

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 6257

Chapter 249, Laws of 1996

54th Legislature
1996 Regular Session

GUARDIANS AND GUARDIANS AD LITEM FOR MINORS
AND INCAPACITATED PERSONS--REVISIONS

EFFECTIVE DATE: 6/6/96

Passed by the Senate March 7, 1996
YEAS 46 NAYS 0

JOEL PRITCHARD

President of the Senate

Passed by the House March 7, 1996
YEAS 98 NAYS 0

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved March 29, 1996

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6257** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MARTY BROWN

Secretary

FILED

March 29, 1996 - 11:43 a.m.

MIKE LOWRY

Governor of the State of Washington

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 6257

AS RECOMMENDED BY CONFERENCE COMMITTEE

Passed Legislature - 1996 Regular Session

State of Washington 54th Legislature 1996 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Franklin, Hargrove, Goings, Long, Sheldon, Fairley, Wojahn, Prentice, Thibaudeau, Fraser and Heavey)

Read first time 02/02/96.

1 AN ACT Relating to guardians and guardians ad litem for minors and
2 incapacitated persons; amending RCW 2.56.030, 4.08.060, 8.25.270,
3 11.16.083, 11.88.030, 11.88.045, 11.88.090, 11.92.190, 13.34.100,
4 13.34.120, 26.12.175, and 26.44.053; adding a new section to chapter
5 2.56 RCW; adding a new section to chapter 2.08 RCW; adding a new
6 section to chapter 13.34 RCW; adding a new section to chapter 26.12
7 RCW; and creating new sections.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9 NEW SECTION. **Sec. 1.** It is the intent of this act to make
10 improvements to the guardian and guardian ad litem systems currently in
11 place for the protection of minors and incapacitated persons.

12 **Sec. 2.** RCW 2.56.030 and 1994 c 240 s 1 are each amended to read
13 as follows:

14 The administrator for the courts shall, under the supervision and
15 direction of the chief justice:

16 (1) Examine the administrative methods and systems employed in the
17 offices of the judges, clerks, stenographers, and employees of the

1 courts and make recommendations, through the chief justice, for the
2 improvement of the same;

3 (2) Examine the state of the dockets of the courts and determine
4 the need for assistance by any court;

5 (3) Make recommendations to the chief justice relating to the
6 assignment of judges where courts are in need of assistance and carry
7 out the direction of the chief justice as to the assignments of judges
8 to counties and districts where the courts are in need of assistance;

9 (4) Collect and compile statistical and other data and make reports
10 of the business transacted by the courts and transmit the same to the
11 chief justice to the end that proper action may be taken in respect
12 thereto;

13 (5) Prepare and submit budget estimates of state appropriations
14 necessary for the maintenance and operation of the judicial system and
15 make recommendations in respect thereto;

16 (6) Collect statistical and other data and make reports relating to
17 the expenditure of public moneys, state and local, for the maintenance
18 and operation of the judicial system and the offices connected
19 therewith;

20 (7) Obtain reports from clerks of courts in accordance with law or
21 rules adopted by the supreme court of this state on cases and other
22 judicial business in which action has been delayed beyond periods of
23 time specified by law or rules of court and make report thereof to
24 supreme court of this state;

25 (8) Act as secretary of the judicial conference referred to in RCW
26 2.56.060;

27 (9) Formulate and submit to the judicial council of this state
28 recommendations of policies for the improvement of the judicial system;

29 (10) Submit annually, as of February 1st, to the chief justice and
30 the judicial council, a report of the activities of the administrator's
31 office for the preceding calendar year;

32 (11) Administer programs and standards for the training and
33 education of judicial personnel;

34 (12) Examine the need for new superior court and district judge
35 positions under a weighted caseload analysis that takes into account
36 the time required to hear all the cases in a particular court and the
37 amount of time existing judges have available to hear cases in that
38 court. The results of the weighted caseload analysis shall be reviewed
39 by the board for judicial administration and the judicial council, both

1 of which shall make recommendations to the legislature (~~by January 1,~~
2 ~~1989~~). It is the intent of the legislature that weighted caseload
3 analysis become the basis for creating additional district court
4 positions, and recommendations should address that objective;

5 (13) Provide staff to the judicial retirement account plan under
6 chapter 2.14 RCW;

7 (14) Attend to such other matters as may be assigned by the supreme
8 court of this state;

9 (15) Within available funds, develop a curriculum for a general
10 understanding of child development, placement, and treatment resources,
11 as well as specific legal skills and knowledge of relevant statutes
12 including chapters 13.32A, 13.34, and 13.40 RCW, cases, court rules,
13 interviewing skills, and special needs of the abused or neglected
14 child. This curriculum shall be completed and made available to all
15 juvenile court judges, court personnel, and service providers (~~by July~~
16 ~~1, 1988. The curriculum shall~~) and be updated yearly to reflect
17 changes in statutes, court rules, or case law;

18 (16) Develop, in consultation with the entities set forth in
19 section 3(3) of this act, a comprehensive state-wide curriculum for
20 persons who act as guardians ad litem under Title 13 or 26 RCW. The
21 curriculum shall be made available July 1, 1997, and include specialty
22 sections on child development, child sexual abuse, child physical
23 abuse, child neglect, clinical and forensic investigative and
24 interviewing techniques, family reconciliation and mediation services,
25 and relevant statutory and legal requirements. The curriculum shall be
26 made available to all superior court judges, court personnel, and all
27 persons who act as guardians ad litem;

28 (17) Develop a curriculum for a general understanding of crimes of
29 malicious harassment, as well as specific legal skills and knowledge of
30 RCW 9A.36.080, relevant cases, court rules, and the special needs of
31 malicious harassment victims. This curriculum shall be (~~completed~~
32 ~~and~~) made available to all superior court and court of appeals judges
33 and to all justices of the supreme court (~~by July 1, 1989~~);

34 (~~(17)~~) (18) Develop, in consultation with the criminal justice
35 training commission and the commissions established under chapters
36 43.113, 43.115, and 43.117 RCW, a curriculum for a general
37 understanding of ethnic and cultural diversity and its implications for
38 working with youth of color and their families. The curriculum shall
39 be (~~completed and made~~) available to all superior court judges and

1 court commissioners assigned to juvenile court, and other court
2 personnel (~~by October 1, 1993~~). Ethnic and cultural diversity
3 training shall be provided annually so as to incorporate cultural
4 sensitivity and awareness into the daily operation of juvenile courts
5 state-wide;

6 (~~(18)~~) (19) Authorize the use of closed circuit television and
7 other electronic equipment in judicial proceedings. The administrator
8 shall promulgate necessary standards and procedures and shall provide
9 technical assistance to courts as required.

10 NEW SECTION. **Sec. 3.** A new section is added to chapter 2.56 RCW
11 to read as follows:

12 (1) The administrator for the courts shall review the advisability
13 and feasibility of the state-wide mandatory use of court-appointed
14 special advocates as described in RCW 26.12.175 to act as guardians ad
15 litem in appropriate cases under Titles 13 and 26 RCW. The review must
16 explore the feasibility of obtaining various sources of private and
17 public funding to implement state-wide mandatory use of court-appointed
18 special advocates, such as grants and donations, instead of or in
19 combination with raising court fees or assessments.

20 (2) The administrator shall also conduct a study on the feasibility
21 and desirability of requiring all persons who act as guardians ad litem
22 under Titles 11, 13, and 26 RCW to be certified as qualified guardians
23 ad litem prior to their eligibility for appointment.

24 (3) In conducting the review and study the administrator shall
25 consult with: (a) The presidents or directors of all public benefit
26 nonprofit corporations that are eligible to receive state funds under
27 RCW 43.330.135; (b) the attorney general, or a designee; (c) the
28 secretary of the department of social and health services, or a
29 designee; (d) the superior court judges association; (e) the Washington
30 state bar association; (f) public defenders who represent children
31 under Title 13 or 26 RCW; (g) private attorneys who represent parents
32 under Title 13 or 26 RCW; (h) professionals who evaluate families for
33 the purposes of determining the custody or placement decisions of
34 children; (i) the office of financial management; (j) persons who act
35 as volunteer or compensated guardians ad litem; and (k) parents who
36 have dealt with guardians ad litem in court cases. For the purposes of
37 studying the feasibility of a certification requirement for guardians

1 ad litem acting under Title 11 RCW the administrator shall consult with
2 the advisory group formed under RCW 11.88.090.

3 (4) The office of the administrator for the courts shall also
4 conduct a review of problems and concerns about the role of guardians
5 ad litem in actions under Titles 11, 13, and 26 RCW and recommend
6 alternatives to strengthen judicial oversight of guardians ad litem and
7 ensure fairness and impartiality of the process. The office of the
8 administrator for the courts must accept and obtain comments from
9 parties designated in subsection (3) of this section.

10 NEW SECTION. **Sec. 4.** The review and study required under section
11 3 of this act shall be presented to the governor and to the legislature
12 no later than December 1, 1996.

13 **Sec. 5.** RCW 4.08.060 and 1899 c 91 s 1 are each amended to read as
14 follows:

15 When an ((insane)) incapacitated person is a party to an action in
16 the superior courts he or she shall appear by guardian, or if he or she
17 has no guardian, or in the opinion of the court the guardian is an
18 improper person, the court shall appoint one to act as guardian ad
19 litem. Said guardian shall be appointed as follows:

20 (1) When the ((insane)) incapacitated person is plaintiff, upon
21 the application of a relative or friend of the ((insane)) incapacitated
22 person.

23 (2) When the ((insane)) incapacitated person is defendant, upon the
24 application of a relative or friend of such ((insane)) incapacitated
25 person, such application shall be made within thirty days after the
26 service of summons if served in the state of Washington, and if served
27 out of the state or service is made by publication, then such
28 application shall be made within sixty days after the first publication
29 of summons or within sixty days after the service out of the state. If
30 no such application be made within the time above limited, application
31 may be made by any party to the action.

32 **Sec. 6.** RCW 8.25.270 and 1977 ex.s. c 80 s 12 are each amended to
33 read as follows:

34 When it ((shall)) appears in any petition or otherwise at any time
35 during the proceedings for condemnation brought pursuant to chapters
36 8.04, 8.08, 8.12, 8.16, 8.20, and 8.24 RCW(~~(, each as now or hereafter~~

1 amended,) that any ((infant)) minor, or ((allegedly incompetent or
2 disabled)) alleged incapacitated person is interested in any property
3 that is to be taken or damaged, the court shall appoint a guardian ad
4 litem for ((such infant)) the minor or ((allegedly incompetent or
5 disabled)) alleged incapacitated person to appear and assist in ((his,
6 her or their)) the person's defense, unless a guardian or limited
7 guardian has previously been appointed, in which case the duty to
8 appear and assist shall be delegated to the properly qualified guardian
9 or limited guardian. The court shall make such orders or decrees as it
10 shall deem necessary to protect and secure the interest of the
11 ((infant)) minor or ((allegedly incompetent or disabled)) alleged
12 incapacitated person ((in the property sought to be condemned or the
13 compensation which shall be awarded therefore)).

14 **Sec. 7.** RCW 11.16.083 and 1977 ex.s. c 234 s 1 are each amended to
15 read as follows:

16 Notwithstanding any other provision of this title, no notice of any
17 hearing in probate or probate proceeding need be given to any legally
18 competent person who is interested in any hearing in any probate as an
19 heir, legatee, or devisee of the decedent who has in person or by
20 attorney waived in writing notice of such hearing or proceeding. Such
21 waiver of notice may apply to either a specific hearing or proceeding,
22 or to any and all hearings and proceedings to be held during the
23 administration of the estate in which event such waiver of notice shall
24 be of continuing effect unless subsequently revoked by the filing of a
25 written notice of revocation of the waiver and the mailing of a copy
26 thereof to the personal representative and his or her attorney. Unless
27 notice of a hearing is required to be given by publication, if all
28 persons entitled to notice thereof shall have waived such notice, the
29 court may hear the matter forthwith. A guardian of the estate or a
30 guardian ad litem may make such waivers on behalf of ((his
31 incompetent)) an incapacitated person, as defined in RCW 11.88.010, and
32 a trustee may make such waivers on behalf of any competent or
33 ((incompetent)) incapacitated beneficiary of his or her trust. A
34 consul or other representative of a foreign government, whose
35 appearance has been entered as provided by law on behalf of any person
36 residing in a foreign country, may make such waiver of notice on behalf
37 of such person. Any person who submits to the jurisdiction of the
38 court in any hearing shall be deemed to have waived notice thereof.

1 **Sec. 8.** RCW 11.88.030 and 1995 c 297 s 1 are each amended to read
2 as follows:

3 (1) Any person or entity may petition for the appointment of a
4 qualified person, trust company, national bank, or nonprofit
5 corporation authorized in RCW 11.88.020 (~~as now or hereafter amended~~)
6 as the guardian or limited guardian of an incapacitated person. No
7 liability for filing a petition for guardianship or limited
8 guardianship shall attach to a petitioner acting in good faith and upon
9 reasonable basis. A petition for guardianship or limited guardianship
10 shall state:

11 (a) The name, age, residence, and post office address of the
12 alleged incapacitated person;

13 (b) The nature of the alleged incapacity in accordance with RCW
14 11.88.010;

15 (c) The approximate value and description of property, including
16 any compensation, pension, insurance, or allowance, to which the
17 alleged incapacitated person may be entitled;

18 (d) Whether there is, in any state, a guardian or limited guardian,
19 or pending guardianship action for the person or estate of the alleged
20 incapacitated person;

21 (e) The residence and post office address of the person whom
22 petitioner asks to be appointed guardian or limited guardian;

23 (f) The names and addresses, and nature of the relationship, so far
24 as known or can be reasonably ascertained, of the persons most closely
25 related by blood or marriage to the alleged incapacitated person;

26 (g) The name and address of the person or facility having the care
27 and custody of the alleged incapacitated person;

28 (h) The reason why the appointment of a guardian or limited
29 guardian is sought and the interest of the petitioner in the
30 appointment, and whether the appointment is sought as guardian or
31 limited guardian of the person, the estate, or both(~~, and why no
32 alternative to guardianship is appropriate~~);

33 (i) A description of any alternate arrangements previously made by
34 the alleged incapacitated person, such as trusts or powers of attorney,
35 including identifying any guardianship nominations contained in a power
36 of attorney, and why a guardianship is nevertheless necessary;

37 (j) The nature and degree of the alleged incapacity and the
38 specific areas of protection and assistance requested and the

1 limitation of rights requested to be included in the court's order of
2 appointment;

3 ~~((j))~~ (k) The requested term of the limited guardianship to be
4 included in the court's order of appointment;

5 ~~((k))~~ (l) Whether the petitioner is proposing a specific
6 individual to act as guardian ad litem and, if so, the individual's
7 knowledge of or relationship to any of the parties, and why the
8 individual is proposed.

9 (2)(a) The attorney general may petition for the appointment of a
10 guardian or limited guardian in any case in which there is cause to
11 believe that a guardianship is necessary and no private party is able
12 and willing to petition.

13 (b) Prepayment of a filing fee shall not be required in any
14 guardianship or limited guardianship brought by the attorney general.
15 Payment of the filing fee shall be ordered from the estate of the
16 incapacitated person at the hearing on the merits of the petition,
17 unless in the judgment of the court, such payment would impose a
18 hardship upon the incapacitated person, in which case the filing shall
19 be waived.

20 (3) No filing fee shall be charged by the court for filing either
21 a petition for guardianship or a petition for limited guardianship if
22 the petition alleges that the alleged incapacitated person has total
23 assets of a value of less than three thousand dollars.

24 (4)(a) Notice that a guardianship proceeding has been commenced
25 shall be personally served upon the alleged incapacitated person and
26 the guardian ad litem along with a copy of the petition for appointment
27 of a guardian. Such notice shall be served not more than five court
28 days after the petition has been filed.

29 (b) Notice under this subsection shall include a clear and easily
30 readable statement of the legal rights of the alleged incapacitated
31 person that could be restricted or transferred to a guardian by a
32 guardianship order as well as the right to counsel of choice and to a
33 jury trial on the issue of incapacity. Such notice shall be in
34 substantially the following form and shall be in capital letters,
35 double-spaced, and in a type size not smaller than ten-point type:

1 guardianship proceedings. The court shall provide counsel to represent
2 any alleged incapacitated person at public expense when either: (i)
3 The individual is unable to afford counsel, or (ii) the expense of
4 counsel would result in substantial hardship to the individual, or
5 (iii) the individual does not have practical access to funds with which
6 to pay counsel. If the individual can afford counsel but lacks
7 practical access to funds, the court shall provide counsel and may
8 impose a reimbursement requirement as part of a final order. When, in
9 the opinion of the court, the rights and interests of an alleged or
10 adjudicated incapacitated person cannot otherwise be adequately
11 protected and represented, the court on its own motion shall appoint an
12 attorney at any time to represent such person. Counsel shall be
13 provided as soon as practicable after a petition is filed and long
14 enough before any final hearing to allow adequate time for consultation
15 and preparation. Absent a convincing showing in the record to the
16 contrary, a period of less than three weeks shall be presumed by a
17 reviewing court to be inadequate time for consultation and preparation.

18 (b) Counsel for an alleged incapacitated individual shall act as an
19 advocate for the client and shall not substitute counsel's own judgment
20 for that of the client on the subject of what may be in the client's
21 best interests. Counsel's role shall be distinct from that of the
22 guardian ad litem, who is expected to promote the best interest of the
23 alleged incapacitated individual, rather than the alleged incapacitated
24 individual's expressed preferences.

25 (c) If an alleged incapacitated person is represented by counsel
26 and does not communicate with counsel, counsel may ask the court for
27 leave to withdraw for that reason. If satisfied, after affording the
28 alleged incapacitated person an opportunity for a hearing, that the
29 request is justified, the court may grant the request and allow the
30 case to proceed with the alleged incapacitated person unrepresented.

31 (2) During the pendency of any guardianship, any attorney
32 purporting to represent a person alleged or adjudicated to be
33 incapacitated shall petition to be appointed to represent the
34 incapacitated or alleged incapacitated person. Fees for representation
35 described in this section shall be subject to approval by the court
36 pursuant to the provisions of RCW 11.92.180.

37 (3) The alleged incapacitated person is further entitled to testify
38 and present evidence and, upon request, entitled to a jury trial on the
39 issues of his or her alleged incapacity. The standard of proof to be

1 applied in a contested case, whether before a jury or the court, shall
2 be that of clear, cogent, and convincing evidence.

3 (4) In all proceedings for appointment of a guardian or limited
4 guardian, the court must be presented with a written report from a
5 physician licensed to practice under chapter 18.71 or 18.57 RCW or
6 licensed or certified psychologist selected by the guardian ad litem.
7 If the alleged incapacitated person opposes the health care
8 professional selected by the guardian ad litem to prepare the medical
9 report, then the guardian ad litem shall use the health care
10 professional selected by the alleged incapacitated person. The
11 guardian ad litem may also obtain a supplemental examination. The
12 physician or psychologist shall have personally examined and
13 interviewed the alleged incapacitated person within thirty days of
14 preparation of the report to the court and shall have expertise in the
15 type of disorder or incapacity the alleged incapacitated person is
16 believed to have. The report shall contain the following information
17 and shall be set forth in substantially the following format:

18 (a) The name and address of the examining physician or
19 psychologist;

20 (b) The education and experience of the physician or psychologist
21 pertinent to the case;

22 (c) The dates of examinations of the alleged incapacitated person;

23 (d) A summary of the relevant medical, functional, neurological,
24 psychological, or psychiatric history of the alleged incapacitated
25 person as known to the examining physician or psychologist;

26 (e) The findings of the examining physician or psychologist as to
27 the condition of the alleged incapacitated person;

28 (f) Current medications;

29 (g) The effect of current medications on the alleged incapacitated
30 person's ability to understand or participate in guardianship
31 proceedings;

32 (h) Opinions on the specific assistance the alleged incapacitated
33 person needs;

34 (i) Identification of persons with whom the physician or
35 psychologist has met or spoken regarding the alleged incapacitated
36 person.

37 The court shall not enter an order appointing a guardian or limited
38 guardian until a medical or psychological report meeting the above
39 requirements is filed.

1 The requirement of filing a medical report is waived if the basis
2 of the guardianship is minority.

3 (5) During the pendency of an action to establish a guardianship,
4 a petitioner or any person may move for temporary relief under chapter
5 7.40 RCW, to protect the alleged incapacitated person from abuse,
6 neglect, abandonment, or exploitation, as those terms are defined in
7 RCW 74.34.020, or to address any other emergency needs of the alleged
8 incapacitated person. Any alternative arrangement executed before
9 filing the petition for guardianship shall remain effective unless the
10 court grants the relief requested under chapter 7.40 RCW, or unless,
11 following notice and a hearing at which all parties directly affected
12 by the arrangement are present, the court finds that the alternative
13 arrangement should not remain effective.

14 **Sec. 10.** RCW 11.88.090 and 1995 c 297 s 4 are each amended to read
15 as follows:

16 (1) Nothing contained in RCW 11.88.080 through 11.88.120, 11.92.010
17 through 11.92.040, 11.92.060 through 11.92.120, 11.92.170, and
18 11.92.180(~~(, as now or hereafter amended,)~~) shall affect or impair the
19 power of any court to appoint a guardian ad litem to defend the
20 interests of any incapacitated person interested in any suit or matter
21 pending therein, or to commence and prosecute any suit in his or her
22 behalf.

23 (2) Upon receipt of a petition for appointment of guardian or
24 limited guardian, except as provided herein, the court shall appoint a
25 guardian ad litem to represent the best interests of the alleged
26 incapacitated person, who shall be a person found or known by the court
27 to:

28 (a) Be free of influence from anyone interested in the result of
29 the proceeding; and

30 (b) Have the requisite knowledge, training, or expertise to perform
31 the duties required by this section.

32 The guardian ad litem shall within five days of receipt of notice
33 of appointment file with the court and serve, either personally or by
34 certified mail with return receipt, each party with a statement
35 including: His or her training relating to the duties as a guardian ad
36 litem; his or her criminal history as defined in RCW 9.94A.030 for the
37 period covering ten years prior to the appointment; his or her hourly
38 rate, if compensated; whether the guardian ad litem has had any contact

1 with a party to the proceeding prior to his or her appointment; and
2 whether he or she has an apparent conflict of interest. Within three
3 days of the later of the actual service or filing of the guardian ad
4 litem's statement, any party may set a hearing and file and serve a
5 motion for an order to show cause why the guardian ad litem should not
6 be removed for one of the following three reasons: (i) Lack of
7 expertise necessary for the proceeding; (ii) an hourly rate higher than
8 what is reasonable for the particular proceeding; or (iii) a conflict
9 of interest. Notice of the hearing shall be provided to the guardian
10 ad litem and all parties. If, after a hearing, the court enters an
11 order replacing the guardian ad litem, findings shall be included,
12 expressly stating the reasons for the removal. If the guardian ad
13 litem is not removed, the court has the authority to assess to the
14 moving party, attorneys' fees and costs related to the motion. The
15 court shall assess attorneys' fees and costs for frivolous motions.

16 No guardian ad litem need be appointed when a parent is petitioning
17 for a guardian or a limited guardian to be appointed for his or her
18 minor child and the minority of the child, as defined by RCW 11.92.010,
19 is the sole basis of the petition. The order appointing the guardian
20 ad litem shall recite the duties set forth in subsection ~~((+5))~~ (4) of
21 this section. The appointment of a guardian ad litem shall have no
22 effect on the legal competency of the alleged incapacitated person and
23 shall not overcome the presumption of competency or full legal and
24 civil rights of the alleged incapacitated person.

25 (3)(a) The superior court of each county shall develop ~~((by~~
26 ~~September 1, 1991,))~~ and maintain a registry of persons who are willing
27 and qualified to serve as guardians ad litem in guardianship matters.
28 The court shall choose as guardian~~((s))~~ ad litem ~~((only))~~ a person~~((s))~~
29 whose name~~((s))~~ appears on the registry in a system of consistent
30 rotation, except in extraordinary circumstances such as the need for
31 particular expertise. The court shall develop procedures for periodic
32 review of the persons on the registry and for probation, suspension, or
33 removal of persons on the registry for failure to perform properly
34 their duties as guardian ad litem. In the event the court does not
35 select the person next on the list, it shall include in the order of
36 appointment a written reason for its decision.

37 (b) To be eligible for the registry a person shall:

1 (i) Present a written statement (~~(of)~~) outlining his or her
2 background and qualifications (~~(describing)~~). The background statement
3 shall include, but is not limited to, the following information:

4 (A) Level of formal education;

5 (B) Training related to the guardian ad litem's duties;

6 (C) Number of years' experience as a guardian ad litem;

7 (D) Number of appointments as a guardian ad litem and the county or
8 counties of appointment;

9 (E) Criminal history, as defined in RCW 9.94A.030; and

10 (F) Evidence of the person's knowledge, training, and experience in
11 each of the following: Needs of impaired elderly people, physical
12 disabilities, mental illness, developmental disabilities, and other
13 areas relevant to the needs of incapacitated persons, legal procedure,
14 and the requirements of chapters 11.88 and 11.92 RCW.

15 The written statement of qualifications shall include a statement
16 of the number of times the guardian ad litem has been removed for
17 failure to perform his or her duties as guardian ad litem; and

18 (ii) Complete (~~(a training program adopted by the court, or, in the~~
19 ~~absence of a locally adopted program, a candidate for inclusion upon~~
20 ~~the registry shall have completed a)~~) the model training program as
21 described in (d) of this subsection.

22 (c) (~~(The superior court of each county shall approve training~~
23 ~~programs designed to:~~

24 (i) ~~Train otherwise qualified human service professionals in those~~
25 ~~aspects of legal procedure and the requirements of chapters 11.88 and~~
26 ~~11.92 RCW with which a guardian ad litem should be familiar;~~

27 (ii) ~~Train otherwise qualified legal professionals in those aspects~~
28 ~~of medicine, social welfare, and social service delivery systems with~~
29 ~~which a guardian ad litem should be familiar.)~~) The background and
30 qualification information shall be updated annually.

31 (d) (~~(The superior court of each county may approve a guardian ad~~
32 ~~litem training program on or before June 1, 1991.)~~) The department of
33 social and health services(~~(, —aging— and —adult— services~~
34 ~~administration,~~) shall convene an advisory group to develop a model
35 guardian ad litem training program and shall update the program
36 biennially. The advisory group shall consist of representatives from
37 consumer, advocacy, and professional groups knowledgeable in
38 developmental disabilities, neurological impairment, physical

1 disabilities, mental illness, aging, legal, court administration, the
2 Washington state bar association, and other interested parties.

3 (e) (~~(Any)~~) The superior court (~~((that has not adopted a guardian ad~~
4 ~~litem training program by September 1, 1991,))~~) shall require
5 utilization of (~~(a)~~) the model program developed by the advisory group
6 as described in (d) of this subsection, to assure that candidates
7 applying for registration as a qualified guardian ad litem shall have
8 satisfactorily completed training to attain these essential minimum
9 qualifications to act as guardian ad litem.

10 (4) (~~(The guardian ad litem's written statement of qualifications~~
11 ~~required by RCW 11.88.090(3)(b)(i) shall be made part of the record in~~
12 ~~each matter in which the person is appointed guardian ad litem.~~

13 ~~(5))~~) The guardian ad litem appointed pursuant to this section
14 shall have the following duties:

15 (a) To meet and consult with the alleged incapacitated person as
16 soon as practicable following appointment and explain, in language
17 which such person can reasonably be expected to understand, the
18 substance of the petition, the nature of the resultant proceedings, the
19 person's right to contest the petition, the identification of the
20 proposed guardian or limited guardian, the right to a jury trial on the
21 issue of his or her alleged incapacity, the right to independent legal
22 counsel as provided by RCW 11.88.045, and the right to be present in
23 court at the hearing on the petition;

24 (b) To obtain a written report according to RCW 11.88.045; and such
25 other written or oral reports from other qualified professionals as are
26 necessary to permit the guardian ad litem to complete the report
27 required by this section;

28 (c) To meet with the person whose appointment is sought as guardian
29 or limited guardian and ascertain:

30 (i) The proposed guardian's knowledge of the duties, requirements,
31 and limitations of a guardian; and

32 (ii) The steps the proposed guardian intends to take or has taken
33 to identify and meet the needs of the alleged incapacitated person;

34 (d) To consult as necessary to complete the investigation and
35 report required by this section with those known relatives, friends, or
36 other persons the guardian ad litem determines have had a significant,
37 continuing interest in the welfare of the alleged incapacitated person;

38 (e) To investigate alternate arrangements made, or which might be
39 created, by or on behalf of the alleged incapacitated person, such as

1 revocable or irrevocable trusts, or durable powers of attorney; whether
2 good cause exists for any such arrangements to be discontinued; and why
3 such arrangements should not be continued or created in lieu of a
4 guardianship;

5 (f) To provide the court with a written report which shall include
6 the following:

7 (i) A description of the nature, cause, and degree of incapacity,
8 and the basis upon which this judgment was made;

9 (ii) A description of the needs of the incapacitated person for
10 care and treatment, the probable residential requirements of the
11 alleged incapacitated person and the basis upon which these findings
12 were made;

13 (iii) An evaluation of the appropriateness of the guardian or
14 limited guardian whose appointment is sought and a description of the
15 steps the proposed guardian has taken or intends to take to identify
16 and meet current and emerging needs of the incapacitated person;

17 (iv) A description of any alternative arrangements previously made
18 by the alleged incapacitated person or which could be made, and whether
19 and to what extent such alternatives should be used in lieu of a
20 guardianship, and if the guardian ad litem is recommending
21 discontinuation of any such arrangements, specific findings as to why
22 such arrangements are contrary to the best interest of the alleged
23 incapacitated person;

24 (v) A description of the abilities of the alleged incapacitated
25 person and a recommendation as to whether a guardian or limited
26 guardian should be appointed. If appointment of a limited guardian is
27 recommended, the guardian ad litem shall recommend the specific areas
28 of authority the limited guardian should have and the limitations and
29 disabilities to be placed on the incapacitated person;

30 ~~((v))~~ (vi) An evaluation of the person's mental ability to
31 rationally exercise the right to vote and the basis upon which the
32 evaluation is made;

33 ~~((vi))~~ (vii) Any expression of approval or disapproval made by
34 the alleged incapacitated person concerning the proposed guardian or
35 limited guardian or guardianship or limited guardianship;

36 ~~((vii))~~ (viii) Identification of persons with significant
37 interest in the welfare of the alleged incapacitated person who should
38 be advised of their right to request special notice of proceedings
39 pursuant to RCW 11.92.150; and

1 (~~(viii)~~) (ix) Unless independent counsel has appeared for the
2 alleged incapacitated person, an explanation of how the alleged
3 incapacitated person responded to the advice of the right to jury
4 trial, to independent counsel and to be present at the hearing on the
5 petition.

6 Within forty-five days after notice of commencement of the
7 guardianship proceeding has been served upon the guardian ad litem, and
8 at least (~~(ten)~~) fifteen days before the hearing on the petition,
9 unless an extension or reduction of time has been granted by the court
10 for good cause, the guardian ad litem shall file its report and send a
11 copy to the alleged incapacitated person and his or her counsel,
12 spouse, all children not residing with a notified person, those persons
13 described in (~~(e)(vii)~~) (f)(viii) of this subsection, and persons who
14 have filed a request for special notice pursuant to RCW 11.92.150. If
15 the guardian ad litem needs additional time to finalize his or her
16 report, then the guardian ad litem shall petition the court for a
17 postponement of the hearing or, with the consent of all other parties,
18 an extension or reduction of time for filing the report. If the
19 hearing does not occur within sixty days of filing the petition, then
20 upon the two-month anniversary of filing the petition and on or before
21 the same day of each following month until the hearing, the guardian ad
22 litem shall file interim reports summarizing his or her activities on
23 the proceeding during that time period as well as fees and costs
24 incurred;

25 (~~(f)~~) (g) To advise the court of the need for appointment of
26 counsel for the alleged incapacitated person within five court days
27 after the meeting described in (a) of this subsection unless (i)
28 counsel has appeared, (ii) the alleged incapacitated person
29 affirmatively communicated a wish not to be represented by counsel
30 after being advised of the right to representation and of the
31 conditions under which court-provided counsel may be available, or
32 (iii) the alleged incapacitated person was unable to communicate at all
33 on the subject, and the guardian ad litem is satisfied that the alleged
34 incapacitated person does not affirmatively desire to be represented by
35 counsel.

36 (~~(6)~~) (5) If the petition is brought by an interested person or
37 entity requesting the appointment of some other qualified person or
38 entity and a prospective guardian or limited guardian cannot be found,
39 the court shall order the guardian ad litem to investigate the

1 availability of a possible guardian or limited guardian and to include
2 the findings in a report to the court pursuant to ((RCW 11.88.090(5)(e)
3 ~~as now or hereafter amended~~) subsection (4)(f) of this section.

4 (6) The parties to the proceeding may file responses to the
5 guardian ad litem report with the court and deliver such responses to
6 the other parties and the guardian ad litem at any time up to the
7 second day prior to the hearing. If a guardian ad litem fails to file
8 his or her report in a timely manner, the hearing shall be continued to
9 give the court and the parties at least fifteen days before the hearing
10 to review the report. At any time during the proceeding upon motion of
11 any party or on the court's own motion, the court may remove the
12 guardian ad litem for failure to perform his or her duties as specified
13 in this chapter, provided that the guardian ad litem shall have five
14 days notice of any motion to remove before the court enters such order.
15 In addition, the court in its discretion may reduce a guardian ad
16 litem's fee for failure to carry out his or her duties.

17 (7) The court appointed guardian ad litem shall have the authority,
18 in the event that the alleged incapacitated person is in need of
19 emergency life-saving medical services, and is unable to consent to
20 such medical services due to incapacity pending the hearing on the
21 petition to give consent for such emergency life-saving medical
22 services on behalf of the alleged incapacitated person.

23 (8) The court appointed guardian ad litem shall have the authority,
24 to move for temporary relief under chapter 7.40 RCW to protect the
25 alleged incapacitated person from abuse, neglect, abandonment, or
26 exploitation, as those terms are defined in RCW 74.34.020, or to
27 address any other emergency needs of the alleged incapacitated person.
28 Any alternative arrangement executed before filing the petition for
29 guardianship shall remain effective unless the court grants the relief
30 requested under chapter 7.40 RCW, or unless, following notice and a
31 hearing at which all parties directly affected by the arrangement are
32 present, the court finds that the alternative arrangement should not
33 remain effective.

34 (9) The guardian ad litem shall receive a fee determined by the
35 court. The fee shall be charged to the alleged incapacitated person
36 unless the court finds that such payment would result in substantial
37 hardship upon such person, in which case the county shall be
38 responsible for such costs: PROVIDED, That if no guardian or limited
39 guardian is appointed the court may charge such fee to the petitioner

1 or the alleged incapacitated person, or divide the fee, as it deems
2 just; and if the petition is found to be frivolous or not brought in
3 good faith, the guardian ad litem fee shall be charged to the
4 petitioner. The court shall not be required to provide for the payment
5 of a fee to any salaried employee of a public agency.

6 ~~((+9))~~ (10) Upon the presentation of the guardian ad litem report
7 and the entry of an order either dismissing the petition for
8 appointment of guardian or limited guardian or appointing a guardian or
9 limited guardian, the guardian ad litem shall be dismissed and shall
10 have no further duties or obligations unless otherwise ordered by the
11 court. If the court orders the guardian ad litem to perform further
12 duties or obligations, they shall not be performed at county expense.

13 (11) The guardian ad litem shall appear in person at all hearings
14 on the petition unless all parties provide a written waiver of the
15 requirement to appear.

16 (12) At any hearing the court may consider whether any person who
17 makes decisions regarding the alleged incapacitated person or estate
18 has breached a statutory or fiduciary duty.

19 **Sec. 11.** RCW 11.92.190 and 1977 ex.s. c 309 s 14 are each amended
20 to read as follows:

21 No residential treatment facility which provides nursing or other
22 care may detain a person within such facility against their will. Any
23 court order, other than an order issued in accordance with the
24 involuntary treatment provisions of chapters 10.77, 71.05, and 72.23
25 RCW, which purports to authorize such involuntary detention or purports
26 to authorize a guardian or limited guardian to consent to such
27 involuntary detention on behalf of an ~~((incompetent or disabled))~~
28 incapacitated person shall be void and of no force or effect. This
29 section does not apply to the detention of a minor as provided in
30 chapter 70.96A or 71.34 RCW.

31 Nothing in this section shall be construed to require a court order
32 authorizing placement of an ~~((incompetent or disabled))~~ incapacitated
33 person in a residential treatment facility if such order is not
34 otherwise required by law: PROVIDED, That notice of any residential
35 placement of an ~~((incompetent or disabled))~~ incapacitated person shall
36 be served, either before or after placement, by the guardian or limited
37 guardian on such person, the guardian ad litem of record, and any
38 attorney of record.

1 NEW SECTION. **Sec. 12.** A new section is added to chapter 2.08 RCW
2 to read as follows:

3 An attorney may not serve as a superior court judge pro tempore or
4 a superior court commissioner pro tempore in a judicial district while
5 appointed to or serving on a case in that judicial district as a
6 guardian ad litem for compensation under Title 11, 13, or 26 RCW, if
7 that judicial district is contained within division one or two of the
8 court of appeals and has a population of more than one hundred
9 thousand.

10 **Sec. 13.** RCW 13.34.100 and 1994 c 110 s 2 are each amended to read
11 as follows:

12 (1) The court shall appoint a guardian ad litem for a child who is
13 the subject of an action under this chapter, unless a court for good
14 cause finds the appointment unnecessary. The requirement of a guardian
15 ad litem may be deemed satisfied if the child is represented by
16 independent counsel in the proceedings.

17 (2) If the court does not have available to it a guardian ad litem
18 program with a sufficient number of volunteers, the court may appoint
19 a suitable person to act as guardian ad litem for the child under this
20 chapter. Another party to the proceeding or the party's employee or
21 representative shall not be so appointed.

22 (3) Each guardian ad litem program shall maintain a background
23 information record for each guardian ad litem in the program. The
24 background file shall include, but is not limited to, the following
25 information:

- 26 (a) Level of formal education;
- 27 (b) Training related to the guardian's duties;
- 28 (c) Number of years' experience as a guardian ad litem;
- 29 (d) Number of appointments as a guardian ad litem and the county or
30 counties of appointment; and
- 31 (e) Criminal history, as defined in RCW 9.94A.030.

32 The background information report shall be updated annually. As a
33 condition of appointment, the guardian ad litem's background
34 information record shall be made available to the court. If the
35 appointed guardian ad litem is not a member of a guardian ad litem
36 program the person shall provide the background information to the
37 court.

1 Upon appointment, the guardian ad litem, or guardian ad litem
2 program, shall provide the parties or their attorneys with a statement
3 containing his or her training relating to the duties as a guardian ad
4 litem and criminal history as defined in RCW 9.94A.030 for the period
5 covering ten years prior to the appointment. The background statement
6 shall not include identifying information that may be used to harm a
7 guardian ad litem, such as home addresses and home telephone numbers,
8 and for volunteer guardians ad litem the court may allow the use of
9 maiden names or pseudonyms as necessary for their safety.

10 (4) The appointment of the guardian ad litem shall remain in effect
11 until the court discharges the appointment or no longer has
12 jurisdiction, whichever comes first. The guardian ad litem may also be
13 discharged upon entry of an order of guardianship.

14 (5) A guardian ad litem through counsel, or as otherwise authorized
15 by the court, shall have the right to present evidence, examine and
16 cross-examine witnesses, and to be present at all hearings. A guardian
17 ad litem shall receive copies of all pleadings and other documents
18 filed or submitted to the court, and notice of all hearings according
19 to court rules. The guardian ad litem shall receive all notice
20 contemplated for a parent or other party in all proceedings under this
21 chapter.

22 (6) If the child requests legal counsel and is age twelve or older,
23 or if the guardian ad litem or the court determines that the child
24 needs to be independently represented by counsel, the court may appoint
25 an attorney to represent the child's position.

26 (7) For the purposes of child abuse prevention and treatment act
27 (42 U.S.C. Secs. 5101 et seq.) grants to this state under P.L. 93-247,
28 or any related state or federal legislation, a person appointed
29 pursuant to RCW 13.34.100 shall be deemed a guardian ad litem to
30 represent the best interests of the minor in proceedings before the
31 court.

32 (8) When a court-appointed special advocate or volunteer guardian
33 ad litem is requested on a case, the program shall give the court the
34 name of the person it recommends and the appointment shall be effective
35 immediately. The court shall appoint the person recommended by the
36 program. If a party in a case reasonably believes the court-appointed
37 special advocate or volunteer is inappropriate or unqualified, the
38 party may request a review of the appointment by the program. The
39 program must complete the review within five judicial days and remove

1 any appointee for good cause. If the party seeking the review is not
2 satisfied with the outcome of the review, the party may file a motion
3 with the court for the removal of the court-appointed special advocate
4 on the grounds the advocate or volunteer is inappropriate or
5 unqualified.

6 **Sec. 14.** RCW 13.34.120 and 1994 c 288 s 2 are each amended to read
7 as follows:

8 (1) To aid the court in its decision on disposition, a social
9 study, consisting of a written evaluation of matters relevant to the
10 disposition of the case, shall be made by the person or agency filing
11 the petition. The study shall include all social records and may also
12 include facts relating to the child's cultural heritage, and shall be
13 made available to the court. The court shall consider the social file,
14 social study, guardian ad litem report, the court-appointed special
15 advocate's report, if any, and any reports filed by a party at the
16 disposition hearing in addition to evidence produced at the fact-
17 finding hearing. At least ten working days before the disposition
18 hearing, the department shall mail to the parent and his or her
19 attorney a copy of the agency's social study and proposed service plan,
20 which shall be in writing or in a form understandable to the parents or
21 custodians. In addition, the department shall provide an opportunity
22 for parents to review and comment on the plan at the community service
23 office. If the parents disagree with the agency's plan or any part
24 thereof, the parents shall submit to the court at least twenty-four
25 hours before the hearing, in writing, or signed oral statement, an
26 alternative plan to correct the problems which led to the finding of
27 dependency. This section shall not interfere with the right of the
28 parents or custodians to submit oral arguments regarding the
29 disposition plan at the hearing.

30 (2) In addition to the requirements set forth in subsection (1) of
31 this section, a predisposition study to the court in cases of
32 dependency alleged pursuant to RCW (~~(13.34.030(2))~~) 13.34.030(4) (b) or
33 (c) shall contain the following information:

34 (a) A statement of the specific harm or harms to the child that
35 intervention is designed to alleviate;

36 (b) A description of the specific programs, for both the parents
37 and child, that are needed in order to prevent serious harm to the
38 child; the reasons why such programs are likely to be useful; the

1 availability of any proposed services; and the agency's overall plan
2 for ensuring that the services will be delivered;

3 (c) If removal is recommended, a full description of the reasons
4 why the child cannot be protected adequately in the home, including a
5 description of any previous efforts to work with the parents and the
6 child in the home; the in-home treatment programs which have been
7 considered and rejected; the preventive services that have been offered
8 or provided and have failed to prevent the need for out-of-home
9 placement, unless the health, safety, and welfare of the child cannot
10 be protected adequately in the home; and the parents' attitude toward
11 placement of the child;

12 (d) A statement of the likely harms the child will suffer as a
13 result of removal. This section should include an exploration of the
14 nature of the parent-child attachment and the meaning of separation and
15 loss to both the parents and the child;

16 (e) A description of the steps that will be taken to minimize harm
17 to the child that may result if separation occurs; and

18 (f) Behavior that will be expected before determination that
19 supervision of the family or placement is no longer necessary.

20 **Sec. 15.** RCW 26.12.175 and 1993 c 289 s 4 are each amended to read
21 as follows:

22 (1)(a) The court may appoint a guardian ad litem to represent the
23 interests of a minor or dependent child when the court believes the
24 appointment of a guardian ad litem is necessary to protect the best
25 interests of the child in any proceeding under this chapter. The
26 family court services professionals may also make a recommendation to
27 the court regarding whether a guardian ad litem should be appointed for
28 the child. The court may appoint a guardian ad litem from the court-
29 appointed special advocate program, if that program exists in the
30 county.

31 (b) Unless otherwise ordered, the guardian ad litem's role is to
32 investigate and report to the court concerning parenting arrangements
33 for the child, and to represent the child's best interests. The court
34 may require the guardian ad litem to provide periodic reports to the
35 parties regarding the status of his or her investigation. The guardian
36 ad litem shall file his or her report at least sixty days prior to
37 trial.

1 (c) The court shall enter an order for costs, fees, and
2 disbursements to cover the costs of the guardian ad litem. The court
3 may order either or both parents to pay for the costs of the guardian
4 ad litem, according to their ability to pay. If both parents are
5 indigent, the county shall bear the cost of the guardian, subject to
6 appropriation for guardians' ad litem services by the county
7 legislative authority. Guardians ad litem who are not volunteers shall
8 provide the parties with an itemized accounting of their time and
9 billing for services each month.

10 (2)(a) If the guardian ad litem appointed is from the county court-
11 appointed special advocate program, the program shall supervise any
12 guardian ad litem assigned to the case. The court-appointed special
13 advocate program shall be entitled to notice of all proceedings in the
14 case.

15 (b) The legislative authority of each county may authorize creation
16 of a court-appointed special advocate program. The county legislative
17 authority may adopt rules of eligibility for court-appointed special
18 advocate program services.

19 (3) Each guardian ad litem program shall maintain a background
20 information record for each guardian ad litem in the program. The
21 background file shall include, but is not limited to, the following
22 information:

23 (a) Level of formal education;

24 (b) Training related to the guardian's duties;

25 (c) Number of years' experience as a guardian ad litem;

26 (d) Number of appointments as a guardian ad litem and county or
27 counties of appointment; and

28 (e) Criminal history, as defined in RCW 9.94A.030.

29 The background information report shall be updated annually. As a
30 condition of appointment, the guardian ad litem's background
31 information record shall be made available to the court. If the
32 appointed guardian ad litem is not a member of a guardian ad litem
33 program the person shall provide the background information to the
34 court.

35 Upon appointment, the guardian ad litem, or guardian ad litem
36 program, shall provide the parties or their attorneys with a statement
37 containing his or her training relating to the duties as a guardian ad
38 litem and criminal history as defined in RCW 9.94A.030 for the period
39 covering ten years prior to the appointment. The background statement

1 shall not include identifying information that may be used to harm a
2 guardian ad litem, such as home addresses and home telephone numbers,
3 and for volunteer guardians ad litem the court may allow the use of
4 maiden names or pseudonyms as necessary for their safety.

5 (4) When a court-appointed special advocate or volunteer guardian
6 ad litem is requested on a case, the program shall give the court the
7 name of the person it recommends and the appointment shall be effective
8 immediately. The court shall appoint the person recommended by the
9 program. If a party in a case reasonably believes the court-appointed
10 special advocate or volunteer is inappropriate or unqualified, the
11 party may request a review of the appointment by the program. The
12 program must complete the review within five judicial days and remove
13 any appointee for good cause. If the party seeking the review is not
14 satisfied with the outcome of the review, the party may file a motion
15 with the court for the removal of the court-appointed special advocate
16 on the grounds the advocate or volunteer is inappropriate or
17 unqualified.

18 **Sec. 16.** RCW 26.44.053 and 1994 c 110 s 1 are each amended to read
19 as follows:

20 (1) In any judicial proceeding under this chapter or chapter 13.34
21 RCW in which it is alleged that a child has been subjected to child
22 abuse or neglect, the court shall appoint a guardian ad litem for the
23 child as provided in chapter 13.34 RCW. The requirement of a guardian
24 ad litem may be deemed satisfied if the child is represented by counsel
25 in the proceedings.

26 (2) At any time prior to or during a hearing in such a case, the
27 court may, on its own motion, or the motion of the guardian ad litem,
28 or other parties, order the examination by a physician, psychologist,
29 or psychiatrist, of any parent or child or other person having custody
30 of the child at the time of the alleged child abuse or neglect, if the
31 court finds such an examination is necessary to the proper
32 determination of the case. The hearing may be continued pending the
33 completion of such examination. The physician, psychologist, or
34 psychiatrist conducting such an examination may be required to testify
35 concerning the results of such examination and may be asked to give his
36 or her opinion as to whether the protection of the child requires that
37 he or she not be returned to the custody of his or her parents or other
38 persons having custody of him or her at the time of the alleged child

1 abuse or neglect. Persons so testifying shall be subject to cross-
2 examination as are other witnesses. No information given at any such
3 examination of the parent or any other person having custody of the
4 child may be used against such person in any subsequent criminal
5 proceedings against such person or custodian concerning the abuse or
6 neglect of the child.

7 (3) A parent or other person having legal custody of a child
8 alleged to be abused or neglected shall be a party to any proceeding
9 that may impair or impede such person's interest in and custody or
10 control of the child.

11 NEW SECTION. **Sec. 17.** A new section is added to chapter 13.34 RCW
12 to read as follows:

13 (1) All guardians ad litem, who have not previously served or been
14 trained as a guardian ad litem in this state, who are appointed after
15 January 1, 1998, must complete the curriculum developed by the office
16 of the administrator for the courts under RCW 2.56.030(16), prior to
17 their appointment in cases under Title 13 RCW except that volunteer
18 guardians ad litem or court appointed special advocates accepted into
19 a volunteer program after January 1, 1998, may complete an alternative
20 curriculum approved by the office of the administrator for the courts
21 that meets or exceeds the state-wide curriculum.

22 (2)(a) Each guardian ad litem program for compensated guardians ad
23 litem shall establish a rotational registry system for the appointment
24 of guardians ad litem. If a judicial district does not have a program
25 the court shall establish the rotational registry system. Guardians ad
26 litem shall be selected from the registry except in exceptional
27 circumstances as determined and documented by the court. The parties
28 may make a joint recommendation for the appointment of a guardian ad
29 litem from the registry.

30 (b) In judicial districts with a population over one hundred
31 thousand, a list of three names shall be selected from the registry and
32 given to the parties along with the background information as specified
33 in RCW 13.34.100(3), including their hourly rate for services. Each
34 party may, within three judicial days, strike one name from the list.
35 If more than one name remains on the list, the court shall make the
36 appointment from the names on the list. In the event all three names
37 are stricken the person whose name appears next on the registry shall
38 be appointed.

1 (c) If a party reasonably believes that the appointed guardian ad
2 litem lacks the necessary expertise for the proceeding, charges an
3 hourly rate higher than what is reasonable for the particular
4 proceeding, or has a conflict of interest, the party may, within three
5 judicial days from the appointment, move for substitution of the
6 appointed guardian ad litem by filing a motion with the court.

7 (3) The rotational registry system shall not apply to court-
8 appointed special advocate programs.

9 NEW SECTION. **Sec. 18.** A new section is added to chapter 26.12 RCW
10 to read as follows:

11 (1) All guardians ad litem, who have not previously served or been
12 trained as a guardian ad litem in this state, who are appointed after
13 January 1, 1998, must complete the curriculum developed by the office
14 of the administrator for the courts under RCW 2.56.030(16), prior to
15 their appointment in cases under Title 26 RCW except that volunteer
16 guardians ad litem or court appointed special advocates accepted into
17 a volunteer program after January 1, 1998, may complete an alternative
18 curriculum approved by the office of the administrator for the courts
19 that meets or exceeds the state-wide curriculum.

20 (2)(a) Each guardian ad litem program for compensated guardians ad
21 litem shall establish a rotational registry system for the appointment
22 of guardians ad litem. If a judicial district does not have a program
23 the court shall establish the rotational registry system. Guardians ad
24 litem shall be selected from the registry except in exceptional
25 circumstances as determined and documented by the court. The parties
26 may make a joint recommendation for the appointment of a guardian ad
27 litem from the registry.

28 (b) In judicial districts with a population over one hundred
29 thousand, a list of three names shall be selected from the registry and
30 given to the parties along with the background information as specified
31 in RCW 26.12.175(3), including their hourly rate for services. Each
32 party may, within three judicial days, strike one name from the list.
33 If more than one name remains on the list, the court shall make the
34 appointment from the names on the list. In the event all three names
35 are stricken the person whose name appears next on the registry shall
36 be appointed.

37 (c) If a party reasonably believes that the appointed guardian ad
38 litem lacks the necessary expertise for the proceeding, charges an

1 hourly rate higher than what is reasonable for the particular
2 proceeding, or has a conflict of interest, the party may, within three
3 judicial days from the appointment, move for substitution of the
4 appointed guardian ad litem by filing a motion with the court.

5 (3) The rotational registry system shall not apply to court-
6 appointed special advocate programs.

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