

FAMILY CODE

TITLE 5. THE PARENT-CHILD RELATIONSHIP AND THE SUIT AFFECTING THE
PARENT-CHILD RELATIONSHIP

SUBTITLE A. GENERAL PROVISIONS

CHAPTER 107. SPECIAL APPOINTMENTS, CHILD CUSTODY EVALUATIONS, AND
ADOPTION EVALUATIONS

SUBCHAPTER A. COURT-ORDERED REPRESENTATION IN SUITS AFFECTING THE
PARENT-CHILD RELATIONSHIP

Sec. 107.001. DEFINITIONS. In this chapter:

(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.

(2) "Attorney ad litem" means an attorney who provides legal services to a person, including a child, and who owes to the person the duties of undivided loyalty, confidentiality, and competent representation.

(3) "Developmentally appropriate" means structured to account for a child's age, level of education, cultural background, and degree of language acquisition.

(4) "Dual role" means the role of an attorney who is appointed under Section [107.0125](#) to act as both guardian ad litem and attorney ad litem for a child in a suit filed by a governmental entity.

(5) "Guardian ad litem" means a person appointed to represent the best interests of a child. The term includes:

(A) a volunteer advocate from a charitable organization described by Subchapter C who is appointed by the court as the child's guardian ad litem;

(B) a professional, other than an attorney, who holds a relevant professional license and whose training relates to the determination of a child's best interests;

(C) an adult having the competence, training, and expertise determined by the court to be sufficient to represent the

best interests of the child; or

(D) an attorney ad litem appointed to serve in the dual role.

Amended by Acts 1995, 74th Leg., ch. 751, Sec. 15, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1294, Sec. 1, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 262, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 1.031, eff. April 2, 2015.

Sec. 107.002. POWERS AND DUTIES OF GUARDIAN AD LITEM FOR CHILD. (a) A guardian ad litem appointed for a child under this chapter is not a party to the suit but may:

(1) conduct an investigation to the extent that the guardian ad litem considers necessary to determine the best interests of the child; and

(2) obtain and review copies of the child's relevant medical, psychological, and school records as provided by Section [107.006](#).

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

(1) within a reasonable time after the appointment, interview:

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

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

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

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

(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 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.

(c) A guardian ad litem appointed for the child under this chapter is entitled to:

- (1) receive a copy of each pleading or other paper filed with the court in the case in which the guardian ad litem is appointed;
- (2) receive notice of each hearing in the case;
- (3) participate in case staffings by the Department of Family and Protective Services concerning the child;
- (4) attend all legal proceedings in the case but may not call or question a witness or otherwise provide legal services unless the guardian ad litem is a licensed attorney who has been appointed in the dual role;
- (5) review and sign, or decline to sign, an agreed order affecting the child;
- (6) explain the basis for the guardian ad litem's opposition to the agreed order if the guardian ad litem does not

agree to the terms of a proposed order;

(7) have access to the child in the child's placement;

(8) be consulted and provide comments on decisions regarding placement, including kinship, foster care, and adoptive placements;

(9) evaluate whether the child welfare services providers are protecting the child's best interests regarding appropriate care, treatment, services, and all other foster children's rights listed in Section 263.008;

(10) receive notification regarding and an invitation to attend meetings related to the child's service plan and a copy of the plan; and

(11) attend court-ordered mediation regarding the child's case.

(d) The court may compel the guardian ad litem to attend a trial or hearing and to testify as necessary for the proper disposition of the suit.

(e) Unless the guardian ad litem is an attorney who has been appointed in the dual role and subject to the Texas Rules of Evidence, the court shall ensure in a hearing or in a trial on the merits that a guardian ad litem has an opportunity to testify regarding, and is permitted to submit a report regarding, the guardian ad litem's recommendations relating to:

(1) the best interests of the child; and

(2) the bases for the guardian ad litem's recommendations.

(f) In a nonjury trial, a party may call the guardian ad litem as a witness for the purpose of cross-examination regarding the guardian's report without the guardian ad litem being listed as a witness by a party. If the guardian ad litem is not called as a witness, the court shall permit the guardian ad litem to testify in the narrative.

(g) In a contested case, the guardian ad litem shall provide copies of the guardian ad litem's report, if any, to the attorneys for the parties as directed by the court, but not later than the earlier of:

(1) the date required by the scheduling order; or

(2) the 10th day before the date of the commencement of the trial.

(h) Disclosure to the jury of the contents of a guardian ad litem's report to the court is subject to the Texas Rules of Evidence.

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

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1995, 74th Leg., ch. 943, Sec. 10, eff. Sept. 1,

1995; Acts 1997, 75th Leg., ch. 1294, Sec. 2, eff. Sept. 1, 1997;

Acts 2003, 78th Leg., ch. 262, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 172 (H.B. 307), Sec. 1, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 204 (H.B. 915), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 688 (H.B. 2619), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.032, eff. April 2, 2015.

Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 7, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 319 (S.B. 11), Sec. 2, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 937 (S.B. 1758), Sec. 1, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1294 (H.B. 3390), Sec. 1, eff. June 14, 2019.

Sec. 107.003. POWERS AND DUTIES OF ATTORNEY AD LITEM FOR CHILD AND AMICUS ATTORNEY. (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:

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

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

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

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

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

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

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

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

(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; 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 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.

Added by Acts 1997, 75th Leg., ch. 1294, Sec. 3, eff. Sept. 1, 1997.

Amended by Acts 2003, 78th Leg., ch. 262, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 172 (H.B. 307), Sec. 2, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 204 (H.B. 915), Sec. 2, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.033, eff. April 2, 2015.

Acts 2017, 85th Leg., R.S., Ch. 319 (S.B. 11), Sec. 3, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 937 (S.B. 1758), Sec. 2, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1294 (H.B. 3390), Sec. 2, eff. June 14, 2019.

Acts 2021, 87th Leg., R.S., Ch. 8 (H.B. 567), Sec. 1, eff. September 1, 2021.

Sec. 107.004. ADDITIONAL DUTIES OF ATTORNEY AD LITEM FOR CHILD. (a) Except as otherwise provided by this chapter, the attorney ad litem appointed for a child shall, in a developmentally appropriate manner:

(1) advise the child;

(2) represent the child's expressed objectives of representation and follow the child's expressed objectives of representation during the course of litigation if the attorney ad litem determines that the child is competent to understand the nature of an attorney-client relationship and has formed that relationship with the attorney ad litem; and

(3) as appropriate, considering the nature of the appointment, become familiar with the American Bar Association's standards of practice for attorneys who represent children in abuse and neglect cases, the suggested amendments to those standards adopted by the National Association of Counsel for Children, and the American Bar Association's standards of practice for attorneys who represent children in custody cases.

(b) An attorney ad litem appointed for a child in a proceeding under Subtitle E shall complete at least three hours of continuing legal education relating to representing children in

child protection cases as described by Subsection (c) as soon as practicable after the attorney ad litem is appointed. An attorney ad litem is not required to comply with this subsection if the court finds that the attorney ad litem has experience equivalent to the required education.

(b-1) An attorney who is on the list maintained by the court as being qualified for appointment as an attorney ad litem for a child in a child protection case must:

(1) complete at least three hours of continuing legal education relating to the representation of a child in a proceeding under Subtitle E each year before the anniversary date of the attorney's listing; and

(2) provide proof that the attorney has completed a training program regarding trauma-informed care and the effect of trauma on children in the conservatorship of the Department of Family and Protective Services.

(b-2) The training described by Subsection (b-1)(2) may satisfy the training requirement under Subsection (b-1)(1) in a year in which an attorney completes the training.

(b-3) An attorney described by Subsection (b-1) shall complete the training required by Subsection (b-1)(2) as soon as practicable after the attorney is placed on the list described by Subsection (b-1).

(b-4) The training required by Subsection (b-1)(2) must be designed to educate an attorney regarding the attorney's duty under Subsection (d-3) and include information regarding:

(1) the symptoms of trauma and the impact that trauma has on a child, including how trauma may affect a child's development, emotions, memories, behavior, and decision-making;

(2) attachment and how a lack of attachment may affect a child;

(3) the role that trauma-informed care and services can have in a child's ability to build connections, feel safe, and regulate the child's emotions to help the child build resiliency and overcome the effects of trauma and adverse childhood experiences;

(4) the importance of screening children for trauma

and the risk of mislabeling and inappropriate treatment of children without proper screening, including the risks and benefits associated with the use of psychotropic medication;

(5) the potential for re-traumatization of children in the conservatorship of the Department of Family and Protective Services; and

(6) the availability of:

(A) research-supported, trauma-informed, non-pharmacological interventions; and

(B) trauma-informed advocacy to increase a child's access, while the child is in the conservatorship of the Department of Family and Protective Services, to:

(i) trauma-informed care; and

(ii) trauma-informed mental and behavioral health services.

(c) The continuing legal education required by Subsections (b) and (b-1) must:

(1) be low-cost and available to persons throughout this state, including on the Internet provided through the State Bar of Texas; and

(2) focus on the duties of an attorney ad litem in, and the procedures of and best practices for, representing a child in a proceeding under Subtitle E.

(d) Except as provided by Subsection (e), an attorney ad litem appointed for a child in a proceeding under Chapter 262, 263, or 264 shall:

(1) meet before each court hearing with:

(A) the child, if the child is at least four years of age; or

(B) the individual with whom the child ordinarily resides, including the child's parent, conservator, guardian, caretaker, or custodian, if the child is younger than four years of age; and

(2) report to the court whether the attorney ad litem:

(A) complied with Subdivision (1); or

(B) requests that the court find good cause for noncompliance because compliance was not feasible or in the best

interest of the child under Subsection (e).

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

(1) 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, 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 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.

(e) An attorney ad litem appointed for a child in a proceeding under Chapter 262, 263, or 264 is not required to comply with Subsection (d) before a hearing if the court finds at that hearing that the attorney ad litem has shown good cause why the attorney ad litem's compliance with that subsection is not feasible or in the best interest of the child. Additionally, a court may, on a showing of good cause, authorize an attorney ad litem to comply with Subsection (d) by conferring with the child or other individual, as appropriate, by telephone or video conference.

Added by Acts 2003, 78th Leg., ch. 262, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 172 (H.B. 307), Sec. 3, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.04(a), eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 310 (H.B. 1972), Sec. 1, eff.

June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 572 (H.B. 3311), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 573 (H.B. 3314), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 688 (H.B. 2619), Sec. 2, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 810 (S.B. 1759), Sec. 1, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 8, eff. September 1, 2017.

Acts 2021, 87th Leg., R.S., Ch. 8 (H.B. 567), Sec. 2, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 430 (S.B. 904), Sec. 1, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 4.05, eff. September 1, 2021.

Sec. 107.0045. DISCIPLINE OF ATTORNEY AD LITEM. An attorney ad litem who fails to perform the duties required by Sections 107.003 and 107.004 is subject to disciplinary action under Subchapter E, Chapter 81, Government Code.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.05, eff. September 1, 2005.

Sec. 107.005. ADDITIONAL DUTIES OF AMICUS ATTORNEY. (a) Subject to any specific limitation in the order of appointment, an amicus attorney shall advocate the best interests of the child after reviewing the facts and circumstances of the case. Notwithstanding Subsection (b), in determining the best interests of the child, an amicus attorney is not bound by the child's expressed objectives of representation.

(b) An amicus attorney shall, in a developmentally appropriate manner:

(1) with the consent of the child, ensure that the child's expressed objectives of representation are made known to the court;

(2) explain the role of the amicus attorney to the child;

(3) inform the child that the amicus attorney may use information that the child provides in providing assistance to the court; and

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

(c) An amicus attorney may not disclose confidential communications between the amicus attorney and the child unless the amicus attorney determines that disclosure is necessary to assist the court regarding the best interests of the child.

Added by Acts 2003, 78th Leg., ch. 262, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 172 (H.B. 307), Sec. 4, eff. September 1, 2005.

Sec. 107.006. ACCESS TO CHILD AND INFORMATION RELATING TO CHILD. (a) In conjunction with an appointment under this chapter, other than an appointment of an attorney ad litem for an adult or a parent, the court shall issue an order authorizing the attorney ad litem, guardian ad litem for the child, or amicus attorney to have immediate access to the child and any information relating to the child.

(b) Without requiring a further order or release, the custodian of any relevant records relating to the child, including records regarding social services, law enforcement records, school records, records of a probate or court proceeding, and records of a trust or account for which the child is a beneficiary, shall provide access to a person authorized to access the records under Subsection (a).

(c) Without requiring a further order or release, the custodian of a medical, mental health, or drug or alcohol treatment record of a child that is privileged or confidential under other law shall release the record to a person authorized to access the record under Subsection (a), except that a child's drug or alcohol treatment record that is confidential under 42 U.S.C. Section

290dd-2 may only be released as provided under applicable federal regulations.

(d) The disclosure of a confidential record under this section does not affect the confidentiality of the record, and the person provided access to the record may not disclose the record further except as provided by court order or other law.

(e) Notwithstanding the provisions of this section, the requirements of Section [159.008](#), Occupations Code, apply.

(f) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 904, Sec. 1, eff. September 1, 2013.

Added by Acts 1995, 74th Leg., ch. 943, Sec. 11, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1294, Sec. 4, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 262, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 172 (H.B. [307](#)), Sec. 5, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 206 (H.B. [2488](#)), Sec. 1, eff. May 30, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 904 (H.B. [1185](#)), Sec. 1, eff. September 1, 2013.

Sec. 107.007. ATTORNEY WORK PRODUCT AND TESTIMONY. (a) An attorney ad litem, an attorney serving in the dual role, or an amicus attorney may not:

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

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

(3) submit a report into evidence; or

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

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

Added by Acts 2003, 78th Leg., ch. 262, Sec. 1, eff. Sept. 1, 2003.

Sec. 107.008. SUBSTITUTED JUDGMENT OF ATTORNEY FOR CHILD.

(a) An attorney ad litem appointed to represent a child or an

attorney appointed in the dual role may determine that the child cannot meaningfully formulate the child's objectives of representation in a case because the child:

(1) lacks sufficient maturity to understand and form an attorney-client relationship with the attorney;

(2) despite appropriate legal counseling, continues to express objectives of representation that would be seriously injurious to the child; or

(3) for any other reason is incapable of making reasonable judgments and engaging in meaningful communication.

(b) An attorney ad litem or an attorney appointed in the dual role who determines that the child cannot meaningfully formulate the child's expressed objectives of representation may present to the court a position that the attorney determines will serve the best interests of the child.

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

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

(2) may present to the court a position that the attorney determines will serve the best interests of the child.

Added by Acts 2003, 78th Leg., ch. 262, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 172 (H.B. 307), Sec. 6, eff. September 1, 2005.

Sec. 107.009. IMMUNITY. (a) A guardian ad litem, an attorney ad litem, a child custody evaluator, or an amicus attorney appointed under this chapter is not liable for civil damages arising from an action taken, a recommendation made, or an opinion

given in the capacity of guardian ad litem, attorney ad litem, child custody evaluator, or amicus attorney.

(b) Subsection (a) does not apply to an action taken, a recommendation made, or an opinion given:

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

(2) in bad faith or with malice; or

(3) that is grossly negligent or wilfully wrongful.

Added by Acts 2003, 78th Leg., ch. 262, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 172 (H.B. 307), Sec. 7, eff. September 1, 2005.

Acts 2017, 85th Leg., R.S., Ch. 257 (H.B. 1501), Sec. 1, eff. September 1, 2017.

Sec. 107.010. DISCRETIONARY APPOINTMENT OF ATTORNEY AD LITEM FOR INCAPACITATED PERSON. The court may appoint an attorney to serve as an attorney ad litem for a person entitled to service of citation in a suit if the court finds that the person is incapacitated. The attorney ad litem shall follow the person's expressed objectives of representation and, if appropriate, refer the proceeding to the proper court for guardianship proceedings.

Added by Acts 2003, 78th Leg., ch. 262, Sec. 1, eff. Sept. 1, 2003.

SUBCHAPTER B. APPOINTMENTS IN CERTAIN SUITS

PART 1. APPOINTMENTS IN SUITS BY GOVERNMENTAL ENTITY

Sec. 107.011. MANDATORY APPOINTMENT OF GUARDIAN AD LITEM.

(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 before the full adversary hearing.

(b) The guardian ad litem appointed for a child under this section may be:

(1) a charitable organization composed of volunteer advocates or an individual volunteer advocate appointed under Subchapter C;

(2) an adult having the competence, training, and expertise determined by the court to be sufficient to represent the best interests of the child; or

(3) an attorney appointed in the dual role.

(c) The court may not appoint a guardian ad litem in a suit filed by a governmental entity if an attorney is appointed in the dual role unless the court appoints another person to serve as guardian ad litem for the child and restricts the role of the attorney to acting as an attorney ad litem for the child.

(d) The court may appoint an attorney to serve as guardian ad litem for a child without appointing the attorney to serve in the dual role only if the attorney is specifically appointed to serve only in the role of guardian ad litem. An attorney appointed solely as a guardian ad litem:

(1) may take only those actions that may be taken by a nonattorney guardian ad litem; and

(2) may not:

(A) perform legal services in the case; or

(B) take any action that is restricted to a licensed attorney, including engaging in discovery other than as a witness, making opening and closing statements, or examining witnesses.

(e) The court may appoint the person appointed as guardian ad litem for the child under Section 51.11 to also serve as the guardian ad litem for the child under this section if the person is qualified under this chapter to serve as guardian ad litem.

Added by Acts 1995, 74th Leg., ch. 751, Sec. 15, eff. Sept. 1, 1995.

Amended by Acts 2003, 78th Leg., ch. 262, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 971 (S.B. 2049), Sec. 7, eff. September 1, 2021.

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 before the full adversary hearing, to ensure adequate representation of the child.

Added by Acts 1995, 74th Leg., ch. 751, Sec. 15, eff. Sept. 1, 1995.

Amended by Acts 2003, 78th Leg., ch. 262, Sec. 1, eff. Sept. 1, 2003.

Sec. 107.0125. APPOINTMENT OF ATTORNEY IN DUAL ROLE. (a) In order to comply with the mandatory appointment of a guardian ad litem under Section 107.011 and the mandatory appointment of an attorney ad litem under Section 107.012, the court may appoint an attorney to serve in the dual role.

(b) If the court appoints an attorney to serve in the dual role under this section, the court may at any time during the pendency of the suit appoint another person to serve as guardian ad litem for the child and restrict the attorney to acting as an attorney ad litem for the child.

(c) An attorney appointed to serve in the dual role may request the court to appoint another person to serve as guardian ad litem for the child. If the court grants the attorney's request, the attorney shall serve only as the attorney ad litem for the child.

(d) Unless the court appoints another person as guardian ad litem in a suit filed by a governmental entity, an appointment of an attorney to serve as an attorney ad litem in a suit filed by a governmental entity is an appointment to serve in the dual role regardless of the terminology used in the appointing order.

Added by Acts 2003, 78th Leg., ch. 262, Sec. 1, eff. Sept. 1, 2003.

Sec. 107.013. MANDATORY APPOINTMENT OF ATTORNEY AD LITEM FOR PARENT. (a) 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.

(b) If both parents of the child are entitled to the appointment of an attorney ad litem under this section and the court finds that the interests of the parents are not in conflict and that there is no history or pattern of past or present family violence by one parent directed against the other parent, a spouse, or a child of the parties, the court may appoint an attorney ad litem to represent the interests of both parents.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 810, Sec. 11, eff. September 1, 2013.

(d) The court shall require a parent who claims indigence under Subsection (a) to file an affidavit of indigence in accordance with Rule 145(b) of the Texas Rules of Civil Procedure before the court may conduct a hearing to determine the parent's indigence under this section. The court may consider additional evidence at that hearing, including evidence relating to the parent's income, source of income, assets, property ownership, benefits paid in accordance with a federal, state, or local public assistance program, outstanding obligations, and necessary expenses and the number and ages of the parent's dependents. If

the court determines the parent is indigent, the court shall appoint an attorney ad litem to represent the parent.

(e) A parent who the court has determined is indigent for purposes of this section is presumed to remain indigent for the duration of the suit and any subsequent appeal unless the court, after reconsideration on the motion of the parent, the attorney ad litem for the parent, or the attorney representing the governmental entity, determines that the parent is no longer indigent due to a material and substantial change in the parent's financial circumstances.

Added by Acts 1995, 74th Leg., ch. 751, Sec. 15, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 561, Sec. 3, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 821, Sec. 2.11, eff. June 14, 2001; Acts 2003, 78th Leg., ch. 262, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.06, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 526 (S.B. 813), Sec. 1, eff. June 16, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 75 (H.B. 906), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 810 (S.B. 1759), Sec. 2, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 810 (S.B. 1759), Sec. 11, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 128 (S.B. 1931), Sec. 1, eff. September 1, 2015.

Sec. 107.0131. POWERS AND DUTIES OF ATTORNEY AD LITEM FOR PARENT. (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 within a reasonable time after 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 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, 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.

(b) The continuing legal education required by Subsection (a)(1)(J) must:

(1) be low-cost and available to persons throughout this state, including on the Internet provided through the State Bar of Texas; and

(2) focus on the duties of an attorney ad litem in, and the procedures of and best practices for, representing a parent in a proceeding under Subtitle E.

(c) An attorney who is on the list maintained by the court as being qualified for appointment as an attorney ad litem for a parent in a child protection case must complete at least three hours of continuing legal education relating to the representation of a parent in a proceeding under Subtitle E each year before the anniversary date of the attorney's listing.

Added by Acts 2011, 82nd Leg., R.S., Ch. 647 (S.B. [1026](#)), Sec. 1,

eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 810 (S.B. 1759), Sec. 3, eff. September 1, 2013.

Sec. 107.0132. POWERS AND DUTIES OF ATTORNEY AD LITEM FOR ALLEGED FATHER. (a) Except as provided by Subsections (b) and (d), an attorney ad litem appointed under Section 107.013 to represent the interests of an alleged father is only required to:

(1) conduct an investigation regarding the petitioner's due diligence in locating the alleged father, including by verifying that the petitioner has obtained a certificate of the results of a search of the paternity registry under Chapter 160;

(2) interview any party or other person who has significant knowledge of the case who may have information relating to the identity or location of the alleged father; and

(3) conduct an independent investigation to identify or locate the alleged father, as applicable.

(b) If the attorney ad litem identifies and locates the alleged father, the attorney ad litem shall:

(1) provide to each party and the court the alleged father's name and address and any other locating information; and

(2) if appropriate, request the court's approval for the attorney ad litem to assist the alleged father in establishing paternity.

(c) If the alleged father is adjudicated to be a parent of the child and is determined by the court to be indigent, the court may appoint the attorney ad litem to continue to represent the father's interests as a parent under Section 107.013(a)(1) or (c).

(d) If the attorney ad litem is unable to identify or locate the alleged father, the attorney ad litem shall submit to the court a written summary of the attorney ad litem's efforts to identify or locate the alleged father with a statement that the attorney ad litem was unable to identify or locate the alleged father. On receipt of the summary required by this subsection, the court shall discharge the attorney from the appointment.

Added by Acts 2011, 82nd Leg., R.S., Ch. 647 (S.B. 1026), Sec. 1, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 810 (S.B. 1759), Sec. 4, eff. September 1, 2013.

Sec. 107.0133. DISCIPLINE OF ATTORNEY AD LITEM FOR PARENT OR ALLEGED FATHER. An attorney ad litem appointed for a parent or an alleged father who fails to perform the duties required by Section 107.0131 or 107.0132, as applicable, is subject to disciplinary action under Subchapter E, Chapter 81, Government Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 647 (S.B. 1026), Sec. 1, eff. September 1, 2011.

Sec. 107.014. POWERS AND DUTIES OF ATTORNEY AD LITEM FOR CERTAIN PARENTS. (a) Except as provided by Subsections (b) and (e), an attorney ad litem appointed under Section 107.013 to represent the interests of a parent whose identity or location is unknown or who has been served by citation by publication is only required to:

(1) conduct an investigation regarding the petitioner's due diligence in locating the parent;

(2) interview any party or other person who has significant knowledge of the case who may have information relating to the identity or location of the parent; and

(3) conduct an independent investigation to identify or locate the parent, as applicable.

(b) If the attorney ad litem identifies and locates the parent, the attorney ad litem shall:

(1) provide to each party and the court the parent's name and address and any other available locating information unless the court finds that:

(A) disclosure of a parent's address is likely to cause that parent harassment, serious harm, or injury; or

(B) the parent has been a victim of family violence; and

(2) if appropriate, assist the parent in making a

claim of indigence for the appointment of an attorney.

(c) If the court makes a finding described by Subsection (b)(1)(A) or (B), the court may:

- (1) order that the information not be disclosed; or
- (2) render any other order the court considers necessary.

(d) If the court determines the parent is indigent, the court may appoint the attorney ad litem to continue to represent the parent under Section 107.013(a)(1).

(e) If the attorney ad litem is unable to identify or locate the parent, the attorney ad litem shall submit to the court a written summary of the attorney ad litem's efforts to identify or locate the parent with a statement that the attorney ad litem was unable to identify or locate the parent. On receipt of the summary required by this subsection, the court shall discharge the attorney from the appointment.

Added by Acts 2013, 83rd Leg., R.S., Ch. 810 (S.B. [1759](#)), Sec. 5, eff. September 1, 2013.

Sec. 107.0141. TEMPORARY APPOINTMENT OF ATTORNEY AD LITEM FOR CERTAIN PARENTS. (a) The court may appoint an attorney ad litem to represent the interests of a parent for a limited period beginning at the time the court issues a temporary restraining order or attachment of the parent's child under Chapter 262 and ending on the court's determination of whether the parent is indigent before commencement of the full adversary hearing.

(b) An attorney ad litem appointed for a parent under this section:

(1) has the powers and duties of an attorney ad litem appointed under Section 107.0131; and

(2) if applicable, shall:

(A) conduct an investigation regarding the petitioner's due diligence in locating and serving citation on the parent; and

(B) interview any party or other person who may have information relating to the identity or location of the parent.

(c) If the attorney ad litem identifies and locates the parent, the attorney ad litem shall:

(1) inform the parent of the parent's right to be represented by an attorney and of the parent's right to an attorney ad litem appointed by the court, if the parent is indigent and appears in opposition to the suit;

(2) if the parent claims indigence and requests an attorney ad litem beyond the period of the temporary appointment under this section, assist the parent in making a claim of indigence for the appointment of an attorney ad litem; and

(3) assist the parent in preparing for the full adversary hearing under Subchapter C, Chapter 262.

(d) If the court determines the parent is indigent, the court may appoint the attorney ad litem to continue to represent the parent under Section 107.013(a)(1).

(e) If the attorney ad litem is unable to identify or locate the parent, the attorney ad litem shall submit to the court a written summary of the attorney ad litem's efforts to identify or locate the parent with a statement that the attorney ad litem was unable to identify or locate the parent. On receipt of the summary required by this subsection, the court shall discharge the attorney ad litem from the appointment.

(f) If the attorney ad litem identifies or locates the parent, and the court determines that the parent is not indigent, the court shall discharge the attorney ad litem from the appointment.

Added by Acts 2015, 84th Leg., R.S., Ch. 128 (S.B. [1931](#)), Sec. 2, eff. September 1, 2015.

Sec. 107.015. ATTORNEY FEES. (a) An attorney appointed under this chapter 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.

(b) If the court determines that one or more of the parties are able to defray the fees and expenses of an attorney ad litem or

guardian ad litem for the child as determined by the reasonable and customary fees for similar services in the county of jurisdiction, the fees and expenses may be ordered paid by one or more of those parties, or the court may order one or more of those parties, prior to final hearing, to pay the sums into the registry of the court or into an account authorized by the court for the use and benefit of the payee on order of the court. The sums may be taxed as costs to be assessed against one or more of the parties.

(c) If indigency of the parents is shown, an attorney ad litem appointed to represent a child or parent in a suit filed by a governmental entity shall be paid from the general funds of the county according to the fee schedule that applies to an attorney appointed to represent a child in a suit under Title 3 as provided by Chapter 51. The court may not award attorney ad litem fees under this chapter against the state, a state agency, or a political subdivision of the state except as provided by this subsection.

(d) A person appointed as a guardian ad litem or attorney ad litem shall complete and submit to the court a voucher or claim for payment that lists the fees charged and hours worked by the guardian ad litem or attorney ad litem. Information submitted under this section is subject to disclosure under Chapter 552, Government Code.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995. Redesignated from Family Code Sec. 107.003 by Acts 1995, 74th Leg., ch. 751, Sec. 15, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1390, Sec. 6, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 262, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.07, eff. September 1, 2005.

Sec. 107.016. CONTINUED REPRESENTATION; DURATION OF APPOINTMENT. In a suit filed by a governmental entity in which termination of the parent-child relationship or appointment of the entity as conservator of the child is requested:

(1) an order appointing the Department of Family and Protective Services as the child's managing conservator:

(A) shall provide for the continuation of the appointment of the guardian ad litem or the attorney ad litem for the child, or an attorney appointed to serve in the dual role, as long as the child remains in the conservatorship of the department; and

(B) may provide for the continuation of the appointment of both the attorney ad litem and the guardian ad litem for the child if both have been appointed, as long as the child remains in the conservatorship of the department; and

(2) an attorney appointed under this subchapter to serve as an attorney ad litem for a parent or an alleged father continues to serve in that capacity until the earliest of:

(A) the date the suit affecting the parent-child relationship is dismissed;

(B) the date all appeals in relation to any final order terminating parental rights are exhausted or waived; or

(C) the date the attorney is relieved of the attorney's duties or replaced by another attorney after a finding of good cause is rendered by the court on the record.

Added by Acts 1995, 74th Leg., ch. 751, Sec. 15, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 575, Sec. 6, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 262, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 75 (H.B. 906), Sec. 2, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 9, eff. September 1, 2017.

Acts 2021, 87th Leg., R.S., Ch. 801 (H.B. 1315), Sec. 1, eff. September 1, 2021.

Sec. 107.0161. AD LITEM APPOINTMENTS FOR CHILD COMMITTED TO TEXAS JUVENILE JUSTICE DEPARTMENT. If an order appointing the Department of Family and Protective Services as managing conservator of a child does not continue the appointment of the child's guardian ad litem or attorney ad litem and the child is committed to the Texas Juvenile Justice Department or released under supervision by the Texas Juvenile Justice Department, the

court may appoint a guardian ad litem or attorney ad litem for the child.

Added by Acts 2009, 81st Leg., R.S., Ch. 108 (H.B. 1629), Sec. 3, eff. May 23, 2009.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 79, eff. September 1, 2015.

Sec. 107.017. APPOINTMENT OF AMICUS ATTORNEY PROHIBITED. The court may not appoint a person to serve as an amicus attorney in a suit filed by a governmental entity under this chapter.

Added by Acts 2003, 78th Leg., ch. 262, Sec. 1, eff. Sept. 1, 2003.

PART 2. APPOINTMENTS IN SUITS OTHER THAN SUITS BY GOVERNMENTAL ENTITY

Sec. 107.021. DISCRETIONARY APPOINTMENTS. (a) In a suit in which the best interests of a child are at issue, other than a suit filed by a governmental entity requesting termination of the parent-child relationship or appointment of the entity as conservator of the child, the court may appoint one of the following:

- (1) an amicus attorney;
- (2) an attorney ad litem; or
- (3) a guardian ad litem.

(a-1) In a suit requesting termination of the parent-child relationship that is not filed by a governmental entity, the court shall, unless the court finds that the interests of the child will be represented adequately by a party to the suit whose interests are not in conflict with the child's interests, appoint one of the following:

- (1) an amicus attorney; or
- (2) an attorney ad litem.

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

- (1) shall:
 - (A) give due consideration to the ability of the

parties to pay reasonable fees to the appointee; and

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

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

(3) may not require a person appointed under this section to serve without reasonable compensation for the services rendered by the person.

Added by Acts 2003, 78th Leg., ch. 262, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 172 (H.B. 307), Sec. 8, eff. September 1, 2005.

Sec. 107.022. CERTAIN PROHIBITED APPOINTMENTS. In a suit other than a suit filed by a governmental entity requesting termination of the parent-child relationship or appointment of the entity as conservator of the child, the court may not appoint:

(1) an attorney to serve in the dual role; or

(2) a volunteer advocate to serve as guardian ad litem for a child unless the training of the volunteer advocate is designed for participation in suits other than suits filed by a governmental entity requesting termination of the parent-child relationship or appointment of the entity as conservator of the child.

Added by Acts 2003, 78th Leg., ch. 262, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 172 (H.B. 307), Sec. 9, eff. September 1, 2005.

Sec. 107.023. FEES IN SUITS OTHER THAN SUITS BY GOVERNMENTAL ENTITY. (a) In a suit other than a suit filed by a governmental entity requesting termination of the parent-child relationship or appointment of the entity as conservator of the

child, in addition to the attorney's fees that may be awarded under Chapter 106, the following persons are entitled to reasonable fees and expenses in an amount set by the court and ordered to be paid by one or more parties to the suit:

(1) an attorney appointed as an amicus attorney or as an attorney ad litem for the child; and

(2) a professional who holds a relevant professional license and who is appointed as guardian ad litem for the child, other than a volunteer advocate.

(b) The court shall:

(1) determine the fees and expenses of an amicus attorney, an attorney ad litem, or a guardian ad litem by reference to the reasonable and customary fees for similar services in the county of jurisdiction;

(2) order a reasonable cost deposit to be made at the time the court makes the appointment; and

(3) before the final hearing, order an additional amount to be paid to the credit of a trust account for the use and benefit of the amicus attorney, attorney ad litem, or guardian ad litem.

(c) A court may not award costs, fees, or expenses to an amicus attorney, attorney ad litem, or guardian ad litem against the state, a state agency, or a political subdivision of the state under this part.

(d) The court may determine that fees awarded under this subchapter to an amicus attorney, an attorney ad litem for the child, or a guardian ad litem for the child are necessities for the benefit of the child.

Added by Acts 2003, 78th Leg., ch. 262, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 172 (H.B. 307), Sec. 10, eff. September 1, 2005.

SUBCHAPTER C. APPOINTMENT OF VOLUNTEER ADVOCATES

Sec. 107.031. VOLUNTEER ADVOCATES. (a) In a suit filed by a governmental entity requesting termination of the parent-child

relationship or appointment of the entity as conservator of the child, the court may appoint a charitable organization composed of volunteer advocates whose charter mandates the provision of services to allegedly abused and neglected children or an individual who has received the court's approved training regarding abused and neglected children and who has been certified by the court to appear at court hearings as a guardian ad litem for the child or as a volunteer advocate for the child.

(b) In a suit other than a suit filed by a governmental entity requesting termination of the parent-child relationship or appointment of the entity as conservator of the child, the court may appoint a charitable organization composed of volunteer advocates whose training provides for the provision of services in private custody disputes or a person who has received the court's approved training regarding the subject matter of the suit and who has been certified by the court to appear at court hearings as a guardian ad litem for the child or as a volunteer advocate for the child. A person appointed under this subsection is not entitled to fees under Section 107.023.

(c) A court-certified volunteer advocate appointed under this section may be assigned to act as a surrogate parent for the child, as provided by 20 U.S.C. Section 1415(b), if:

(1) the child is in the conservatorship of the Department of Family and Protective Services;

(2) the volunteer advocate is serving as guardian ad litem for the child;

(3) a foster parent of the child is not acting as the child's parent under Section 29.015, Education Code; and

(4) the volunteer advocate completes a training program for surrogate parents that complies with minimum standards established by rule by the Texas Education Agency within the time specified by Section 29.015(b), Education Code.

Added by Acts 1995, 74th Leg., ch. 751, Sec. 15, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1294, Sec. 6, eff. Sept. 1,

1997; Acts 1999, 76th Leg., ch. 430, Sec. 3, eff. Sept. 1, 1999;

Acts 2003, 78th Leg., ch. 262, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 172 (H.B. 307), Sec. 11, eff. September 1, 2005.

Acts 2017, 85th Leg., R.S., Ch. 1025 (H.B. 1556), Sec. 3, eff. September 1, 2017.

SUBCHAPTER D. CHILD CUSTODY EVALUATION

Sec. 107.101. DEFINITIONS. In this subchapter:

(1) "Child custody evaluation" means an evaluative process ordered by a court in a contested case through which information, opinions, recommendations, and answers to specific questions asked by the court may be:

(A) made regarding:

(i) conservatorship of a child, including the terms and conditions of conservatorship;

(ii) possession of or access to a child, including the terms and conditions of possession or access; or

(iii) any other issue affecting the best interest of a child; and

(B) made to the court, the parties to the suit, the parties' attorneys, and any other person appointed under this chapter by the court in the suit.

(2) "Child custody evaluator" means an individual who conducts a child custody evaluation under this subchapter. The term includes a private child custody evaluator.

(3) "Department" means the Department of Family and Protective Services.

(4) "Person" includes an agency or a domestic relations office.

(5) "Private child custody evaluator" means a person conducting a child custody evaluation who is not conducting the evaluation as an employee of or contractor with a domestic relations office.

(6) "Supervision" means directing, regularly reviewing, and meeting with a person with respect to the completion of work for which the supervisor is responsible for the outcome. The term does not require the constant physical presence

of the person providing supervision and may include telephonic or other electronic communication.

Added by Acts 2007, 80th Leg., R.S., Ch. 832 (H.B. 772), Sec. 1, eff. September 1, 2007.

Redesignated and amended from Family Code, Section 107.0501 by Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. 1449), Sec. 1.03, eff. September 1, 2015.

Sec. 107.102. APPLICABILITY. (a) For purposes of this subchapter, a child custody evaluation does not include services provided in accordance with the Interstate Compact on the Placement of Children adopted under Subchapter B, Chapter 162, or an evaluation conducted in accordance with Section 262.114 by an employee of or contractor with the department.

(b) The department may not conduct a child custody evaluation.

(c) Except as provided by Subsections (a) and (b), this subchapter does not apply to the department or to a suit to which the department is a party.

Added by Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. 1449), Sec. 1.04, eff. September 1, 2015.

Sec. 107.1025. EFFECT OF MENTAL EXAMINATION. A mental examination described by Rule 204.4, Texas Rules of Civil Procedure, does not by itself satisfy the requirements for a child custody evaluation under this subchapter. A mental examination may be included in the report required under this subchapter and relied on by the child custody evaluator to the extent the evaluator considers appropriate under the circumstances.

Added by Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. 1449), Sec. 1.04, eff. September 1, 2015.

Sec. 107.103. ORDER FOR CHILD CUSTODY EVALUATION. (a) The court, after notice and hearing or on agreement of the parties, may order the preparation of a child custody evaluation regarding:

(1) the circumstances and condition of:

(A) a child who is the subject of a suit;

(B) a party to a suit; and

(C) if appropriate, the residence of any person requesting conservatorship of, possession of, or access to a child who is the subject of the suit; and

(2) any issue or question relating to the suit at the request of the court before or during the evaluation process.

(b) The court may not appoint a child custody evaluator in a suit involving a nonparent seeking conservatorship of a child unless, after notice and hearing or on agreement of the parties, the court makes a specific finding that good cause has been shown for the appointment of a child custody evaluator.

(c) Except for an order appointing a child custody evaluator who is qualified under Section 107.104(b)(3), an order for a child custody evaluation must include:

(1) the name of each person who will conduct the evaluation;

(2) the purpose of the evaluation; and

(3) a list of the basic elements of an evaluation required by Section 107.109(c);

(4) a list of any additional elements of an evaluation required by the court to be completed, including any additional elements specified in Section 107.109(d); and

(5) the specific issues or questions to be addressed in the evaluation.

(d) Except as provided by Section 107.106, each individual who conducts a child custody evaluation must be qualified under Section 107.104.

(e) In appointing a child custody evaluator in a suit in which a party subject to the child custody evaluation does not speak English as a primary language, the court shall ensure that the child custody evaluator:

(1) is able to effectively communicate in the primary language of the party; or

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

(f) A licensed or certified interpreter assisting a child custody evaluator under Subsection (e)(2) may accompany the

evaluator 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 for a child custody evaluator from a licensed or certified interpreter.

Added by Acts 1995, 74th Leg., ch. 751, Sec. 15, eff. Sept. 1, 1995.

Amended by Acts 1999, 76th Leg., ch. 1390, Sec. 7, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 133, Sec. 2, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 488, Sec. 1, eff. June 11, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 832 (H.B. 772), Sec. 2, eff. September 1, 2007.

Redesignated and amended from Family Code, Section 107.051 by Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. 1449), Sec. 1.05, eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 257, Sec. 2, eff. September 1, 2017.

Acts 2021, 87th Leg., R.S., Ch. 1002 (H.B. 3009), Sec. 1, eff. September 1, 2021.

Sec. 107.104. CHILD CUSTODY EVALUATOR: MINIMUM QUALIFICATIONS. (a) In this section:

(1) "Full-time experience" means a period during which an individual works at least 30 hours per week.

(2) "Human services field of study" means a field of study designed to prepare an individual in the disciplined application of counseling, family therapy, psychology, or social work values, principles, and methods.

(b) To be qualified to conduct a child custody evaluation, an individual must:

(1) have at least a master's degree from an accredited college or university in a human services field of study and a license to practice in this state as a social worker, professional counselor, marriage and family therapist, or psychologist, or have a license to practice medicine in this state and a board certification in psychiatry and:

(A) after completing any degree required by this subdivision, have two years of full-time experience or equivalent part-time experience under professional supervision during which the individual performed functions involving the evaluation of physical, intellectual, social, and psychological functioning and needs and developed an understanding of the social and physical environment, both present and prospective, to meet those needs; and

(B) after obtaining a license required by this subdivision, have performed at least 10 court-ordered child custody evaluations under the supervision of an individual qualified under this section;

(2) meet the requirements of Subdivision (1)(A) and be practicing under the direct supervision of an individual qualified under this section in order to complete at least 10 court-ordered child custody evaluations under supervision; or

(3) be employed by or under contract with a domestic relations office, provided that the individual conducts child custody evaluations relating only to families ordered by a court to participate in child custody evaluations conducted by the domestic relations office.

(c) Notwithstanding Subsections (b)(1) and (2), an individual with a doctoral degree and who holds a license in a human services field of study is qualified to conduct a child custody evaluation if the individual has completed a number of hours of professional development coursework and practice experience directly related to the performance of child custody evaluations as described by this chapter, satisfactory to the licensing agency that issues the individual's license.

(d) The licensing agency that issues a license to an individual described by Subsection (c) may determine by rule that internships, practicums, and other professional preparatory activities completed by the individual during the course of achieving the person's doctoral degree satisfy the requirements of Subsection (c) in whole or in part.

(e) In addition to the qualifications prescribed by this section, an individual must complete at least eight hours of family violence dynamics training provided by a family violence service

provider to be qualified to conduct a child custody evaluation under this subchapter.

Added by Acts 2001, 77th Leg., ch. 133, Sec. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 832 (H.B. 772), Sec. 3, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1113 (H.B. 1012), Sec. 2, eff. September 1, 2009.

Redesignated and amended from Family Code, Section 107.0511 by Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. 1449), Sec. 1.06, eff. September 1, 2015.

Sec. 107.105. CHILD CUSTODY EVALUATION: SPECIALIZED TRAINING REQUIRED. (a) The court shall determine whether the qualifications of a child custody evaluator satisfy the requirements of this subchapter.

(b) A child custody evaluator must demonstrate, if requested, appropriate knowledge and competence in child custody evaluation services consistent with professional models, standards, and guidelines.

Added by Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. 1449), Sec. 1.07, eff. September 1, 2015.

Sec. 107.106. EXCEPTION TO QUALIFICATIONS REQUIRED TO CONDUCT CHILD CUSTODY EVALUATION. (a) This section applies only to a county:

- (1) with a population of less than 500,000;
- (2) that is contiguous to the Gulf of Mexico or a bay or inlet opening into the gulf and that borders the United Mexican States; or
- (3) that borders a county described by Subdivision (2).

(a-1) In a county to which this section applies, if a court finds that an individual who meets the requirements of Section 107.104 is not available in the county to conduct a child custody evaluation in a timely manner, the court, after notice and hearing or on agreement of the parties, may appoint an individual the court

determines to be otherwise qualified to conduct the evaluation.

(b) An individual appointed under this section shall comply with all provisions of this subchapter, other than Section 107.104. Added by Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. 1449), Sec. 1.07, eff. September 1, 2015.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1236 (H.B. 2514), Sec. 1, eff. September 1, 2019.

Sec. 107.107. CHILD CUSTODY EVALUATOR: CONFLICTS OF INTEREST AND BIAS. (a) Before accepting appointment as a child custody evaluator in a suit, a person must disclose to the court, each attorney for a party to the suit, any attorney for a child who is the subject of the suit, and any party to the suit who does not have an attorney:

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

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

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

(4) any relationship of confidence or trust that the person believes the person has with an attorney in the suit; and

(5) any other information relating to the person's relationship with an attorney in the suit that a reasonable, prudent person would believe would affect the ability of the person to act impartially in conducting a child custody evaluation.

(b) The court may not appoint a person as a child custody evaluator in a suit if the person makes any of the disclosures in Subsection (a) unless:

(1) the court finds that:

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

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

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

(D) the person does not have a relationship of trust or confidence with an attorney in the suit; or

(2) the parties and any attorney for a child who is the subject of the suit agree in writing to the person's appointment as the child custody evaluator.

(c) After being appointed as a child custody evaluator in a suit, a person shall immediately disclose to the court, each attorney for a party to the suit, any attorney for a child who is the subject of the suit, and any party to the suit who does not have an attorney any discovery of:

(1) a conflict of interest that the person believes the person has with a party to the suit or a child who is the subject of the suit; and

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

(d) A person shall resign from the person's appointment as a child custody evaluator in a suit if the person makes any of the disclosures in Subsection (c) unless:

(1) the court finds that:

(A) the person has no conflict of interest with a party to the suit or a child who is the subject of the suit; and

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

(2) the parties and any attorney for a child who is the subject of the suit agree in writing to the person's continued appointment as the child custody evaluator.

(e) A child custody evaluator who has previously conducted a child custody evaluation for a suit may conduct all subsequent evaluations in the suit unless the court finds that the evaluator is biased.

(f) An individual may not be appointed as a child custody evaluator in a suit if the individual has worked in a professional capacity with a party to the suit, a child who is the subject of the

suit, or a member of the party's or child's family who is involved in the suit. This subsection does not apply to an individual who has worked in a professional capacity with a party, a child, or a member of the party's or child's family only as a teacher of parenting skills in a group setting, with no individualized interaction with any party, the child, any party's family, or the child's family, or as a child custody evaluator who performed a previous evaluation. A child custody evaluator who has worked as a teacher of parenting skills in a group setting that included a party, a child, or another person who will be the subject of an evaluation or has worked as a child custody evaluator for a previous evaluation must notify the court and the attorney of each represented party or, if a party is not represented, the evaluator must notify the party. For purposes of this subsection, "family" has the meaning assigned by Section 71.003.

Added by Acts 2007, 80th Leg., R.S., Ch. 832 (H.B. 772), Sec. 3, eff. September 1, 2007.

Redesignated and amended from Family Code, Section 107.0512 by Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. 1449), Sec. 1.08, eff. September 1, 2015.

Sec. 107.108. GENERAL PROVISIONS APPLICABLE TO CONDUCT OF CHILD CUSTODY EVALUATION AND PREPARATION OF REPORT. (a) Unless otherwise directed by a court or prescribed by a provision of this title, a child custody evaluator's actions in conducting a child custody evaluation must be in conformance with the professional standard of care applicable to the evaluator's licensure and any administrative rules, ethical standards, or guidelines adopted by the licensing authority that licenses the evaluator.

(b) A court may impose requirements or adopt local rules applicable to a child custody evaluation or a child custody evaluator that do not conflict with this subchapter.

(c) A child custody evaluator shall follow evidence-based practice methods and make use of current best evidence in making assessments and recommendations.

(d) A child custody evaluator shall disclose to each attorney of record any communication regarding a substantive issue

between the evaluator and an attorney of record representing a party in a contested suit. This subsection does not apply to a communication between a child custody evaluator and an attorney ad litem or amicus attorney.

(e) To the extent possible, a child custody evaluator shall verify each statement of fact pertinent to a child custody evaluation and shall note the sources of verification and information in the child custody evaluation report prepared under Section 107.113.

(f) A child custody evaluator shall state the basis for the evaluator's conclusions or recommendations, and the extent to which information obtained limits the reliability and validity of the opinion and the conclusions and recommendations of the evaluator, in the child custody evaluation report prepared under Section 107.113. A child custody evaluator who has evaluated only one side of a contested suit shall refrain from making a recommendation regarding conservatorship of a child or possession of or access to a child, but may state whether any information obtained regarding a child's placement with a party indicates concerns for:

- (1) the safety of the child;
- (2) the party's parenting skills or capability;
- (3) the party's relationship with the child; or
- (4) the mental health of the party.

(g) A child custody evaluation must be conducted in compliance with this subchapter, regardless of whether the child custody evaluation is conducted:

- (1) by a single child custody evaluator or multiple evaluators working separately or together; or
- (2) within a county served by the court with continuing jurisdiction or at a geographically distant location.

(h) A child custody evaluation report must include for each child custody evaluator who conducted any portion of the child custody evaluation:

- (1) the name and license number of the child custody evaluator; and
- (2) a statement that the child custody evaluator:
 - (A) has read and meets the requirements of

Section 107.104; or

(B) was appointed under Section 107.106.

Added by Acts 2007, 80th Leg., R.S., Ch. 832 (H.B. 772), Sec. 3, eff. September 1, 2007.

Redesignated and amended from Family Code, Section 107.0513 by Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. 1449), Sec. 1.09, eff. September 1, 2015.

Sec. 107.109. ELEMENTS OF CHILD CUSTODY EVALUATION. (a) A child custody evaluator may not offer an opinion regarding conservatorship of a child who is the subject of a suit or possession of or access to the child unless each basic element of a child custody evaluation as specified in this section and each additional element ordered by the court, if any, has been completed, unless the failure to complete an element is satisfactorily explained as provided by Subsection (b).

(b) A child custody evaluator shall:

(1) identify in the report required by Section 107.113 any basic element or any additional element of a child custody evaluation described by this section that was not completed;

(2) explain the reasons the element was not completed; and

(3) include an explanation of the likely effect of the missing element on the confidence the child custody evaluator has in the evaluator's expert opinion.

(c) The basic elements of a child custody evaluation under this subchapter consist of:

(1) a personal interview of each party to the suit seeking conservatorship of, possession of, or access to the child;

(2) interviews, conducted in a developmentally appropriate manner, of each child who is the subject of the suit who is at least four years of age during a period of possession of each party to the suit but outside the presence of the party;

(3) observation of each child who is the subject of the suit, regardless of the age of the child, in the presence of each party to the suit, including, as appropriate, during supervised visitation, unless contact between a party and a child is

prohibited by court order or the person conducting the evaluation has good cause for not conducting the observation and states the good cause in writing provided to the parties to the suit before the completion of the evaluation;

(4) an observation and, if the child is at least four years of age, an interview of any child who is not a subject of the suit who lives on a full-time basis in a residence that is the subject of the evaluation, including with other children or parties who are subjects of the evaluation, where appropriate;

(5) the obtaining of information from relevant collateral sources, including the review of:

(A) relevant school records;

(B) relevant physical and mental health records of each party to the suit and each child who is the subject of the suit;

(C) relevant records of the department obtained under Section 107.111;

(D) criminal history information relating to each child who is the subject of the suit, each party to the suit, and each person who lives with a party to the suit; and

(E) notwithstanding other law, records or information from any other collateral source that may have relevant information;

(6) for each individual residing in a residence subject to the child custody evaluation, consideration of any criminal history information and any contact with the department or a law enforcement agency regarding abuse or neglect; and

(7) assessment of the relationship between each child who is the subject of the suit and each party seeking possession of or access to the child.

(d) The court may order additional elements of a child custody evaluation under this subchapter, including the following:

(1) balanced interviews and observations of each child who is the subject of the suit so that a child who is interviewed or observed while in the care of one party to the suit is also interviewed or observed while in the care of each other party to the suit;

(2) an interview of each individual, including a child who is at least four years of age, residing on a full-time or part-time basis in a residence subject to the child custody evaluation;

(3) evaluation of the residence of each party seeking conservatorship of a child who is the subject of the suit or possession of or access to the child;

(4) observation of a child who is the subject of the suit with each adult who lives in a residence that is the subject of the evaluation;

(5) an interview, if the child is at least four years of age, and observation of a child who is not the subject of the suit but who lives on a full-time or part-time basis in a residence that is the subject of the evaluation;

(6) psychometric testing, if necessary, consistent with Section 107.110; and

(7) the performance of other tasks requested of the evaluator by the court, including:

(A) a joint interview of the parties to the suit;
or

(B) the review of any other information that the court determines is relevant.

Added by Acts 2007, 80th Leg., R.S., Ch. 832 (H.B. 772), Sec. 3, eff. September 1, 2007.

Redesignated and amended from Family Code, Section 107.0514 by Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. 1449), Sec. 1.10, eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 257 (H.B. 1501), Sec. 3, eff. September 1, 2017.

Sec. 107.110. PSYCHOMETRIC TESTING. (a) A child custody evaluator may conduct psychometric testing as part of a child custody evaluation if:

(1) ordered by the court or determined necessary by the child custody evaluator; and

(2) the child custody evaluator is:

(A) appropriately licensed and trained to administer and interpret the specific psychometric tests selected; and

(B) trained in the specialized forensic application of psychometric testing.

(b) Selection of a specific psychometric test is at the professional discretion of the child custody evaluator based on the specific issues raised in the suit.

(c) A child custody evaluator may only use psychometric tests if the evaluator is familiar with the reliability, validation, and related standardization or outcome studies of, and proper applications and use of, the tests within a forensic setting.

(d) If a child custody evaluator considers psychometric testing necessary but lacks specialized training or expertise to use the specific tests under this section, the evaluator may designate a licensed psychologist to conduct the testing and may request additional orders from the court.

Added by Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. 1449), Sec. 1.11, eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 257 (H.B. 1501), Sec. 4, eff. September 1, 2017.

Sec. 107.1101. EFFECT OF POTENTIALLY UNDIAGNOSED SERIOUS MENTAL ILLNESS. (a) In this section, "serious mental illness" has the meaning assigned by Section 1355.001, Insurance Code.

(b) If a child custody evaluator identifies the presence of a potentially undiagnosed serious mental illness experienced by an individual who is a subject of the child custody evaluation and the evaluator is not qualified by the evaluator's licensure, experience, and training to assess a serious mental illness, the evaluator shall make one or more appropriate referrals for a mental examination of the individual and may request additional orders from the court.

(c) The child custody evaluation report must include any information that the evaluator considers appropriate under the

circumstances regarding the possible effects of an individual's potentially undiagnosed serious mental illness on the evaluation and the evaluator's recommendations.

Added by Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. 1449), Sec. 1.12, eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 257 (H.B. 1501), Sec. 5, eff. September 1, 2017.

Sec. 107.111. CHILD CUSTODY EVALUATOR ACCESS TO INVESTIGATIVE RECORDS OF DEPARTMENT; OFFENSE. (a) A child custody evaluator appointed by a court is entitled to obtain from the department a complete, unredacted copy of any investigative record regarding abuse or neglect that relates to any person residing in the residence subject to the child custody evaluation.

(b) Except as provided by this section, records obtained by a child custody evaluator from the department under this section are confidential and not subject to disclosure under Chapter 552, Government Code, or to disclosure in response to a subpoena or a discovery request.

(c) A child custody evaluator may disclose information obtained under Subsection (a) in the child custody evaluation report prepared under Section 107.113 only to the extent the evaluator determines that the information is relevant to the child custody evaluation or a recommendation made under this subchapter.

(d) A person commits an offense if the person recklessly discloses confidential information obtained from the department in violation of this section. An offense under this subsection is a Class A misdemeanor.

Added by Acts 2013, 83rd Leg., R.S., Ch. 74 (S.B. 330), Sec. 1, eff. September 1, 2013.

Redesignated and amended from Family Code, Section 107.05145 by Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. 1449), Sec. 1.13, eff. September 1, 2015.

Sec. 107.1111. CHILD CUSTODY EVALUATOR ACCESS TO OTHER RECORDS. (a) Notwithstanding any other state law regarding

confidentiality, a child custody evaluator appointed by a court is entitled to obtain records that relate to any person residing in a residence subject to a child custody evaluation from:

- (1) a local law enforcement authority;
- (2) a criminal justice agency;
- (3) a juvenile justice agency;
- (4) a community supervision and corrections department created under Chapter 76, Government Code; or
- (5) any other governmental entity.

(b) Except as provided by this section, records obtained by a child custody evaluator under this section are confidential and not subject to disclosure under Chapter 552, Government Code, or to disclosure in response to a subpoena or a discovery request.

(c) A child custody evaluator may disclose information obtained under Subsection (a) in the child custody evaluation report prepared under Section 107.113 only to the extent the evaluator determines that the information is relevant to the child custody evaluation or a recommendation made under this subchapter.

(d) A person commits an offense if the person recklessly discloses confidential information obtained under Subsection (a) in violation of this section. An offense under this subsection is a Class A misdemeanor.

Added by Acts 2017, 85th Leg., R.S., Ch. 257 (H.B. 1501), Sec. 6, eff. September 1, 2017.

Sec. 107.112. COMMUNICATIONS AND RECORDKEEPING OF CHILD CUSTODY EVALUATOR. (a) Notwithstanding any rule, standard of care, or privilege applicable to the professional license held by a child custody evaluator, a communication made by a participant in a child custody evaluation is subject to disclosure and may be offered in any judicial or administrative proceeding if otherwise admissible under the rules of evidence.

(b) A child custody evaluator shall:

- (1) keep a detailed record of interviews that the evaluator conducts, observations that the evaluator makes, and substantive interactions that the evaluator has as part of a child custody evaluation; and

(2) maintain the evaluator's records consistent with applicable laws, including rules applicable to the evaluator's license.

(c) Except for records obtained from the department in accordance with Section 107.111, a private child custody evaluator shall, after completion of an evaluation and the preparation and filing of a child custody evaluation report under Section 107.113, make available in a reasonable time the evaluator's records relating to the evaluation on the written request of an attorney for a party, a party who does not have an attorney, and any person appointed under this chapter in the suit in which the evaluator conducted the evaluation, unless a court has issued an order restricting disclosure of the records.

(d) Except for records obtained from the department in accordance with Section 107.111, records relating to a child custody evaluation conducted by an employee of or contractor with a domestic relations office shall, after completion of the evaluation and the preparation and filing of a child custody evaluation report under Section 107.113, be made available on written request according to the local rules and policies of the office.

(e) A person maintaining records subject to disclosure under this section may charge a reasonable fee for producing the records before copying the records.

(f) A private child custody evaluator shall retain all records relating to a child custody evaluation conducted by the evaluator until the ending date of the retention period adopted by the licensing authority that issues the professional license held by the evaluator based on the date the evaluator filed the child custody evaluation report prepared under this section with the court.

(g) A domestic relations office shall retain records relating to a child custody evaluation conducted by a child custody evaluator acting as an employee of or contractor with the office for the retention period established by the office.

(h) A person who participates in a child custody evaluation is not a patient as that term is defined by Section 611.001(1), Health and Safety Code.

Added by Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. 1449), Sec. 1.14, eff. September 1, 2015.

Sec. 107.113. CHILD CUSTODY EVALUATION REPORT REQUIRED.

(a) A child custody evaluator who conducts a child custody evaluation shall prepare a report containing the evaluator's findings, opinions, recommendations, and answers to specific questions asked by the court relating to the evaluation.

(b) The person conducting a child custody evaluation shall file with the court on a date set by the court notice that the report under this section is complete. On the earlier of the date the notice is filed or the date required under Section 107.114, the person shall provide a copy of the report to:

(1) each party's attorney;

(2) each party who is not represented by an attorney;

and

(3) each attorney ad litem, guardian ad litem, and amicus attorney appointed in the suit.

(c) If the suit is settled before completion of the child custody evaluation report, the report under this section is not required.

(d) A report prepared under this section must include the information required by Section 107.108(h) for each child custody evaluator who conducted any portion of the evaluation.

Added by Acts 1995, 74th Leg., ch. 751, Sec. 15, eff. Sept. 1, 1995.

Redesignated and amended from Family Code, Section 107.054 by Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. 1449), Sec. 1.15, eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 257 (H.B. 1501), Sec. 7, eff. September 1, 2017.

Sec. 107.114. INTRODUCTION AND PROVISION OF CHILD CUSTODY EVALUATION REPORT. (a) Disclosure to the court or the jury of the contents of a child custody evaluation report prepared under Section 107.113 is subject to the rules of evidence.

(b) Unless the court has rendered an order restricting

disclosure, a private child custody evaluator shall provide to the attorneys of the parties to a suit, any party who does not have an attorney, and any other person appointed by the court under this chapter in a suit a copy of the child custody evaluation report before the earlier of:

(1) the third day after the date the child custody evaluation report is completed; or

(2) the 30th day before the date of commencement of the trial.

(c) A child custody evaluator who conducts a child custody evaluation as an employee of or under contract with a domestic relations office shall provide to the attorneys of the parties to a suit and any person appointed in the suit under this chapter a copy of the child custody evaluation report before the earlier of:

(1) the seventh day after the date the child custody evaluation report is completed; or

(2) the fifth day before the date the trial commences.

(d) A child custody evaluator who conducts a child custody evaluation as an employee of or under contract with a domestic relations office shall provide a copy of the report to a party to the suit as provided by the local rules and policies of the office or by a court order.

Added by Acts 1995, 74th Leg., ch. 751, Sec. 15, eff. Sept. 1, 1995. Redesignated and amended from Family Code, Section 107.055 by Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. [1449](#)), Sec. 1.16, eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 257 (H.B. [1501](#)), Sec. 8, eff. September 1, 2017.

Sec. 107.115. CHILD CUSTODY EVALUATION FEE. If the court orders a child custody evaluation to be conducted, the court shall award the person appointed as the child custody evaluator a reasonable fee for the preparation of the child custody evaluation that shall be imposed in the form of a money judgment and paid directly to the person. The person may enforce the judgment for the fee by any means available under law for civil judgments.

Added by Acts 1995, 74th Leg., ch. 751, Sec. 15, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 832 (H.B. 772), Sec. 5, eff. September 1, 2007.

Redesignated and amended from Family Code, Section 107.056 by Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. 1449), Sec. 1.17, eff. September 1, 2015.

SUBCHAPTER E. ADOPTION EVALUATION

Sec. 107.151. DEFINITIONS. In this subchapter:

(1) "Adoption evaluation" means a pre-placement or post-placement evaluative process through which information and recommendations regarding adoption of a child may be made to the court, the parties, and the parties' attorneys.

(2) "Adoption evaluator" means a person who conducts an adoption evaluation under this subchapter.

(3) "Department" means the Department of Family and Protective Services.

(4) "Supervision" means directing, regularly reviewing, and meeting with a person with respect to the completion of work for which the supervisor is responsible for the outcome. The term does not require the constant physical presence of the person providing supervision and may include telephonic or other electronic communication.

Added by Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. 1449), Sec. 1.18, eff. September 1, 2015.

Sec. 107.152. APPLICABILITY. (a) For purposes of this subchapter, an adoption evaluation does not include services provided in accordance with the Interstate Compact on the Placement of Children adopted under Subchapter B, Chapter 162, or an evaluation conducted in accordance with Section 262.114 by an employee of or contractor with the department.

(b) This subchapter does not apply to the pre-placement and post-placement parts of an adoption evaluation conducted by a licensed child-placing agency or the department.

(c) The pre-placement and post-placement parts of an adoption evaluation conducted by a licensed child-placing agency or the department are governed by rules adopted by the commissioner of the department.

(d) In a suit involving a licensed child-placing agency or the department, a licensed child-placing agency or the department shall conduct the pre-placement and post-placement parts of the adoption evaluation and file reports on those parts with the court before the court renders a final order of adoption.

(e) A court may appoint the department to conduct the pre-placement and post-placement parts of an adoption evaluation in a suit only if the department is:

(1) a party to the suit; or

(2) the managing conservator of the child who is the subject of the suit.

Added by Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. 1449), Sec. 1.18, eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 316 (H.B. 5), Sec. 3, eff. September 1, 2017.

Sec. 107.153. ORDER FOR ADOPTION EVALUATION. (a) The court shall order the performance of an adoption evaluation to evaluate each party who requests termination of the parent-child relationship or an adoption in a suit for:

(1) termination of the parent-child relationship in which a person other than a parent may be appointed managing conservator of a child; or

(2) an adoption.

(b) The adoption evaluation required under Subsection (a) must include an evaluation of the circumstances and the condition of the home and social environment of any person requesting to adopt a child who is at issue in the suit.

(c) The court may appoint a qualified individual, a qualified private entity, or a domestic relations office to conduct the adoption evaluation.

(d) Except as provided by Section 107.155, a person who

conducts an adoption evaluation must meet the requirements of Section 107.154.

(e) The costs of an adoption evaluation under this section shall be paid by the prospective adoptive parent.

Added by Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. 1449), Sec. 1.18, eff. September 1, 2015.

Sec. 107.154. ADOPTION EVALUATOR: MINIMUM QUALIFICATIONS.

(a) In this section:

(1) "Full-time experience" means a period during which a person works at least 30 hours per week.

(2) "Human services field of study" means a field of study designed to prepare a person in the disciplined application of counseling, family therapy, psychology, or social work values, principles, and methods.

(b) To be qualified to conduct an adoption evaluation under this subchapter, a person must:

(1) have a degree from an accredited college or university in a human services field of study and a license to practice in this state as a social worker, professional counselor, marriage and family therapist, or psychologist and:

(A) have one year of full-time experience working at a child-placing agency conducting child-placing activities; or

(B) be practicing under the direct supervision of a person qualified under this section to conduct adoption evaluations;

(2) be employed by or under contract with a domestic relations office, provided that the person conducts adoption evaluations relating only to families ordered to participate in adoption evaluations conducted by the domestic relations office; or

(3) be qualified as a child custody evaluator under Section 107.104.

(c) In addition to the other qualifications prescribed by this section, an individual must complete at least eight hours of family violence dynamics training provided by a family violence service provider to be qualified to conduct an adoption evaluation under this subchapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. 1449), Sec. 1.18, eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 316 (H.B. 5), Sec. 4(a), eff. September 1, 2017.

Sec. 107.155. EXCEPTION TO QUALIFICATIONS REQUIRED TO CONDUCT ADOPTION EVALUATION. (a) In a county with a population of less than 500,000, if a court finds that an individual who meets the requirements of Section 107.154 is not available in the county to conduct an adoption evaluation in a timely manner, the court, after notice and hearing or on agreement of the parties, may appoint a person the court determines to be otherwise qualified to conduct the evaluation.

(b) An individual appointed under this section shall comply with all provisions of this subchapter, other than Section 107.154. Added by Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. 1449), Sec. 1.18, eff. September 1, 2015.

Sec. 107.156. ADOPTION EVALUATOR: CONFLICTS OF INTEREST AND BIAS. (a) Before accepting appointment as an adoption evaluator in a suit, a person must disclose to the court, each attorney for a party to the suit, any attorney for a child who is the subject of the suit, and any party to the suit who does not have an attorney:

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

(2) any previous knowledge that the person has of a party to the suit or a child who is the subject of the suit;

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

(4) any relationship of confidence or trust that the person believes the person has with an attorney in the suit; and

(5) any other information relating to the person's relationship with an attorney in the suit that a reasonable, prudent person would believe would affect the ability of the person to act impartially in conducting an adoption evaluation.

(b) The court may not appoint a person as an adoption evaluator in a suit if the person makes any of the disclosures in Subsection (a) unless:

(1) the court finds that:

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

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

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

(D) the person does not have a relationship of trust or confidence with an attorney in the suit; or

(2) the parties and any attorney for a child who is the subject of the suit agree in writing to the person's appointment as the adoption evaluator.

(c) After being appointed as an adoption evaluator in a suit, a person shall immediately disclose to the court, each attorney for a party to the suit, any attorney for a child who is the subject of the suit, and any party to the suit who does not have an attorney any discovery of:

(1) a conflict of interest that the person believes the person has with a party to the suit or a child who is the subject of the suit; and

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

(d) A person shall resign from the person's appointment as an adoption evaluator in a suit if the person makes any of the disclosures in Subsection (c) unless:

(1) the court finds that:

(A) the person has no conflict of interest with a party to the suit or a child who is the subject of the suit; and

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

(2) the parties and any attorney for a child who is the subject of the suit agree in writing to the person's continued

appointment as the adoption evaluator.

(e) An individual may not be appointed as an adoption evaluator in a suit if the individual has worked in a professional capacity with a party to the suit, a child who is the subject of the suit, or a member of the party's or child's family who is involved in the suit. This subsection does not apply to an individual who has worked in a professional capacity with a party, a child, or a member of the party's or child's family only as a teacher of parenting skills in a group setting, with no individualized interaction with any party, the child, any party's family, or the child's family, or as a child custody evaluator or adoption evaluator who performed a previous evaluation. For purposes of this subsection, "family" has the meaning assigned by Section 71.003.

Added by Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. 1449), Sec. 1.18, eff. September 1, 2015.

Sec. 107.157. REPORTING CERTAIN PLACEMENTS FOR ADOPTION. An adoption evaluator shall report to the department any adoptive placement that appears to have been made by someone other than a licensed child-placing agency or a child's parent or managing conservator.

Added by Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. 1449), Sec. 1.18, eff. September 1, 2015.

Sec. 107.158. GENERAL PROVISIONS APPLICABLE TO CONDUCT OF ADOPTION EVALUATOR AND PREPARATION OF REPORTS. (a) Unless otherwise directed by a court or prescribed by this subchapter, an adoption evaluator's actions in conducting an adoption evaluation must be in conformance with the professional standard of care applicable to the evaluator's licensure and any administrative rules, ethical standards, or guidelines adopted by the licensing authority that licenses the evaluator.

(b) A court may impose requirements or adopt local rules applicable to an adoption evaluation or an adoption evaluator that do not conflict with this subchapter.

(c) An adoption evaluator shall follow evidence-based practice methods and make use of current best evidence in making

assessments and recommendations.

(d) An adoption evaluator shall disclose to each attorney of record any communication regarding a substantive issue between the evaluator and an attorney of record representing a party in a contested suit. This subsection does not apply to a communication between an adoption evaluator and an amicus attorney.

(e) To the extent possible, an adoption evaluator shall verify each statement of fact pertinent to an adoption evaluation and shall note the sources of verification and information in any report prepared on the evaluation.

(f) An adoption evaluator shall state the basis for the evaluator's conclusions or recommendations in any report prepared on the evaluation.

(g) An adoption evaluation report must include for each adoption evaluator who conducted any portion of the adoption evaluation:

(1) the name and license number of the adoption evaluator; and

(2) a statement that the adoption evaluator:

(A) has read and meets the requirements of Section 107.154; or

(B) was appointed under Section 107.155.

Added by Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. 1449), Sec. 1.18, eff. September 1, 2015.

Sec. 107.159. REQUIREMENTS FOR PRE-PLACEMENT PORTION OF ADOPTION EVALUATION AND REPORT. (a) Unless otherwise agreed to by the court, the pre-placement part of an adoption evaluation must comply with the minimum requirements for the pre-placement part of an adoption evaluation under rules adopted by the commissioner of the department.

(b) Unless a child who is the subject of the suit begins to reside in a prospective adoptive home before the suit is commenced, an adoption evaluator shall file with the court a report containing the evaluator's findings and conclusions made after completion of the pre-placement portion of the adoption evaluation.

(c) In a suit filed after the date a child who is the subject

of the suit begins to reside in a prospective adoptive home, the report required under this section and the post-placement adoption evaluation report required under Section 107.160 may be combined in a single report.

(d) The report required under this section must be filed with the court before the court may sign the final order for termination of the parent-child relationship. The report shall be included in the record of the suit.

(e) A copy of the report prepared under this section must be made available to the prospective adoptive parents before the court renders a final order of adoption.

Added by Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. 1449), Sec. 1.18, eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 316 (H.B. 5), Sec. 5, eff. September 1, 2017.

Sec. 107.160. REQUIREMENTS FOR POST-PLACEMENT PORTION OF ADOPTION EVALUATION AND REPORT. (a) Unless otherwise agreed to by the court, the post-placement part of an adoption evaluation must comply with the minimum requirements for the post-placement part of an adoption evaluation under rules adopted by the commissioner of the department.

(b) An adoption evaluator shall file with the court a report containing the evaluator's findings and conclusions made after a child who is the subject of the suit in which the evaluation is ordered begins to reside in a prospective adoptive home.

(c) The report required under this section must be filed with the court before the court renders a final order of adoption. The report shall be included in the record of the suit.

(d) A copy of the report prepared under this section must be made available to the prospective adoptive parents before the court renders a final order of adoption.

Added by Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. 1449), Sec. 1.18, eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 316 (H.B. 5), Sec. 6, eff.

September 1, 2017.

Sec. 107.161. INTRODUCTION AND PROVISION OF ADOPTION EVALUATION REPORT AND TESTIMONY RELATING TO ADOPTION EVALUATION.

(a) Disclosure to the jury of the contents of an adoption evaluation report prepared under Section 107.159 or 107.160 is subject to the rules of evidence.

(b) The court may compel the attendance of witnesses necessary for the proper disposition of a suit, including a representative of an agency that conducts an adoption evaluation, who may be compelled to testify.

Added by Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. 1449), Sec. 1.18, eff. September 1, 2015.

Sec. 107.162. ADOPTION EVALUATION FEE. If the court orders an adoption evaluation to be conducted, the court shall award the adoption evaluator a reasonable fee for the preparation of the evaluation that shall be imposed in the form of a money judgment and paid directly to the evaluator. The evaluator may enforce the judgment for the fee by any means available under law for civil judgments.

Added by Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. 1449), Sec. 1.18, eff. September 1, 2015.

Sec. 107.163. ADOPTION EVALUATOR ACCESS TO INVESTIGATIVE RECORDS OF DEPARTMENT; OFFENSE. (a) An adoption evaluator is entitled to obtain from the department a complete, unredacted copy of any investigative record regarding abuse or neglect that relates to any person residing in the residence subject to the adoption evaluation.

(b) Except as provided by this section, records obtained by an adoption evaluator from the department under this section are confidential and not subject to disclosure under Chapter 552, Government Code, or to disclosure in response to a subpoena or a discovery request.

(c) An adoption evaluator may disclose information obtained under Subsection (a) in the adoption evaluation report prepared

under Section 107.159 or 107.160 only to the extent the evaluator determines that the information is relevant to the adoption evaluation or a recommendation made under this subchapter.

(d) A person commits an offense if the person recklessly discloses confidential information obtained from the department in violation of this section. An offense under this subsection is a Class A misdemeanor.

Added by Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. 1449), Sec. 1.18, eff. September 1, 2015.

Subchapter F, consisting of Secs. 107.201 to 107.202, was added by

Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. 1449), Sec. 1.18.

For another Subchapter F, consisting of Secs. 107.101 to 107.108, added by Acts 2015, 84th Leg., R.S., Ch. 571 (H.B. 3003), Sec. 1, see Sec. 107.101 et seq., post.

SUBCHAPTER F. EVALUATIONS IN CONTESTED ADOPTIONS

Sec. 107.201. APPLICABILITY. This subchapter does not apply to services provided in accordance with the Interstate Compact on the Placement of Children adopted under Subchapter B, Chapter 162, to an evaluation conducted in accordance with Section 262.114 by an employee of or contractor with the department, or to a suit in which the Department of Family and Protective Services is a party.

Added by Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. 1449), Sec. 1.18, eff. September 1, 2015.

Sec. 107.202. ASSIGNMENT OF EVALUATIONS IN CONTESTED ADOPTIONS. (a) In a suit in which the adoption of a child is being contested, the court shall determine the nature of the questions posed before appointing an evaluator to conduct either a child custody evaluation or an adoption evaluation.

(b) If the court is attempting to determine whether termination of parental rights is in the best interest of a child who is the subject of the suit, the court shall order the evaluation as a child custody evaluation under Subchapter D and include termination as one of the specific issues to be addressed in the

evaluation.

(c) When appointing an evaluator to assess the issue of termination of parental rights, the court may, through written order, modify the requirements of the child custody evaluation to take into account the circumstances of the family to be assessed. The court may also appoint the evaluator to concurrently address the requirements for an adoption evaluation under Subchapter E if the evaluator recommends that termination of parental rights is in the best interest of the child who is the subject of the suit.

(d) If the court is attempting to determine whether the parties seeking adoption would be suitable to adopt the child who is the subject of the suit if the termination of parental rights is granted, but the court is not attempting to determine whether such termination of parental rights is in the child's best interest, the court may order the evaluation as an adoption evaluation under Subchapter E.

Added by Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. 1449), Sec. 1.18, eff. September 1, 2015.

SUBCHAPTER G. OFFICE OF CHILD REPRESENTATION AND OFFICE OF PARENT REPRESENTATION

Sec. 107.251. DEFINITION. In this subchapter, "governmental entity" includes a county, a group of counties, a department of a county, an administrative judicial region created by Section 74.042, Government Code, and any entity created under the Interlocal Cooperation Act as permitted by Chapter 791, Government Code.

Added by Acts 2015, 84th Leg., R.S., Ch. 571 (H.B. 3003), Sec. 1, eff. September 1, 2015.

Redesignated from Family Code, Section 107.061 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(6), eff. September 1, 2017.

Sec. 107.252. APPLICABILITY. This subchapter 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 or 107.013.

Added by Acts 2015, 84th Leg., R.S., Ch. 571 (H.B. 3003), Sec. 1, eff. September 1, 2015.

Redesignated from Family Code, Section 107.062 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(6), eff. September 1, 2017.

Sec. 107.253. NONPROFIT FUNDING. This subchapter does not limit or prevent a nonprofit corporation from receiving and using money obtained from other entities to provide legal representation and services as authorized by this subchapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 571 (H.B. 3003), Sec. 1, eff. September 1, 2015.

Redesignated from Family Code, Section 107.063 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(6), eff. September 1, 2017.

Sec. 107.254. OFFICE OF CHILD REPRESENTATION. 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.

Added by Acts 2015, 84th Leg., R.S., Ch. 571 (H.B. 3003), Sec. 1, eff. September 1, 2015.

Redesignated from Family Code, Section 107.064 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(6), eff. September 1, 2017.

Sec. 107.255. OFFICE OF PARENT REPRESENTATION. 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.

Added by Acts 2015, 84th Leg., R.S., Ch. 571 (H.B. 3003), Sec. 1, eff. September 1, 2015.

Redesignated from Family Code, Section 107.065 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(6), eff. September 1, 2017.

Sec. 107.256. CREATION OF OFFICE OF CHILD REPRESENTATION OR OFFICE OF PARENT REPRESENTATION. (a) An office described by Section 107.254 or 107.255 may be a governmental entity or a nonprofit corporation operating under a written agreement with a governmental entity, other than an individual judge or court.

(b) The commissioners court of any county, on written approval of a judge of a statutory county court or a district court having family law jurisdiction in the county, may create an office of child representation, an office of parent representation, or both offices by establishing a department of the county or designating under a contract a nonprofit corporation to perform the duties of an office.

(c) The commissioners courts of two or more counties may enter into a written agreement to jointly create and jointly fund a regional office of child representation, a regional office of parent representation, or both regional offices.

(d) In creating an office of child representation or office of parent representation under this section, the commissioners court shall specify or the commissioners courts shall jointly specify, as applicable:

(1) the duties of the office;

(2) the types of cases to which the office may be appointed under this chapter and the courts in which an attorney employed by the office may be required to appear;

(3) if the office is a nonprofit corporation, the term during which the contract designating the office is effective and how that contract may be renewed on expiration of the term; and

(4) if an oversight board is established under Section 107.262 for the office, the powers and duties that have been delegated to the oversight board.

Added by Acts 2015, 84th Leg., R.S., Ch. 571 (H.B. 3003), Sec. 1, eff. September 1, 2015.

Redesignated from Family Code, Section 107.066 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(6), eff. September 1, 2017.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.002(2), eff. September 1, 2017.

Sec. 107.257. NONPROFIT AS OFFICE. (a) Before contracting with a nonprofit corporation to serve as an office of child representation or office of parent representation, the commissioners court or commissioners courts, as applicable, must solicit proposals for the office.

(b) After considering each proposal for an office of child representation or office of parent representation submitted by a nonprofit corporation, the commissioners court or commissioners courts, as applicable, shall select a proposal that reasonably demonstrates that the office will provide adequate quality representation for children for whom appointed counsel is required under Section 107.012 or for parents for whom appointed counsel is required under Section 107.013, as applicable.

(c) The total cost of the proposal may not be the sole consideration in selecting a proposal.

Added by Acts 2015, 84th Leg., R.S., Ch. 571 (H.B. 3003), Sec. 1, eff. September 1, 2015.

Redesignated from Family Code, Section 107.067 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(6), eff. September 1, 2017.

Sec. 107.258. PLAN OF OPERATION FOR OFFICE. The applicable commissioners court or commissioners courts shall require a written plan of operation from an entity serving as an office of child representation or office of parent representation. The plan must include:

- (1) a budget for the office, including salaries;
- (2) a description of each personnel position,

including the chief counsel position;

(3) the maximum allowable caseloads for each attorney employed by the office;

(4) provisions for training personnel and attorneys employed by the office;

(5) a description of anticipated overhead costs for the office;

(6) policies regarding the use of licensed investigators and expert witnesses by the office; and

(7) a policy to ensure that the chief of the office and other attorneys employed by the office do not provide representation to a child, a parent, or an alleged father, as applicable, if doing so would create a conflict of interest.

Added by Acts 2015, 84th Leg., R.S., Ch. 571 (H.B. 3003), Sec. 1, eff. September 1, 2015.

Redesignated from Family Code, Section 107.068 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(6).

Sec. 107.259. OFFICE PERSONNEL. (a) An office of child representation or office of parent representation must be directed by a chief counsel who:

(1) is a member of the State Bar of Texas;

(2) has practiced law for at least three years; and

(3) has substantial experience in the practice of child welfare law.

(b) An office of child representation or office of parent representation may employ attorneys, licensed investigators, licensed social workers, and other personnel necessary to perform the duties of the office as specified by the commissioners court or commissioners courts.

(c) An attorney for the office of child representation or office of parent representation must comply with any applicable continuing education and training requirements of Sections 107.004 and 107.0131 before accepting representation.

(d) Except as authorized by this chapter, the chief counsel and other attorneys employed by an office of child representation or office of parent representation may not:

(1) engage in the private practice of child welfare law; or

(2) accept anything of value not authorized by this chapter for services rendered under this chapter.

(e) A judge may remove from a case a person who violates Subsection (d).

Added by Acts 2015, 84th Leg., R.S., Ch. 571 (H.B. 3003), Sec. 1, eff. September 1, 2015.

Redesignated from Family Code, Section 107.069 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(6), eff. September 1, 2017.

Sec. 107.260. APPOINTMENTS IN COUNTY IN WHICH OFFICE CREATED. (a) If there is an office of child representation or office of parent representation serving a county, a court in that county shall appoint for a child or parent, as applicable, an attorney from the office 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, 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.

(b) An office of child representation or office of parent representation may not accept an appointment if:

(1) a conflict of interest exists;

(2) the office has insufficient resources to provide adequate representation;

(3) the office is incapable of providing representation in accordance with the rules of professional conduct;

(4) the appointment would require one or more attorneys at the office to have a caseload that exceeds the maximum allowable caseload; or

(5) the office shows other good cause for not accepting the appointment.

(c) An office of parent representation may investigate the

financial condition of any person the office is appointed to represent under Section 107.013. The office shall report the results of the investigation to the appointing judge. The judge may hold a hearing to determine if the person is indigent and entitled to appointment of representation under Section 107.013.

(d) If it is necessary to appoint an attorney who is not employed by an office of child representation or office of parent representation for one or more parties, the attorney is entitled to the compensation provided by Section 107.015.

Added by Acts 2015, 84th Leg., R.S., Ch. 571 (H.B. 3003), Sec. 1, eff. September 1, 2015.

Redesignated from Family Code, Section 107.070 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(6), eff. September 1, 2017.

Sec. 107.261. FUNDING OF OFFICE. An office of child representation or office of parent representation is entitled to receive money for personnel costs and expenses incurred in operating as an office in amounts set by the commissioners court and paid out of the appropriate county fund, or jointly fixed by the commissioners courts and proportionately paid out of each appropriate county fund if the office serves more than one county.

Added by Acts 2015, 84th Leg., R.S., Ch. 571 (H.B. 3003), Sec. 1, eff. September 1, 2015.

Redesignated from Family Code, Section 107.071 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(6), eff. September 1, 2017.

Sec. 107.262. OVERSIGHT BOARD. (a) The commissioners court of a county or the commissioners courts of two or more counties may establish an oversight board for an office of child representation or office of parent representation created in accordance with this subchapter.

(b) A commissioners court that establishes an oversight board under this section shall appoint members of the board. Members may include one or more of the following:

(1) an attorney with substantial experience in child

welfare law;

(2) the judge of a trial court having family law jurisdiction in the county or counties for which the office was created;

(3) a county commissioner; and

(4) a county judge.

(c) A commissioners court may delegate to the oversight board any power or duty of the commissioners court to provide oversight of an office of child representation or office of parent representation under this subchapter, including:

(1) recommending selection and removal of a chief counsel of the office;

(2) setting policy for the office; and

(3) developing a budget proposal for the office.

(d) An oversight board established under this section may not access privileged or confidential information.

(e) A judge who serves on an oversight board under this section has judicial immunity in a suit arising from the performance of a power or duty described by Subsection (c).

Added by Acts 2015, 84th Leg., R.S., Ch. 571 (H.B. 3003), Sec. 1, eff. September 1, 2015.

Redesignated from Family Code, Section 107.072 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(6), eff. September 1, 2017.

SUBCHAPTER H. MANAGED ASSIGNED COUNSEL PROGRAM FOR THE REPRESENTATION OF CERTAIN CHILDREN AND PARENTS

Sec. 107.301. DEFINITIONS. In this subchapter:

(1) "Governmental entity" includes a county, a group of counties, a department of a county, an administrative judicial region created by Section 74.042, Government Code, and any entity created under the Interlocal Cooperation Act as permitted by Chapter 791, Government Code.

(2) "Program" means a managed assigned counsel program created under this subchapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 571 (H.B. 3003), Sec. 1,

eff. September 1, 2015.

Redesignated from Family Code, Section 107.101 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(7), eff. September 1, 2017.

Sec. 107.302. MANAGED ASSIGNED COUNSEL PROGRAM. (a) A managed assigned counsel program may 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 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 for a parent under Section 107.013.

(b) The program may be operated by a governmental entity, nonprofit corporation, or local bar association under a written agreement with a governmental entity, other than an individual judge or court.

Added by Acts 2015, 84th Leg., R.S., Ch. 571 (H.B. 3003), Sec. 1, eff. September 1, 2015.

Redesignated from Family Code, Section 107.102 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(7), eff. September 1, 2017.

Sec. 107.303. CREATION OF MANAGED ASSIGNED COUNSEL PROGRAM.

(a) The commissioners court of a county, on written approval of a judge of a statutory county court or a district court having family law jurisdiction in the county, may appoint a governmental entity, nonprofit corporation, or local bar association to operate a managed assigned counsel program for the legal representation of:

(1) a child in a suit in which appointment is mandatory under Section 107.012; or

(2) a parent in a suit in which appointment is mandatory under Section 107.013.

(b) The commissioners courts of two or more counties may enter into a written agreement to jointly appoint and fund a governmental entity, nonprofit corporation, or bar association to operate a program that provides legal representation for children,

parents, or both children and parents.

(c) In appointing an entity to operate a program under this subchapter, the commissioners court shall specify or the commissioners courts shall jointly specify:

(1) the types of cases in which the program may appoint counsel under this section, and the courts in which the counsel appointed by the program may be required to appear; and

(2) the term of any agreement establishing a program and how the agreement may be terminated or renewed.

Added by Acts 2015, 84th Leg., R.S., Ch. 571 (H.B. 3003), Sec. 1, eff. September 1, 2015.

Redesignated from Family Code, Section 107.103 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(7), eff. September 1, 2017.

Sec. 107.304. PLAN FOR PROGRAM REQUIRED. The commissioners court or commissioners courts shall require a written plan of operation from an entity operating a program under this subchapter. The plan of operation must include:

(1) a budget for the program, including salaries;

(2) a description of each personnel position, including the program's director;

(3) the maximum allowable caseload for each attorney appointed under the program;

(4) provisions for training personnel of the program and attorneys appointed under the program;

(5) a description of anticipated overhead costs for the program;

(6) a policy regarding licensed investigators and expert witnesses used by attorneys appointed under the program;

(7) a policy to ensure that appointments are reasonably and impartially allocated among qualified attorneys; and

(8) a policy to ensure that an attorney appointed under the program does not accept appointment in a case that involves a conflict of interest for the attorney.

Added by Acts 2015, 84th Leg., R.S., Ch. 571 (H.B. 3003), Sec. 1,

eff. September 1, 2015.

Redesignated from Family Code, Section 107.104 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(7), eff. September 1, 2017.

Sec. 107.305. PROGRAM DIRECTOR; PERSONNEL. (a) Unless a program uses a review committee appointed under Section 107.306, a program under this subchapter must be directed by a person who:

- (1) is a member of the State Bar of Texas;
- (2) has practiced law for at least three years; and
- (3) has substantial experience in the practice of child welfare law.

(b) A program may employ personnel necessary to perform the duties of the program and enter into contracts necessary to perform the program's duties as specified by the commissioners court or commissioners courts under this subchapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 571 (H.B. 3003), Sec. 1, eff. September 1, 2015.

Redesignated from Family Code, Section 107.105 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(7), eff. September 1, 2017.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.002(3), eff. September 1, 2017.

Sec. 107.306. REVIEW COMMITTEE. (a) The governmental entity, nonprofit corporation, or local bar association operating a program may appoint a review committee of three or more individuals to approve attorneys for inclusion on the program's public appointment list.

- (b) Each member of the committee:
- (1) must meet the requirements described by Section 107.305(a) for the program director;
 - (2) may not be employed as a prosecutor; and
 - (3) may not be included on or apply for inclusion on the public appointment list.

Added by Acts 2015, 84th Leg., R.S., Ch. 571 (H.B. 3003), Sec. 1,

eff. September 1, 2015.

Redesignated from Family Code, Section 107.106 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(7), eff. September 1, 2017.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.002(4), eff. September 1, 2017.

Sec. 107.307. APPOINTMENT FROM PROGRAM'S PUBLIC APPOINTMENT LIST. (a) The judge of a county served by a program shall make any appointment 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.

(b) The program's public appointment list from which an attorney is appointed under this section must contain the names of qualified attorneys, each of whom:

(1) applies to be included on the list;

(2) meets any applicable requirements, including any education and training programs required under Sections 107.004 and 107.0131; and

(3) is approved by the program director or review committee, as applicable.

Added by Acts 2015, 84th Leg., R.S., Ch. 571 (H.B. 3003), Sec. 1, eff. September 1, 2015.

Redesignated from Family Code, Section 107.107 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(7), eff. September 1, 2017.

Sec. 107.308. FUNDING OF PROGRAM. (a) A program is entitled to receive money for personnel costs and expenses incurred in amounts set by the commissioners court and paid out of the appropriate county fund or jointly fixed by the commissioners

courts and proportionately paid out of each appropriate county fund if the program serves more than one county.

(b) An attorney appointed under the program is entitled to reasonable fees as provided by Section 107.015.

Added by Acts 2015, 84th Leg., R.S., Ch. 571 (H.B. 3003), Sec. 1, eff. September 1, 2015.

Redesignated from Family Code, Section 107.108 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(7), eff. September 1, 2017.