

BILL ANALYSIS

Senate Research Center

H.B. 1315
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Health & Human Services
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

When a child has been in the state's Child Protective Services system for longer than 18 months, a state judge can change the custody case to permanent managing conservatorship (PMC), which means that a child may be living permanently with a relative, close friend, foster parent, or other long-term living placements. Currently, it is not required that a child in PMC has representation in court, either by a guardian or an attorney ad litem.

Travis County began implementing the full breadth of best practices suggested by the National Conference of State Legislatures in 2007 (including the appointment of an attorney ad litem for the duration of a foster youth's case). Following this, the county saw 57 percent fewer children in PMC between 2007 and 2011.

H.B. 1315 would require the appointment of a guardian or attorney ad litem for the duration of the time a child spends in PMC. Federal funds for the bill are available through Title IV-E funding reimbursement for all administrative costs related to providing independent legal representation by an attorney for children and parents of children in foster care. Further federal matching funds are available to train CASA volunteers, guardians ad litem, and court staff.

In the house, H.B. 1315 was supported by CASA, the Texas Association of Family Defense Attorneys, Tex Protects, and Texas Appleseed.

H.B. 1315 amends current law relating to the duration of an appointment of a guardian ad litem or an attorney ad litem for a child in the conservatorship of the Department of Family and Protective Services.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 107.016, Family Code, as follows:

Sec. 107.016. CONTINUED REPRESENTATION; DURATION OF APPOINTMENT.
Provides that 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 (DFPS) as the child's managing conservator is required, rather than is authorized, to provide for the continuation of the appointment of the guardian ad litem and the attorney ad litem for the child, or an attorney appointed to serve in the dual role, rather than to provide for the continuation of the appointment of the attorney ad litem for the child, as long as the child remains in the conservatorship of DFPS; and

(2) creates this subdivision from existing text and makes no further changes.

Deletes existing text providing that 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, an order appointing DFPS as the child's managing conservator may provide for the continuation of the appointment of the guardian ad litem for the child for any period during the time the child remains in the conservatorship of DFPS, as set by the court.

SECTION 2. Provides that the changes in law made by this Act apply to a suit affecting the parent-child relationship filed before, on, or after the effective date of this Act.

SECTION 3. Effective date: September 1, 2021.