

Representing Parents in Child Welfare Cases

SUPREME COURT OF TEXAS CHILDREN'S COMMISSION

JUNE 15, 2026



Parents are Entitled to Representation in a Child Welfare Case



Notification of Right to Representation

After initiating an investigation of a parent or other person having legal custody of a child, DFPS shall, upon first contact with the parent or with the alleged perpetrator, provide to the person a verbal notification of the right to have a court-appointed attorney if:

- the person is indigent,
- the parent of the child, and
- DFPS seeks a court order in a suit filed under [Tex. Fam. Code §§ 262.101](#) or [262.105](#) or a court order requiring the person to participate in services under [Tex. Fam. Code § 264.203](#).

[Tex. Fam. Code § 261.307\(a\)\(2\)\(C\)](#).



Notification of Right to Representation

When a court issues a temporary order for the conservatorship of a child under [Tex. Fam. Code § 105.001\(a\)\(1\)](#) or a temporary restraining order or attachment of a child authorizing a governmental entity to take possession of a child...the temporary order, temporary restraining order, or attachment of a child rendered by the court must contain the following statement:

“YOU HAVE THE RIGHT TO BE REPRESENTED BY AN ATTORNEY. IF YOU ARE INDIGENT AND UNABLE TO AFFORD AN ATTORNEY, YOU HAVE THE RIGHT TO REQUEST THE APPOINTMENT OF AN ATTORNEY BY CONTACTING THE COURT.... IF YOU APPEAR IN OPPOSITION TO THE SUIT, CLAIM INDIGENCE, AND REQUEST THE APPOINTMENT OF AN ATTORNEY, THE COURT WILL REQUIRE YOU TO SIGN AN AFFIDAVIT OF INDIGENCE AND THE COURT MAY HEAR EVIDENCE TO DETERMINE IF YOU ARE INDIGENT. IF THE COURT DETERMINES YOU ARE INDIGENT AND ELIGIBLE FOR APPOINTMENT OF AN ATTORNEY, THE COURT WILL APPOINT AN ATTORNEY TO REPRESENT YOU.”

[Tex. Fam. Code § 262.102\(d\)](#).



Notification of Right to Representation, cont.

Before commencement of a full hearing on a request for an order to participate in services or a full adversary hearing, the court must inform each parent not represented by an attorney of:

- (1) the right to be represented by an attorney; and
- (2) if a parent is **indigent** and appears **in opposition** to the suit, the right to a court-appointed attorney.

Tex. Fam. Code §§ 262.201(c) and 264.203(i).



Notification of Right to Representation, cont.

In a filed by a governmental entity under Tex. Fam. Code Chapter 5, Subtitle E, in which termination of the parent child-relationship or appointment of a conservator for a child is requested, if the parent is not represented by an attorney at the parent's first appearance at court, the court shall inform the parent of:

- (1) the right to be represented by an attorney; and
- (2) if a parent is **indigent** and appears **in opposition** to the suit, the right to an attorney ad litem appointed by the court.

Tex. Fam. Code § 107.013(a-1).



Appointment of Attorney Ad Litem for Parent



Temporary Appointment of Attorney Ad Litem for Certain Parents

The court may appoint an attorney ad litem to represent the interests of a parent for a limited period beginning at the time the court issues a temporary restraining order or attachment of the parent's child under [Tex. Fam. Code Chapter 262](#) and ending on the court's determination of whether the parent is indigent before commencement of the full adversary hearing.



Powers and Duties of Attorney Ad Litem Temporarily Appointed for Parent

An attorney ad litem who has received a temporary appointment for a parent under [Tex. Fam. Code § 107.0141](#) has the powers and duties of an attorney ad litem appointed under [Tex. Fam. Code § 107.0131](#), **and**, if applicable, shall:

- Conduct an investigation regarding the petitioner's due diligence in locating and serving citation on the parent; **and**
- **Interview** any party or other person who may have information relating to the identity or location of the parent.

[Tex. Fam. Code 107.0141\(b\)](#).

- If the attorney ad litem identifies and locates the parent, the attorney ad litem shall:
 - inform the parent of the parent's right to be represented by an attorney and of the parent's right to an attorney ad litem appointed by the court, if the parent is indigent and appears in opposition to the suit;
 - if the parent claims indigence and requests an attorney ad litem beyond the period of the temporary appointment under this section, assist the parent in making a claim of indigence for the appointment of an attorney ad litem; **and**
 - assist the parent in preparing for the full adversary hearing.

[Tex. Fam. Code 107.0141\(c\)](#).



Mandatory Appointment of Attorney Ad Litem for Parent

In a suit filed by a governmental agency under [Tex. Fam. Code Chapter 5, subtitle E](#), in which termination of the parent-child relationship or the appointment of a conservator for a child is requested, the **court shall appoint** an attorney ad litem to represent the interests of:

- an indigent parent of a child who responds to the request;
- a parent served by citation by publication;
- an alleged father who failed to register with the registry under Chapter 160 and whose identity or location is unknown; **and**
- an alleged father who registered with the paternity registry under Chapter 160, but the petitioner's attempt to personally serve citation at the address provided to the registry and at any other address for the alleged father known by the petitioner has been unsuccessful.

[Tex. Fam. Code § 107.013\(a\)](#).



Mandatory Appointment of Attorney Ad Litem for Parent, cont.

The court shall appoint an attorney ad litem to represent the interests of a parent for whom participation in services is being requested. [Tex. Fam. Code § 264.203\(h\)](#).



Powers and Duties of Attorney Ad Litem for Parent



Scope and Application of Powers and Duties of Attorney Ad Litem Appointed for Parent

Duties of parents' attorneys apply equally to Court Ordered Services/Motion to Participate (COS/MTP) cases as they do to cases where the Department of Family and Protective Services (DFPS) has Temporary Managing Conservatorship (TMC). [Tex. Fam. Code § 264.203\(h\)](#).



Conduct Interviews

- Interview the client, unless the client's location is unknown;
- Interview each person who has significant knowledge of the case; and
- Interview the parties to the suit.

Tex. Fam. Code § 107.0131(a)(1)(A).



Investigate

- Investigate the facts of the case. [Tex. Fam. Code § 107.0131\(a\)\(1\)\(B\)](#).
- Obtain and review copies of all court files in the suit during the attorney's course of representation. [Tex. Fam. Code § 107.0131\(a\)\(1\)\(C\)\(i\)](#).
- When necessary, conduct formal discovery under the Texas Rules of Civil Procedure or a local discovery control plan. [Tex. Fam. Code § 107.0131\(a\)\(1\)\(C\)\(ii\)](#).

Ensure Competent Representation

- Take any action consistent with the parent's interests that the attorney considers necessary to expedite proceedings. [Tex. Fam. Code § 107.0131\(a\)\(1\)\(D\)](#).
- Encourage settlement and the use of alternative forms of dispute resolution. [Tex. Fam. Code § 107.0131\(a\)\(1\)\(E\)](#).
- Review and sign, or decline to sign, a proposed or agreed order affecting the parent. [Tex. Fam. Code § 107.0131\(a\)\(1\)\(F\)](#).

Client Meetings and Advocacy

- Meet with the parent before each court hearing. [Tex. Fam. Code § 107.0131\(a\)\(1\)\(G\)](#).
- Abide by the parent's objectives for representation. [Tex. Fam. Code § 107.0131\(a\)\(1\)\(H\)](#).

Training and Reporting Requirements

- Become familiar with the American Bar Association's standards of practice for attorneys in abuse and neglect cases. [Tex. Fam. Code § 107.0131\(a\)\(1\)\(I\)](#).
- Complete at least three hours of continuing legal education relating to representing parents in child protection cases as soon as practicable after the attorney ad litem is appointed, unless the court finds that the attorney ad litem has experience equivalent to that education. [Tex. Fam. Code § 107.0131\(a\)\(1\)\(J\)](#).
- Annually report to the Texas Indigent Defense Commission (TIDC) the percentage of practice time dedicated to court-appointed child welfare representation of parents and children in each county. [Tex. Fam. Code § 107.0042](#).



Powers of Attorney Ad Litem for Parent

An Attorney Ad Litem for a Parent is entitled to:

- Request clarification from the court if the role of the attorney ad litem is ambiguous;
- Request a hearing or trial on the merits;
- Consent or refuse to consent to an interview of the parent by another attorney;
- Receive a copy of each pleading or other paper filed with the court;
- Receive notice of each hearing in the suit;
- Participate in any case staffing conducted by DFPS in which the parent is invited to participate, including, as appropriate, a case staffing to develop a family plan of service, a family group conference, a permanency conference, a mediation, a case staffing to plan for the discharge and return of the child to the parent, a case staffing related to a placement in a residential treatment center or qualified residential treatment program, and any other case staffing that the department determines would be appropriate for the parent to attend...; **and**
- Attend all legal proceedings in the suit.

Tex. Fam. Code § 101.0131(a)(2).



Representing Alleged Fathers



Powers and Duties of Attorney Ad Litem for Alleged Father

- An attorney ad litem appointed to represent the interests of an alleged father is only required to:
 - conduct an investigation regarding the petitioner's due diligence in locating the alleged father, including by verifying that the petitioner has obtained a certificate of the results of a search of the paternity registry under Chapter 160;
 - interview any party or other person who has significant knowledge of the case who may have information relating to the identity or location of the alleged father; **and**
 - conduct an independent investigation to identify or locate the alleged father, as applicable. [Tex. Fam. Code § 107.0132\(a\)](#).



Powers and Duties of Attorney Ad Litem for Alleged Father, cont.

- If the attorney ad litem identifies and locates the alleged father, the attorney ad litem shall:
 - provide to each party and the court the alleged father's name and address and any other locating information; and
 - if appropriate, request the court's approval for the attorney ad litem to assist the alleged father in establishing paternity. [Tex. Fam. Code § 107.0132\(b\)](#).
- If the attorney ad litem is unable to identify or locate the alleged father, the attorney ad litem shall submit to the court a written summary of the attorney ad litem's efforts to identify or locate the alleged father with a statement that the attorney ad litem was unable to identify or locate the alleged father. [Tex. Fam. Code § 107.0132\(d\)](#).

Representing “Missing” or Unknown Fathers



Powers and Duties of Attorney Ad Litem for Certain Parents

- An attorney ad litem appointed to represent the interests of a parent whose identity or location is unknown or who has been served by citation by publication is only required to:
 - conduct an investigation regarding the petitioner's due diligence in locating the parent;
 - interview any party or other person who has significant knowledge of the case who may have information relating to the identity or location of the parent; and
 - conduct an independent investigation to identify or locate the parent, as applicable. [Tex. Fam. Code § 107.014\(a\)](#).



Powers and Duties of Attorney Ad Litem for Certain Parents, cont.

- If the attorney ad litem identifies and locates the parent, the attorney ad litem shall:
 - provide to each party and the court the parent's name and address and any other available locating information unless the court finds that disclosure of a parent's address is likely to cause that parent harassment, serious harm, or injury; or the parent has been a victim of family violence; and
 - if appropriate, assist the parent in making a claim of indigence for the appointment of an attorney. [Tex. Fam. Code § 107.014\(b\)](#).
- If the attorney ad litem is unable to identify or locate the parent, the attorney ad litem shall submit to the court a written summary of the attorney ad litem's efforts to identify or locate the parent with a statement that the attorney ad litem was unable to identify or locate the parent. [Tex. Fam. Code § 107.014\(e\)](#).



Special Issue



Language Barrier Concerns

Tex. Govt. Code § 57.002

- A court shall appoint a certified court interpreter or a certified CART provider for an individual who has a hearing impairment or a licensed court interpreter for an individual who can hear but does not comprehend or communicate in English if a motion for the appointment of an interpreter or provider is filed by a party or requested by a witness in a civil or criminal proceeding in the court.
- A court may, on its own motion, appoint a certified court interpreter or a certified CART provider for an individual who has a hearing impairment or a licensed court interpreter for an individual who can hear but does not comprehend or communicate in English.
- A licensed court interpreter appointed by a court must hold a license that includes the appropriate designation under [Tex. Govt. Code § 157.101\(d\)](#) that indicates the interpreter is permitted to interpret in that court.

Language Barrier Concerns, cont.

- Subject to [Tex. Govt. Code § 157.101\(e\)](#), in a county with a population of less than 50,000, a court may appoint a spoken language interpreter who is not a licensed court interpreter.
- In a county with a population of 50,000 or more, a court may appoint a spoken language interpreter who is not a certified or licensed court interpreter if:
 - the language necessary in the proceeding is a language other than Spanish; **and**
 - the court makes a finding that there is no licensed court interpreter within 75 miles who can interpret in the language that is necessary in a proceeding.



Interpreters for Deaf Persons

Tex. Civ. Prac. & Rem. Code § 21.002

- In a civil case or in a deposition, a deaf person who is a party or witness is entitled to have the proceedings interpreted by a court-appointed interpreter. A deaf person who is a juror in any case is entitled to have the proceedings interpreted by a court-appointed interpreter.
- The proceedings must be interpreted in a language, including sign language, that the deaf person can understand.

Concluding Representation



Concluding Representation

Your case is “done” – now what?

- Order(s)
- Appeals
- Close out letter
- Contacts

Questions?

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Thank You!

Questions related to MCLE self reporting may be sent to cctraining@txcourts.gov

