



Rep. Richard Peña Raymond
Chairperson, Human Services Committee
Texas House of Representatives

April 7, 2017

Representative Raymond:

I am writing on behalf of the National Coalition for a Civil Right to Counsel (NCCRC) to express support for HB 3109, which would require that the attorney ad litem appointed for a child in a conservatorship proceeding continue representation for as long as the child is in the conservatorship. I am a Staff Attorney with the Public Justice Center who serves as the Coordinator of the NCCRC, which is comprised of nearly 300 participants in 38 different states who work to advance the right to counsel in civil cases implicating basic human needs. The preservation of familial relationships and the welfare of the child are undeniably basic human needs deserving of procedural due process protection.

As indicated on our website, www.civilrighttocounsel.org/map, 30 states, including Texas, provide a right to an appointed attorney for all children in child welfare cases, while additional states provide counsel for all children over a certain age. A number of these states, such as Louisiana, New York, and Washington, already require the child's attorney to continue until the child is permanently placed. La. Ch.C. Art. 1146(C); NY CLS Family Ct Act § 1090(a); Wash. Rev. Code § 13.34.100(6). Moreover, several states besides Texas, such as Minnesota (SB 803) and New Jersey (SB 89), also have bills pending in 2017 that would continue the child's attorney representation through permanency.

Requiring continued attorney representation until permanency is consistent with the Supreme Court of Texas's Permanent Judicial Commission for Children, Youth, and Families, which in 2011 recommended that "representation should continue until the child exits the foster care system." Additionally, the American Bar Association's *Model Act Governing the Representation of Children in Abuse, Neglect, and Dependency Proceedings* (101A) (2011) recommends that "Unless otherwise provided by a court order, in an abuse and neglect proceeding, an appointment of a child's lawyer continues in effect until the lawyer is discharged by court order or the case is dismissed." A comment to this provision elaborates, "As long as the child remains in state custody, even if the state custody is long-term or permanent, the child should retain the right to counsel so that his or her lawyer can deal with the issues that may arise while the child is in custody but the case is not before the court."

We thank you for this opportunity to provide testimony.

Sincerely,

John Pollock
Coordinator, National Coalition for a Civil Right to Counsel