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OPINION COMMITTEE

The Legislature
State of Texas

FILE # ML-44358-05
I.D. # 44358

August 24, 2005

The Honorable Greg Abbott
Attorney General of Texas
Supreme Court Building
P.O. Box 12548
Austin, Texas 78711-2548

RQ-0387-GA

Attention: Opinion Committee

RE: Whether an attorney ad litem conducting interviews over the telephone satisfies the duties of an ad litem for a child under Chapter 107.004 of the Family Code and whether the term "if feasible" in section subsection (e) gives the court discretion.

Dear General Abbott:

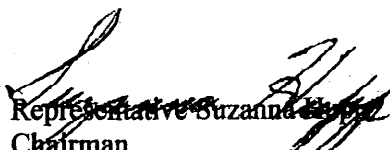
Please accept this letter as a request for an opinion from your office on the correct interpretation of new provisions in the Family Code added by SB 6, 79th Texas Legislature.

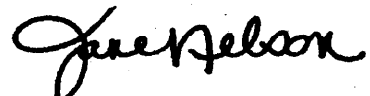
Section 207.004 of the Family Code was amended, effective September 1, 2005, by adding (d) which requires an ad litem appointed for a child in a proceeding under Chapter 263 and 263 to meet with the child and the individual with whom the child resides before each court hearing. See Act(s?) of June 6, 2005, SB 6 Section 1.04, 79th Legislature, Regular Session. Please supply us with your opinion as to whether an interview over the telephone satisfies this new requirement.

Also in Section 207.004 of the Family Code, subsection (e) was added to allow for court discretion on whether the above new provisions are feasible, in response to concerns expressed by legislators that the new ad litem requirements would be difficult to achieve in rural areas. It has come to our attention that these discretionary provisions may not be clear. Please supply us with your opinion as to whether "if feasible" gives the court meaningful discretion.

Thank you for your attention to this matter. Please do not hesitate to contact our offices should you have any questions or require further information.

Sincerely,


Representative Suzanne Spivey
Chairman
House Committee on Human Services


Senator Jane Nelson
Chairman
Senate Committee on Health and Human Services