

BILL ANALYSIS

C.S.H.B. 3605
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There are calls for the appointment of an attorney ad litem or a guardian ad litem to represent an unborn child during a judicial bypass proceeding for an abortion for a pregnant minor. C.S.H.B. 3605 seeks to provide for the representation of an unborn child.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3605 amends the Family Code to authorize a court to appoint an attorney ad litem or guardian ad litem to represent an unborn child during a proceeding for an authorization for the minor to consent to the performance of an abortion without notification to and consent of a parent, managing conservator, or guardian. The bill requires the attorney general to develop and maintain a registry listing the identity of and contact information for attorneys qualified to serve as attorneys ad litem and other individuals qualified to serve as guardians ad litem in Texas that have voluntarily notified the attorney general of their willingness to serve, or have been asked by the attorney general and have consented to serve, as attorneys ad litem or guardians ad litem, as applicable, for an unborn child in such a proceeding. The bill grants the unborn child's attorney ad litem or guardian ad litem access to an order issued by the court in such a proceeding and a related ruling of the applicable court of appeals.

C.S.H.B. 3605 grants immunity to such an attorney ad litem or guardian ad litem from liability for damages arising from an act or omission committed in good faith but excludes from that immunity any conduct that is grossly negligent or wilfully wrongful or committed with conscious indifference or reckless disregard to the safety of another or in bad faith or with malice. The bill authorizes a court acting under a court order under such a proceeding to issue an order requiring the state to pay the cost of any attorney ad litem or guardian ad litem appointed for an unborn child.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3605 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes a guardian ad litem as an individual who may be appointed by a court to represent an unborn child during a proceeding for an authorization for the minor to consent to the performance of an abortion without notification to and consent of a parent, managing conservator, or guardian. The substitute extends the applicability of the bill's provisions to such a guardian ad litem and includes the identity and contact information of individuals qualified to serve as such a guardian ad litem in the registry the attorney general is required to develop and maintain under the bill's provisions.