

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1838
By: Zaffirini
Jurisprudence
3/26/2025
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law governing fee schedules for court-appointed attorneys in child protection cases lacks clarity, resulting in inconsistencies across counties. While counties are required to submit fee schedules biennially, the law does not clearly specify how these schedules should apply to attorneys representing children and indigent parents in child protection cases. References to statutes primarily addressing criminal defense have further contributed to confusion, leading to disparities in compensation and, in some cases, the absence of a standardized fee schedule altogether.

S.B. 1838 would clarify and standardize the rules surrounding fee schedules for attorneys appointed to represent children and indigent parents in Department of Family and Protective Services (DFPS) cases. By establishing a standardized fee schedule, S.B. 1838 would ensure consistency in attorney compensation across counties. This reform would promote fairness and transparency, eliminating wide variations in fees and ensuring attorneys handling child protection cases are appropriately compensated. Clear statutory guidance would provide counties with a uniform framework, ensuring fair and predictable compensation in DFPS-related cases.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1838 amends current law relating to the appointment of attorneys ad litem and the compensation of certain attorneys ad litem in suits affecting the parent-child relationship filed by a governmental entity.

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 107.013(a), Family Code, as follows:

(a) Requires the court, in a suit filed by a governmental entity, rather than in a suit filed by a governmental entity under Subtitle E (Protection of the Child), in which termination of the parent-child relationship or the appointment of a conservator for a child is requested, to appoint an attorney ad litem to represent the interests of certain parties.

SECTION 2. Amends Section 107.015, Family Code, by amending Subsections (a) and (c) and adding Subsections (e) and (f), as follows:

(a) Provides that an attorney appointed under Chapter 107 (Special Appointments, Child Custody Evaluations, and Adoption Evaluations), or Subtitle E 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.

(c) Requires an attorney ad litem appointed to represent a child or parent in a suit filed by a governmental entity who is not an employee of an office of child representation, office

of parent representation, or other entity that uses public money to provide legal representation to children or parents in a suit filed by a governmental entity, if indigency of the parents is shown, to be paid from the general funds of the county according to the fee schedule adopted under Section 107.0155, rather than the fee schedule that applies to an attorney appointed to represent a child in a suit under Title 3 (Juvenile Justice Code) as provided by Chapter 51 (General Provisions).

(e) Authorizes a court to remove a person from the list maintained by the court of persons qualified for appointment as attorney or guardian ad litem if, after notice and a hearing, the court determines the person submitted a voucher or claim for payment under Subsection (d) (relating to requiring a person appointed as a guardian ad litem or attorney ad litem to complete and submit to the court a voucher or claim for payment) for services the person did not perform.

(f) Authorizes a person whose voucher or claim for payment under Subsection (d) was denied or modified by the court or has not been approved by the court by the 60th day after the date the voucher or claim for payment was submitted to file a petition addressed to the presiding judge of the administrative judicial region to compel payment or to appeal the denial or modification of the payment. Requires the presiding judge of the administrative judicial region to review the petition for payment filed under Section 107.015 (Attorney Fees), determine the amount due to the petitioner, and order the commissioners court to pay that amount not later than the 45th day after the date a petition is filed under this subsection. Authorizes the presiding judge of the administrative judicial region to hold a hearing in a proceeding described by this subsection.

SECTION 3. Amends Part 1, Subchapter B, Chapter 107, Family Code, by adding Section 107.0155, as follows:

Sec. 107.0155. FEE SCHEDULE FOR CERTAIN ATTORNEYS AD LITEM. (a) Requires each court in a county hearing suits filed by a governmental entity under Title 5 to jointly develop, adopt, and submit to the commissioners court of the county a fee schedule for the compensation of an attorney ad litem described by Section 107.015(c) that includes certain payments and reimbursement for reasonable and necessary expenses.

(b) Requires that a fee schedule adopted under Subsection (a) describe with specificity services and expenses eligible for payment or reimbursement, include an hourly or fixed payment rate based on certain information, and include a form for the itemization of services and expenses for a claim for payment under Section 107.015(d).

SECTION 4. (a) Requires the courts in each county hearing suits filed by a governmental entity under Title 5, Family Code, not later than January 1, 2026, to adopt the fee schedule required by Section 107.0155, Family Code, as added by this Act.

(b) Makes application of Section 107.015(c), Family Code, as amended by this Act, prospective to January 1, 2026.

SECTION 5. Effective date: September 1, 2025.