27               (1) shall:

1           (A) give due consideration to the ability of the  
2 parties to pay reasonable fees to the amicus attorney; and

3           (B) balance the child's interests against the  
4 cost to the parties that would result from an appointment by taking  
5 into consideration the cost of available alternatives for resolving  
6 issues without making an appointment;

7           (2) may make an appointment only if the court finds  
8 that the appointment is necessary to ensure the determination of  
9 the best interests of the child, unless the appointment is  
10 otherwise required by this code; and

11           (3) may not require an amicus attorney appointed under  
12 this section to serve without reasonable compensation for the  
13 services rendered by the amicus attorney.

14           (c) An amicus attorney appointed under this section must be  
15 qualified under Section 107.0245 or 107.025.

16           (d) An order appointing an amicus attorney under this  
17 section must include:

18           (1) the name, bar number, address, telephone number,  
19 and e-mail address of the appointed amicus attorney;

20           (2) the scope of the amicus attorney's role;

21           (3) a list of the duties of an amicus attorney,  
22 including duties under Section 107.0265(c)(1);

23           (4) any other specific tasks requested by the court;  
24 and

25           (5) specific provisions for payment of the amicus  
26 attorney, including a retainer or cost deposit.

27           (e) If a party to or child subject to a suit does not speak

English as the party's or child's primary language, the court shall ensure that the amicus attorney:

(1) is able to effectively communicate in the party's or child's primary language; or

(2) will be assisted by a licensed or certified interpreter.

(f) A licensed or certified interpreter assisting an amicus attorney under Subsection (e)(2) may accompany the amicus attorney in person or assist through use of audio or video conferencing technology.

(g) The court may require the parties to pay any costs associated with obtaining assistance from a licensed or certified interpreter under Subsection (e)(2).

Sec. 107.0245. AMICUS ATTORNEY; MINIMUM QUALIFICATIONS.

(a) To be qualified to serve as an amicus attorney, an individual must:

(1) be an attorney who:

(A) is licensed to practice law in this state and in good standing with the State Bar of Texas;

(B) has practiced law for at least two years; and

(C) is trained in child advocacy or found by the court to have experience equivalent to training in child advocacy;

(2) in the two years preceding the appointment, have completed not less than a total of four hours of continuing legal education in the following subject areas:

(A) the dynamics of family violence;

(B) techniques for interviewing a child in a

1 developmentally appropriate manner; and

2 (C) alternative dispute resolution; and

3 (3) if appropriate due to the nature of the  
4 appointment, be familiar with the American Bar Association's  
5 standards of practice for attorneys who represent children in  
6 custody cases.

7 (b) Continuing legal education described by Subsection  
8 (a)(2)(A) must be developed in consultation with a statewide family  
9 violence advocacy organization.

10 (c) The court shall determine whether a prospective amicus  
11 attorney meets the qualifications of this section.

12 (d) On the request of the court, a prospective amicus  
13 attorney must demonstrate appropriate knowledge and competence  
14 consistent with professional models, standards, and guidelines.

15 Sec. 107.025. EXCEPTION TO QUALIFICATIONS REQUIRED TO SERVE  
16 AS AMICUS ATTORNEY IN CERTAIN COUNTIES. (a) This section applies  
17 only to a county with a population of less than 500,000.

18 (b) If a court finds that an individual qualified to serve  
19 as an amicus attorney under Section 107.0245 is not available in the  
20 county to serve as an amicus attorney, the court may, after notice  
21 and hearing or on agreement of the parties, appoint an amicus  
22 attorney the court determines to be otherwise qualified to serve.

23 Sec. 107.0255. AMICUS ATTORNEY; CONFLICTS OF INTEREST AND  
24 BIAS. (a) Before a person accepts appointment as an amicus  
25 attorney in a suit, the person must disclose to the court, each  
26 attorney for a party to the suit, and any party to the suit who does  
27 not have an attorney:

1           (1) any conflict of interest that the person believes  
2 the person has with the court, any party to the suit, or a child who  
3 is the subject of the suit;

4           (2) any previous knowledge that the person has of a  
5 party to the suit or a child who is the subject of the suit, other  
6 than knowledge obtained in a court-ordered evaluation;

7           (3) any pecuniary relationship that the person  
8 believes the person has with an attorney in the suit or the court;

9           (4) any fiduciary relationship that the person  
10 believes the person has with an attorney in the suit or the court;

11           (5) any conflict of interest that the person believes  
12 the person has with another person participating or expected to  
13 participate in the suit in a professional capacity; and

14           (6) any other information relating to the person's  
15 relationship with an attorney in the suit or the court that a  
16 reasonable, prudent person would believe would affect the ability  
17 of the person to act impartially as an amicus attorney.

18           (b) The court may not appoint a person as an amicus attorney  
19 in a suit if the person makes any of the disclosures in Subsection  
20 (a) unless:

21           (1) the court finds, after notice and a hearing, that:

22                   (A) the person has no conflict of interest with a  
23 party to the suit, the court, or a child who is the subject of the  
24 suit;

25                   (B) the person's previous knowledge of a party to  
26 the suit, the court, or a child who is the subject of the suit is not  
27 relevant;



1                   (C) the person does not have a pecuniary  
2 relationship with an attorney in the suit or the court; and

3                   (D) the person does not have a fiduciary  
4 relationship with an attorney in the suit or the court; or

5                   (2) the parties agree in writing to the person's  
6 appointment as an amicus attorney.

7           (c) After being appointed as an amicus attorney in a suit, a  
8 person shall immediately disclose to the court, each attorney for a  
9 party to the suit, and any party to the suit who does not have an  
10 attorney any discovery of the following unless previously  
11 disclosed:

12                   (1) a conflict of interest that the person believes  
13 the person has with a party to the suit, the court, or a child who is  
14 the subject of the suit;

15                   (2) previous knowledge the person has of a party to the  
16 suit, the court, or a child who is the subject of the suit, other  
17 than knowledge obtained in a court-ordered evaluation;

18                   (3) a relationship that the person has with an  
19 attorney in the suit who was hired or appointed after the person's  
20 appointment as an amicus attorney that would have been subject to  
21 disclosure under Subsection (a); and

22                   (4) any conflict of interest that the person believes  
23 the person has with another person who participates in the suit in a  
24 professional capacity.

25           (d) The court shall remove a person as an amicus attorney in  
26 a suit if the person makes any of the disclosures in Subsection (c)  
27 unless:

1           (1) the court finds, after notice and a hearing, that,  
2 as applicable:

3           (A) the person has no conflict of interest with a  
4 party to the suit, the court, or a child who is the subject of the  
5 suit;

6           (B) the person's previous knowledge of a party to  
7 the suit, the court, or a child who is the subject of the suit is not  
8 relevant;

9           (C) the person has no pecuniary or fiduciary  
10 relationship with an attorney in the suit who was hired or appointed  
11 after the person's appointment as an amicus attorney; or

12           (D) the person has no conflict of interest with  
13 another person who participates in the suit in a professional  
14 capacity; or

15           (2) the parties agree in writing to the person's  
16 continued appointment as an amicus attorney.

17           (e) A person who has a preexisting relationship with an  
18 attorney for a party to the suit or a professional participating in  
19 the suit is not disqualified from being an amicus attorney if the  
20 relationship was formed in a professional setting such as service  
21 to the community or a bar association.

22           Sec. 107.026. AMICUS ATTORNEY STANDARD OF CARE. (a) Except  
23 as provided by this title, an amicus attorney is subject to the  
24 professional standards of care and ethical standards necessary to  
25 remain in good standing with the State Bar of Texas.

26           (b) A court may impose requirements or adopt local rules  
27 applicable to an amicus attorney that do not conflict with this

1 subchapter.

2 Sec. 107.0265. POWERS AND DUTIES OF AMICUS ATTORNEY. (a)  
3 Subject to specific limitations given in an order of appointment  
4 under Section 107.024, an amicus attorney's primary duty is to:

5 (1) review the facts and circumstances of the case;  
6 and

7 (2) advocate the best interests of a child who is the  
8 subject of the suit.

9 (b) In performing the duties under Subsection (a), an amicus  
10 attorney is not bound by the expressed objectives of a child who is  
11 the subject of the suit.

12 (c) An amicus attorney appointed to assist the court:

13 (1) shall:

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

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

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

22 (iii) the parties to the suit;

23 (B) seek to elicit and assess the child's view in  
24 a developmentally appropriate manner;

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

1                   (D) investigate the facts of the case to the  
2 extent the attorney considers appropriate;

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

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

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

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

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

14                  (J) on the request of any party, disclose the  
15 name, address, and phone number of each person interviewed or  
16 consulted; and

17                  (K) on the request of any party, make available  
18 documents obtained by the amicus attorney for copying;

19                  (2) may be required by the court to perform additional  
20 tasks, including:

21                   (A) conducting additional interviews with each  
22 child who is the subject of the suit to:

23                   (i) ensure balanced and impartial  
24 representation by the amicus attorney; and

25                   (ii) observe each child while in the care of  
26 each party to the suit;

27                   (B) interviewing other individuals, including,

1 at the discretion of the amicus attorney, a child who:

2 (i) is not less than four years of age; and

3 (ii) resides part-time or full-time in a  
4 residence where a child who is the subject of the suit resides  
5 part-time or full-time;

6 (C) visiting the residence of each party seeking  
7 conservatorship or possession of or access to a child who is the  
8 subject of the suit; or

9 (D) reviewing any information the court  
10 determines is relevant; and

11 (3) is entitled to:

12 (A) request clarification from the court if the  
13 role of the amicus attorney is ambiguous;

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

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

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

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

20 (F) participate in any case staffing concerning  
21 the child conducted by the Department of Family and Protective  
22 Services;

23 (G) attend all legal proceedings in the suit; and

24 (H) make arguments during legal proceedings,  
25 including:

26 (i) summarizing evidence; and

27 (ii) suggesting reasonable inferences and

1 deductions drawn from the evidence.

2 (d) In preparing for and conducting an interview with a  
3 child, an amicus attorney shall:

4 (1) explain the role of an amicus attorney to the child  
5 in a developmentally appropriate manner;

6 (2) inform the child in a developmentally appropriate  
7 manner that the amicus attorney may use information the child  
8 provides in assisting the court; and

9 (3) become familiar with the American Bar  
10 Association's standards of practice for attorneys who represent  
11 children in custody cases.

12 (e) The disclosure required by Subsections (c)(1)(J) and  
13 (K):

14 (1) shall not be construed to require disclosure of an  
15 amicus attorney's notes or attorney work product; and

16 (2) is subject to supplementation under Rule 193.5,  
17 Texas Rules of Civil Procedure.

18 Sec. 107.027. LIMITATIONS ON AMICUS ATTORNEY POWERS. (a)  
19 An amicus attorney may not:

20 (1) offer an opinion regarding conservatorship or  
21 possession of or access to a child subject to a suit;

22 (2) engage in ex parte communications with the court;

23 (3) be compelled to produce attorney work product  
24 developed during the appointment as an amicus attorney;

25 (4) except as required under Section  
26 107.0265(c)(1)(J) or (K), be required to disclose the source of any  
27 information;

1           (5) submit a report into evidence; or

2           (6) testify in court, except:

3               (A) as authorized under Rule 3.08, Texas  
4 Disciplinary Rules of Professional Conduct; or

5               (B) as necessary for the court to make a  
6 determination relating to the qualifications, conflicts of  
7 interest, bias, or removal of the amicus attorney.

8           (b) Subsection (a) does not apply to the duty of an attorney  
9 to report child abuse or neglect under Section 261.101.

10           Sec. 107.0275. REMOVAL OF AMICUS ATTORNEY. The court:

11               (1) may remove an amicus attorney if the parties agree  
12 to the removal; and

13               (2) shall remove an amicus attorney if, after notice  
14 and hearing, the court finds that the amicus attorney:

15                       (A) does not have the minimum qualifications to  
16 serve as an amicus attorney under Section 107.0245 or 107.025;

17                       (B) has a conflict of interest or bias under  
18 Section 107.0255(a) that is not exempted under that section;

19                       (C) fails to perform duties under Section  
20 107.0265 or ordered by the court;

21                       (D) violates a standard of care under Section  
22 107.026; or

23                       (E) requests to be removed because a party to the  
24 suit has prevented the amicus attorney from fulfilling the duties  
25 of the amicus attorney.

26           SECTION 7. Section 107.005, Family Code, is repealed.

27           SECTION 8. The changes in law made by this Act apply only to

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1 a suit affecting the parent-child relationship that is filed on or  
2 after the effective date of this Act. A suit affecting the  
3 parent-child relationship filed before the effective date of this  
4 Act is governed by the law in effect on the date the suit was filed,  
5 and the former law is continued in effect for that purpose.

6 SECTION 9. This Act takes effect September 1, 2025.