

SUBJECT: Allowing district or county attorneys to be appointed as attorneys ad litem

COMMITTEE: Judiciary & Civil Jurisprudence — committee substitute recommended

VOTE: 8 ayes — Leach, Julie Johnson, Davis, Flores, Murr, Schofield, Slawson, Vasut

0 nays

1 absent — Moody

WITNESSES: For — Christopher Baran (*Registered, but did not testify*: Rick Thompson, County Judges and Commissioners Association of Texas; Calvin Tillman; Al Zito)

Against — (*Registered, but did not testify*: Ray Sullivan, American Property and Casualty Insurance Association; Josselyn Molina, Deeds Not Words)

BACKGROUND: Code of Criminal Procedure art. 2.08(a) prohibits district and county attorneys from serving as counsel adversely to the state in any case and in any court.

Family Code ch. 262 allows for the appointment of attorneys ad litem to represent children and parents in court cases related to suits initiated by a government entity with an interest in a child, including the Department of Family and Protective Services.

Family Code sec. 101.0018 and sec. 107.001 defines an attorney ad litem as 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.

DIGEST: CSHB 1130 would amend Code of Criminal Procedure art. 2.08(a) to allow for district and county attorneys to serve as attorneys ad litem appointed under Family Code ch. 262.

The bill would take effect September 1, 2023. The bill would only apply to the prosecution of offenses that were committed on or before the effective date.

**SUPPORTERS  
SAY:**

CSHB 1130 would provide better representation in child protection cases in rural counties. Currently, there is a shortage of qualified attorneys who can represent children and parents within Texas law. Counties often resort to appointing attorneys from outside of the county, which can be costly. Additionally, attorneys that live a considerable distance away cannot visit their clients as frequently nor be as involved in the case as they need to. The bill would allow district and county attorneys to serve as attorneys ad litem, which would help more people in rural areas access quality, local representation.

**CRITICS  
SAY:**

No concerns identified.