



**315<sup>TH</sup> JUDICIAL DISTRICT COURT  
HARRIS COUNTY, TEXAS**

**POLICIES AND PROCEDURES  
APPOINTMENT OF AD LITEM ATTORNEYS IN  
PARENTAL TERMINATION PROCEEDINGS INITIATED BY  
THE TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES**

Chapter 107 of the Texas Family Code requires a court to appoint a lawyer to represent each child who is the subject of a petition in an abuse and neglect proceeding brought by the Texas Department of Family and Protective Services (TDFPS). *See generally* TEX. FAM. CODE § 107.001, *et seq.*

Referring to standards established by the Texas Family Code, the State Bar of Texas, and the American Bar Association (ABA), the Court shall appoint qualified attorneys to protect the best interest of children and the rights of all parties in parental termination proceedings.<sup>1</sup>

Effective immediately, this Court institutes the following qualification and payment guidelines and procedures pertaining to the appointment of private ad litem attorneys to represent children and indigent parents in Chapter 161 termination proceedings filed by TDFPS. *See generally* TEX. FAM. CODE §107.015.

The Court directs the Harris County District Courts' Administrative Office (DCA) to publish these policies and procedures by posting them on the 315<sup>th</sup> District Court's official website.<sup>2</sup> DCA is also directed to immediately publish the 315<sup>th</sup> District Court's list of attorneys approved to be appointed as ad litem attorneys in TDFPS termination proceedings by posting the list on the Court's official website as cited below.

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<sup>1</sup> To ensure effective representation of the child in termination hearings, the American Bar Association (ABA) strongly recommends that a court appoint an attorney to represent the child as soon as practicable, but before the first hearing.

<sup>2</sup> The url for the 315<sup>th</sup> District Court's official website is <http://www.justex.net/Courts/Juvenile/JuvenileCourt.aspx?crt=51>

## 1.0. PROCEDURE

- 1.1. If the Court determines that it is necessary to appoint an ad litem attorney to represent a party in a termination proceeding filed by TDFPS,<sup>3</sup> it will direct court staff to present the Court with five names of attorneys selected at random from the 315<sup>th</sup> District Court's published ad litem list using the procedures addressed in the following paragraph.
- 1.2. As the need arises, the current published list of the Court's approved ad litem attorneys will be processed through a randomization engine integrated as part of **The Fair Defense Act Management System (FDAMS)**<sup>4</sup> as to each and every appointment. The Court will appoint this randomly selected attorney.
- 1.3. EXCEPTIONS. In specific cases and upon a finding of good cause, the Court may make ad litem appointments outside of FDAMS. For example, certain TDFPS cases may require an ad litem attorney with specialized qualifications and skill sets. In those cases, the Court may, in the best interests of the child or as justice requires in fairness to parties, make appointments outside the FDAMS randomized selection system. *See generally* TEX. GOV'T CODE §21.001.

## 2.0. PAYMENT GUIDELINES

- 2.1. Each attorney submitting a voucher for payment by the county for **out of court hours** shall include the Court's form attestation that those billable hours do not include billable hours for an attorney other than the appointed ad litem.
- 2.2. In exigent circumstances, the Court may allow for exceptions to the requirement that **out of court hours** do not include billable hours for an attorney other than the appointed ad litem. Those exceptions will be annotated by the Court on the same attestation form.<sup>5</sup>
- 2.3. Each attorney submitting a voucher for payment by the county for work performed by non-attorney staff shall detail the exact duties, time expended, and job title of the individual performing such work.
- 2.4. Failure to submit this attestation will be grounds for denial of payment.

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<sup>3</sup> All appointments will be made pursuant to Chapter 107 of the Texas Family Code.

<sup>4</sup> The methodology for this randomized system is reviewable on the 315<sup>th</sup> District Court's official website

<sup>5</sup> This form attestation may be found and downloaded from the 315<sup>th</sup> District Court's official website

- 2.5. Failure to submit a voucher for the payment of a *court appearance* within *48 hours* of the court appearance will be grounds for denial of payment.
- 2.6. Failure to submit a voucher for the payment of *out of court hours* after *120 days* from the date of any dated entry for out of court billing hours may be grounds for denial of payment.
- 2.7. The Court prefers that the information on vouchers be typewritten. Failure to submit a legible voucher for payment may be grounds for denial of payment.

### **3.0. ATTORNEY AD LITEM LIST AND QUALIFICATIONS.**

- 3.1. *General Requirements.* To be included on the list of attorneys approved to accept ad litem appointments, lawyers must receive initial training and participate in annual continuing legal education that is specific to child welfare law; be familiar with all relevant federal, state, and applicable local laws; and decline appointments to new cases when their present caseload exceeds more than a reasonable number given the jurisdiction.
- 3.2. *Annual CLE requirements.* To remain on the approved ad litem list, the lawyer shall provide the Court with a written affidavit or oath that, within the last 12 months, the attorney has taken a minimum of 18 hours of continuing legal education CLE in matters pertaining to the Texas Family Code. At least 12 hours of that CLE must be directly related to attorney ad litem appointments or TDFPS litigation.
- 3.3. *Admission to the List.* Before the 315th District Court adds a new attorney to the list of attorneys approved to accept ad litem appointments to represent children in TDFPS litigation, the attorney must provide the Court with a written affidavit or oath that:
  - 3.3.1. within the last 12 months, the attorney has taken **a minimum of 18 hours of continuing legal education (CLE)** in matters pertaining directly to the Texas Family Code and that **at least 12 hours of that CLE** be related directly to attorney ad litem appointments or TDFPS litigation;
  - 3.3.2. the attorney currently maintains a manageable case load<sup>6</sup>;

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<sup>6</sup> The size of an attorney's caseload significantly affects his capacity to adequately represent his clients by limiting his ability to investigate each case, build a rapport with each child and assess each child's needs. For this reason the

3.3.3. expects to represent 100 or fewer children in child custody cases<sup>7</sup> and termination cases filed by TDFPS in *all* courts during the year in which they are seeking appointment from the 315<sup>th</sup> District Court.

3.4. *Notification of Caseload.* If an attorney on the Court's list of ad litem attorneys approved to represent children in TDFPS litigation acquires a caseload that is unmanageable or exceeds more than 100 children in child custody cases and termination cases filed by TDFPS in all courts in which the attorney represents children, the attorney will immediately notify DCA in writing.

The Court further **ORDERS** the Harris County District Clerk to file this Order in the Court's General Minutes.

Signed this \_\_\_\_\_ day of September, 2014.

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Mike Schneider, Judge Presiding

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National Association of Counsel for Children (NACC) recommends that attorneys carry caseloads of no more than 100 children per attorney per year. The U.S. Department of Health and Human Services, the Administration for Children and Families, and the Children's Bureau have adopted NACC's recommendations regarding caseload size.

<sup>7</sup> For purposes of determining caseload limits, representation in child custody cases includes serving as the attorney ad litem, the guardian ad litem, and as the amicus.