By: Campos H.B. No. 1067

A BILL TO BE ENTITLED

AN ACT

relating to the duties of court-appointed guardians ad litem and attorneys ad litem 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 30th 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;

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

(A) expressed objectives; and

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

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

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

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

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

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

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

(3) for a child at least 16 years of age, ascertain whether the child has received the following documents:

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

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

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

(D) any other personal document the Department of

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

(4) seek to elicit in a developmentally appropriate manner the name of any adult, particularly an adult residing in the child's community, who could be a relative or designated caregiver for the child and immediately provide the names of those individuals to the Department of Family and Protective Services.

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

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

Sec. 107.003. POWERS AND DUTIES OF ATTORNEY AD LITEM FOR CHILD. (a) An attorney ad litem appointed to represent a child:

(1) shall:

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

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

(ii) 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 any foster parent of the child~~];
and

(iii) the parties to the suit;

(B) not later than the 30th 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;

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

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

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

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

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

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

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

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

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

(3) is entitled to:

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

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

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

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

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

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

(G) attend all legal proceedings in the suit.

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

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

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

(3) for a child at least 16 years of age:

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

(B) ascertain whether the child has received the

following documents:

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

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

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

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

(4) seek to elicit in a developmentally appropriate manner the name of any adult, particularly an adult residing in the child's community, who could be a relative or designated caregiver for the child and immediately provide the names of those individuals to the Department of Family and Protective Services.

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

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

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

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

(d-2) An attorney ad litem appointed to represent a child in

the managing conservatorship of the Department of Family and Protective Services or a child who is the subject of a proceeding under Chapter 264 shall, at least 72 hours before each scheduled hearing under Chapter 263 or 264, determine whether the child's educational needs and goals have been identified and addressed.

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

SECTION 4. Section 107.011(a), Family Code, is amended to read as follows:

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

SECTION 5. Section 107.012, Family Code, is amended to read as follows:

Sec. 107.012. MANDATORY APPOINTMENT OF ATTORNEY AD LITEM FOR CHILD. In a suit filed by a governmental entity requesting termination of the parent-child relationship or to be named

conservator of a child, the court shall appoint an attorney ad litem to represent the interests of the child immediately after the filing, but not later than 72 hours before the full adversary hearing, to ensure adequate representation of the child.

SECTION 6. Section 107.0131(a), Family Code, is amended to read as follows:

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

(1) shall:

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

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

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

(iii) the parties to the suit;

(B) investigate the facts of the case;

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

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

(ii) when necessary, conduct formal discovery under the Texas Rules of Civil Procedure or the discovery

control plan;

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

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

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

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

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

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

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

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

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

(2) is entitled to:

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

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

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

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

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

(F) participate in any case staffing conducted by the Department of Family and Protective Services in which the parent is invited to participate, including, as appropriate, a case staffing to develop a family plan of service, a family group conference, a permanency conference, a mediation, a case staffing to plan for the discharge and return of the child to the parent, a case staffing related to a placement in a residential treatment center or qualified residential treatment program, and any other case staffing that the department determines would be appropriate for the parent to attend, but excluding any internal department staffing or staffing between the department and the department's legal representative; and

(G) attend all legal proceedings in the suit.

SECTION 7. The changes in law made by this Act apply only to a suit affecting the parent-child relationship filed on or after the effective date of this Act. A suit affecting the parent-child relationship filed before that date is governed by the law in effect on the date the suit was filed, and that law is continued in effect

for that purpose.

SECTION 8. This Act takes effect September 1, 2027.