

- SUBJECT:** Requirements for meeting between attorney ad litem and child or caretaker
- COMMITTEE:** Judiciary and Civil Jurisprudence — committee substitute recommended
- VOTE:** 9 ayes — Jackson, Lewis, Castro, S. Davis, Hartnett, Madden, Raymond, Scott, Woolley
- 0 nays
- 2 absent — Bohac, Thompson
- WITNESSES:** For — (*Registered, but did not testify:* Diana Martinez, TexProtects and Texas Association for the Protection of Children; Andrea Sparks, Texas CASA; Amanda Vining, Texans Care for Children)
- Against — None
- On — Katie Fillmore, Supreme Court of Texas Commission for Children, Youth & Families
- BACKGROUND:** Family Code, sec. 107.004(d) requires an attorney ad litem appointed for a child to meet before each court hearing with:
- the child, if the child is at least four years old; or
 - the individual with whom the child ordinarily resides, including the child's parent, conservator, guardian, caretaker, or custodian, if the child is younger than four years old.
- A court may, on a showing of good cause, authorize an attorney ad litem to comply with the meeting requirement by conferring with the child or other individual by telephone or video conference.
- DIGEST:** HB 3311 would require a meeting between an attorney ad litem and a child or caretaker to take place a sufficient time before the hearing to allow the attorney to prepare for the hearing according to the child's wishes and in a private setting allowing for confidential communications.
- The bill would take effect on September 1, 2011.

**SUPPORTERS
SAY:**

Attorneys ad litem currently spend very little time with a child before court proceedings and in some cases do not meet with the child at all. The purpose of this meeting is to develop an understanding of the child's wishes and needs, such as where the child wants to live or the child's medical needs. A rushed or skipped meeting can prevent the child's interests from being properly represented. Current law does not adequately address the need for a substantive meeting to occur.

CSHB 3311 would require the meeting to occur far enough in advance for the attorney to prepare for the hearing, such as by interviewing a potential caretaker identified by the child and preparing a brief reflecting the child's wishes. The bill also would require the meeting to occur in a private setting to allow the child to speak candidly.

The issue of inadequate enforcement of the required meeting is better addressed in a separate bill, HB 3314 by Carter, which the House already has approved.

**OPPONENTS
SAY:**

While this bill would clarify the requirements for a meeting between the attorney ad litem and the child, it does not address the problem that these requirements are not being enforced.

NOTES:

HB 3314 by Carter, which would address enforcement of an attorney ad litem's duty to meet with the child, passed the House by 148-0 on the Local, Consent, and Resolutions Calendar on April 21 and was received by the Senate on April 26.