

By: Campos

H.B. No. 3382

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

(A) the child in a developmentally appropriate manner, if the child is three ~~[four]~~ years of age or older;

(B) the child's caregiver or the administrator of the licensed child-placing agency that placed the child ~~[each person who has significant knowledge of the child's history and condition, including educators, child welfare service providers, and any foster parent of the child]~~; and

(C) the parties to the suit;

(2) not later than the 15th business day after the date of the appointment, interview each person who has significant knowledge of the child's history and condition, including educators, child welfare service providers, and any foster parent of the child;

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

3 (A) expressed objectives; and

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

6 (4) [~~(3)~~] consider the child's expressed objectives
7 without being bound by those objectives;

8 (5) [~~(4)~~] encourage settlement and the use of
9 alternative forms of dispute resolution; and

10 (6) [~~(5)~~] perform any specific task directed by the
11 court.

12 (b-1) In addition to the duties required by Subsection (b),
13 a guardian ad litem appointed for a child in a proceeding under
14 Chapter 262 or 263 shall:

15 (1) review the medical care provided to the child;

16 (2) in a developmentally appropriate manner, seek to
17 elicit the child's opinion on the medical care provided;

18 (3) for a child at least 17 [~~16~~] years of age,
19 ascertain whether the child has received the following documents:

20 (A) a certified copy of the child's birth
21 certificate;

22 (B) a social security card or a replacement
23 social security card;

24 (C) a driver's license or personal
25 identification certificate under Chapter 521, Transportation Code;
26 and

27 (D) any other personal document the Department of

1 Family and Protective Services or single source continuum
2 contractor determines appropriate; and

3 (4) for a child at least 13 years of age, ascertain
4 whether the child has received a personal identification
5 certificate under Chapter 521, Transportation Code [~~seek to elicit~~
6 ~~in a developmentally appropriate manner the name of any adult,~~
7 ~~particularly an adult residing in the child's community, who could~~
8 ~~be a relative or designated caregiver for the child and immediately~~
9 ~~provide the names of those individuals to the Department of Family~~
10 ~~and Protective Services~~].

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

16 SECTION 2. Section 107.003, Family Code, is amended to read
17 as follows:

18 Sec. 107.003. POWERS AND DUTIES OF ATTORNEY AD LITEM FOR
19 CHILD AND AMICUS ATTORNEY. (a) An attorney ad litem appointed to
20 represent a child or an amicus attorney appointed to assist the
21 court:

22 (1) shall:

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

27 (i) the child in a developmentally

1 appropriate manner, if the child is three [~~four~~] years of age or
2 older;

3 (ii) the child's caregiver or the
4 administrator of the licensed child-placing agency that placed the
5 child [~~each person who has significant knowledge of the child's~~
6 ~~history and condition, including any foster parent of the child~~];
7 and

8 (iii) the parties to the suit;

9 (B) not later than the 15th business day after
10 the date of the appointment, interview each person who has
11 significant knowledge of the child's history and condition,
12 including educators, child welfare service providers, and any
13 foster parent of the child;

14 (C) seek to elicit in a developmentally
15 appropriate manner the child's expressed objectives of
16 representation;

17 (D) [~~(C)~~] consider the impact on the child in
18 formulating the attorney's presentation of the child's expressed
19 objectives of representation to the court;

20 (E) [~~(D)~~] investigate the facts of the case to
21 the extent the attorney considers appropriate;

22 (F) [~~(E)~~] obtain and review copies of relevant
23 records relating to the child as provided by Section 107.006;

24 (G) [~~(F)~~] participate in the conduct of the
25 litigation to the same extent as an attorney for a party;

26 (H) [~~(G)~~] take any action consistent with the
27 child's interests that the attorney considers necessary to expedite

1 the proceedings;

2 (I) [~~(H)~~] encourage settlement and the use of
3 alternative forms of dispute resolution; and

4 (J) [~~(I)~~] review and sign, or decline to sign, a
5 proposed or agreed order affecting the child;

6 (2) must be trained in child advocacy or have
7 experience determined by the court to be equivalent to that
8 training; and

9 (3) is entitled to:

10 (A) request clarification from the court if the
11 role of the attorney is ambiguous;

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

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

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

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

18 (F) participate in any case staffing concerning
19 the child conducted by the Department of Family and Protective
20 Services or a single source continuum contractor; and

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

22 (b) In addition to the duties required by Subsection (a), an
23 attorney ad litem appointed for a child in a proceeding under
24 Chapter 262, 263, or 264 shall:

25 (1) review the medical care provided to the child;

26 (2) in a developmentally appropriate manner, seek to
27 elicit the child's opinion on the medical care provided;

1 (3) for a child at least 17 [~~16~~] years of age:

2 (A) advise the child of the child's right to
3 request the court to authorize the child to consent to the child's
4 own medical care under Section 266.010; and

5 (B) ascertain whether the child has received the
6 following documents:

7 (i) a certified copy of the child's birth
8 certificate;

9 (ii) a social security card or a
10 replacement social security card;

11 (iii) a driver's license or personal
12 identification certificate under Chapter 521, Transportation Code;
13 and

14 (iv) any other personal document the
15 Department of Family and Protective Services or a single source
16 continuum contractor determines appropriate; and

17 (4) for a child at least 13 years of age, ascertain
18 whether the child has received a personal identification
19 certificate under Chapter 521, Transportation Code [~~seek to elicit~~
20 ~~in a developmentally appropriate manner the name of any adult,~~
21 ~~particularly an adult residing in the child's community, who could~~
22 ~~be a relative or designated caregiver for the child and immediately~~
23 ~~provide the names of those individuals to the Department of Family~~
24 ~~and Protective Services].~~

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

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

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

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

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

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

22 SECTION 4. Section 107.008, Family Code, is amended to read
23 as follows:

24 Sec. 107.008. SUBSTITUTED JUDGMENT OF ATTORNEY FOR CHILD.

25 (a) An attorney ad litem appointed to represent a child or an
26 attorney appointed in the dual role may determine that the child
27 cannot meaningfully formulate the child's objectives of

1 representation in a case because the child has an intellectual or
2 developmental disability that causes the child to be incapable of:

3 (1) forming [~~lacks sufficient maturity to understand~~
4 ~~and form~~] an attorney-client relationship with the attorney;

5 (2) making reasonable judgments [~~despite appropriate~~
6 ~~legal counseling, continues to express objectives of~~
7 ~~representation that would be seriously injurious to the child~~]; or

8 (3) [~~for any other reason is incapable of making~~
9 ~~reasonable judgments and~~] engaging in meaningful communication.

10 (b) An attorney ad litem or an attorney appointed in the
11 dual role who determines that the child because of medical or
12 developmental reasons cannot meaningfully formulate the child's
13 expressed objectives of representation may present to the court a
14 position that the attorney determines will serve the best interests
15 of the child.

16 (c) If a guardian ad litem has been appointed for the child
17 in a suit filed by a governmental entity requesting termination of
18 the parent-child relationship or appointment of the entity as
19 conservator of the child, an attorney ad litem who determines that
20 the child cannot meaningfully formulate the child's expressed
21 objectives of representation:

22 (1) shall consult with the guardian ad litem and[~~7~~
23 ~~without being bound by the guardian ad litem's opinion or~~
24 ~~recommendation~~], ensure that the guardian ad litem's opinion and
25 basis for any recommendation regarding the best interests of the
26 child are presented to the court; and

27 (2) may present to the court a position that the

1 attorney determines will serve the best interests of the child.

2 SECTION 5. Section 107.011(a), Family Code, is amended to
3 read as follows:

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

11 SECTION 6. Section 107.012, Family Code, is amended to read
12 as follows:

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

20 SECTION 7. Section 107.0131(a), Family Code, is amended to
21 read as follows:

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

24 (1) shall:

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

1 the appointment, interview:

2 (i) the parent, unless the parent's
3 location is unknown;

4 (ii) each person who has significant
5 knowledge of the case; and

6 (iii) the parties to the suit;

7 (B) investigate the facts of the case;

8 (C) to ensure competent representation at
9 hearings, mediations, pretrial matters, and the trial on the
10 merits:

11 (i) obtain and review copies of all court
12 files in the suit during the attorney ad litem's course of
13 representation; and

14 (ii) when necessary, conduct formal
15 discovery under the Texas Rules of Civil Procedure or the discovery
16 control plan;

17 (D) take any action consistent with the parent's
18 interests that the attorney ad litem considers necessary to
19 expedite the proceedings;

20 (E) encourage settlement and the use of
21 alternative forms of dispute resolution;

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

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

26 (i) finds at that hearing that the attorney
27 ad litem has shown good cause why the attorney ad litem's compliance

1 is not feasible; or

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

5 (H) abide by the parent's objectives for
6 representation;

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

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

16 (2) is entitled to:

17 (A) request clarification from the court if the
18 role of the attorney ad litem 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 parent 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 conducted by
26 the Department of Family and Protective Services in which the
27 parent is invited to participate, including, as appropriate, a case

1 staffing to develop a family plan of service, a family group
2 conference, a permanency conference, a mediation, a case staffing
3 to plan for the discharge and return of the child to the parent, a
4 case staffing related to a placement in a residential treatment
5 center or qualified residential treatment program, and any other
6 case staffing that the department determines would be appropriate
7 for the parent to attend, but excluding any internal department
8 staffing or staffing between the department and the department's
9 legal representative; and

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

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

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