
SUBSTITUTE SENATE BILL 6217

State of Washington

55th Legislature

1998 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Franklin, Long, Hargrove, Goings, Rasmussen, B. Sheldon, Fraser, Schow and Winsley)

Read first time 02/05/98.

1 AN ACT Relating to guardians ad litem; amending RCW 2.56.030,
2 11.88.090, 13.34.100, 13.34.102, 13.34.105, 26.12.175, and 26.12.177;
3 adding new sections to chapter 11.88 RCW; adding new sections to
4 chapter 13.34 RCW; adding new sections to chapter 26.12 RCW; and
5 providing effective dates.

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

7 **Sec. 1.** RCW 2.56.030 and 1997 c 41 s 2 are each amended to read as
8 follows:

9 The administrator for the courts shall, under the supervision and
10 direction of the chief justice:

11 (1) Examine the administrative methods and systems employed in the
12 offices of the judges, clerks, stenographers, and employees of the
13 courts and make recommendations, through the chief justice, for the
14 improvement of the same;

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

17 (3) Make recommendations to the chief justice relating to the
18 assignment of judges where courts are in need of assistance and carry

1 out the direction of the chief justice as to the assignments of judges
2 to counties and districts where the courts are in need of assistance;

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

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

10 (6) Collect statistical and other data and make reports relating to
11 the expenditure of public moneys, state and local, for the maintenance
12 and operation of the judicial system and the offices connected
13 therewith;

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

19 (8) Act as secretary of the judicial conference referred to in RCW
20 2.56.060;

21 (9) Submit annually, as of February 1st, to the chief justice, a
22 report of the activities of the administrator's office for the
23 preceding calendar year including activities related to courthouse
24 security;

25 (10) Administer programs and standards for the training and
26 education of judicial personnel;

27 (11) Examine the need for new superior court and district judge
28 positions under a weighted caseload analysis that takes into account
29 the time required to hear all the cases in a particular court and the
30 amount of time existing judges have available to hear cases in that
31 court. The results of the weighted caseload analysis shall be reviewed
32 by the board for judicial administration which shall make
33 recommendations to the legislature. It is the intent of the
34 legislature that weighted caseload analysis become the basis for
35 creating additional district court positions, and recommendations
36 should address that objective;

37 (12) Provide staff to the judicial retirement account plan under
38 chapter 2.14 RCW;

1 (13) Attend to such other matters as may be assigned by the supreme
2 court of this state;

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

12 (15) Develop, in consultation with the entities set forth in RCW
13 2.56.150(3), a comprehensive state-wide curriculum, training
14 requirements, and continuing education requirements for persons who act
15 as guardians ad litem under Title 13 or 26 RCW except these
16 requirements do not apply to the attorney general or any prosecuting
17 attorney functioning as the guardian ad litem pursuant to RCW
18 74.20.310. The curriculum, training requirements, and continuing
19 education requirements shall ((be made available July 1, 1997, and))
20 include specialty sections on child development, child sexual abuse,
21 child physical abuse, child neglect, clinical and forensic
22 investigative and interviewing techniques, family reconciliation and
23 mediation services, and relevant statutory and legal requirements. The
24 curriculum, training requirements, and continuing education
25 requirements shall be made available to all superior court judges,
26 court personnel, and all persons who act as guardians ad litem and be
27 updated yearly to reflect changes in statutes, court rules, or case
28 law;

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

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

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

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

10 (19) Maintain a list of all guardians ad litem appointed pursuant
11 to Titles 11, 13, and 26 RCW, who, pursuant to a founded grievance
12 action, have been removed from the guardian ad litem registry in any
13 superior court within the state; and

14 (20) Develop a model grievance procedure for use by the superior
15 courts when dealing with complaints against: A guardian ad litem under
16 chapter 11.88, 13.34, or 26.12 RCW; a court-appointed special advocate
17 appointed under chapter 13.34 or 26.12 RCW; or a parenting investigator
18 appointed under chapter 26.12 RCW.

19 **Sec. 2.** RCW 11.88.090 and 1996 c 249 s 10 are each amended to read
20 as follows:

21 (1) Nothing contained in RCW 11.88.080 through 11.88.120, 11.92.010
22 through 11.92.040, 11.92.060 through 11.92.120, 11.92.170, and
23 11.92.180 shall affect or impair the power of any court to appoint a
24 guardian ad litem to defend the interests of any incapacitated person
25 interested in any suit or matter pending therein, or to commence and
26 prosecute any suit in his or her behalf.

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

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

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

36 The guardian ad litem shall within five days of receipt of notice
37 of appointment file with the court and serve, either personally or by
38 certified mail with return receipt, each party with a statement

1 including: His or her training relating to the duties as a guardian ad
2 litem; his or her criminal history as defined in RCW 9.94A.030 for the
3 period covering ten years prior to the appointment; his or her hourly
4 rate, if compensated; whether the guardian ad litem has had any contact
5 with a party to the proceeding prior to his or her appointment; and
6 whether he or she has an apparent conflict of interest. Within three
7 days of the later of the actual service or filing of the guardian ad
8 litem's statement, any party may set a hearing and file and serve a
9 motion for an order to show cause why the guardian ad litem should not
10 be removed for one of the following three reasons: (i) Lack of
11 expertise necessary for the proceeding; (ii) an hourly rate higher than
12 what is reasonable for the particular proceeding; or (iii) a conflict
13 of interest. Notice of the hearing shall be provided to the guardian
14 ad litem and all parties. If, after a hearing, the court enters an
15 order replacing the guardian ad litem, findings shall be included,
16 expressly stating the reasons for the removal. If the guardian ad
17 litem is not removed, the court has the authority to assess to the
18 moving party, attorneys' fees and costs related to the motion. The
19 court shall assess attorneys' fees and costs for frivolous motions.

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

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

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

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

5 (A) Level of formal education;

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

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

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

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

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

16 The written statement of qualifications shall include (~~a statement~~
17 ~~of the number of times the guardian ad litem has been removed for~~
18 ~~failure to perform his or her duties as guardian ad litem~~) the names
19 of any counties in which the person, pursuant to a founded grievance,
20 was removed from a pending case or a guardian ad litem registry; and

21 (ii) Complete the (~~model~~) training (~~program~~) and continuing
22 educational requirements as described in (d) of this subsection. The
23 training and continuing education requirements are not applicable to
24 guardians ad litem appointed pursuant to court rule solely for the
25 limited purpose of assessing a personal injury settlement.

26 (c) The background and qualification information shall be updated
27 annually.

28 (d) The department of social and health services shall convene an
29 advisory group to develop a model guardian ad litem training program
30 and establish training and continuing educational requirements. The
31 department, in consultation with the advisory group, shall update the
32 model training program biennially. The advisory group shall consist of
33 representatives from consumer, advocacy, and professional groups
34 knowledgeable in developmental disabilities, neurological impairment,
35 physical disabilities, mental illness, aging, legal, court
36 administration, the Washington state bar association, and other
37 interested parties.

38 (e) The superior court shall require (~~utilization of the model~~
39 ~~program developed by the advisory group as~~) that any guardian ad litem

1 appointed pursuant to this chapter comply with the training and
2 continuing education requirements described in (d) of this
3 subsection((, to assure that candidates applying for registration as a
4 qualified guardian ad litem shall have satisfactorily completed
5 training to attain these essential minimum qualifications to act as
6 guardian ad litem)), unless the guardian ad litem is appointed solely
7 for the limited purposes of assessing a personal injury settlement.

8 (4) The guardian ad litem appointed pursuant to this section shall
9 have the following duties:

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

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

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

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

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

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

33 (e) To investigate alternate arrangements made, or which might be
34 created, by or on behalf of the alleged incapacitated person, such as
35 revocable or irrevocable trusts, or durable powers of attorney, or
36 blocked accounts in cases of personal injury settlements; whether good
37 cause exists for any such arrangements to be discontinued; and why such
38 arrangements should not be continued or created in lieu of a
39 guardianship;

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

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

5 (ii) A description of the needs of the incapacitated person for
6 care and treatment, the probable residential requirements of the
7 alleged incapacitated person and the basis upon which these findings
8 were made;

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

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

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

26 (vi) An evaluation of the person's mental ability to rationally
27 exercise the right to vote and the basis upon which the evaluation is
28 made;

29 (vii) Any expression of approval or disapproval made by the alleged
30 incapacitated person concerning the proposed guardian or limited
31 guardian or guardianship or limited guardianship;

32 (viii) Identification of persons with significant interest in the
33 welfare of the alleged incapacitated person who should be advised of
34 their right to request special notice of proceedings pursuant to RCW
35 11.92.150; ((and))

36 (ix) Unless independent counsel has appeared for the alleged
37 incapacitated person, an explanation of how the alleged incapacitated
38 person responded to the advice of the right to jury trial, to

1 independent counsel and to be present at the hearing on the petition;
2 and

3 (x) In cases of personal injury settlements, information relevant
4 to the court's analysis of the offered settlement. The information
5 relevant to the court's analysis may be specified by local court rule,
6 and need not include information specified in subsection (4)(f)(i)
7 through (ix) of this section.

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

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

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

1 possible guardian or limited guardian and to include the findings in a
2 report to the court pursuant to subsection (4)(f) of this section.

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

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

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

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

1 just; and if the petition is found to be frivolous or not brought in
2 good faith, the guardian ad litem fee shall be charged to the
3 petitioner. The court shall not be required to provide for the payment
4 of a fee to any salaried employee of a public agency. In cases of
5 personal injury settlements, guardian ad litem fees shall be negotiated
6 among the parties.

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

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

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

20 **Sec. 3.** RCW 13.34.100 and 1996 c 249 s 13 are each amended to read
21 as follows:

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

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

32 (3) Each guardian ad litem program shall maintain a background
33 information record for each guardian ad litem in the program. The
34 background file shall include, but is not limited to, the following
35 information:

- 36 (a) Level of formal education;
- 37 (b) Training related to the guardian's duties;
- 38 (c) Number of years' experience as a guardian ad litem;

1 (d) Number of appointments as a guardian ad litem and the county or
2 counties of appointment; (~~and~~)

3 (e) The name of any counties in which, pursuant to a founded
4 grievance, the person was removed from a pending case or a guardian ad
5 litem registry; and

6 (f) Criminal history, as defined in RCW 9.94A.030.

7 The background information report shall be updated annually. As a
8 condition of appointment, the guardian ad litem's background
9 information record shall be made available to the court. If the
10 appointed guardian ad litem is not a member of a guardian ad litem
11 program the person shall provide the background information to the
12 court.

13 Upon appointment, the guardian ad litem, or guardian ad litem
14 program, shall provide the parties or their attorneys with a statement
15 containing: His or her training relating to the duties as a guardian
16 ad litem; the name of any counties in which, pursuant to a founded
17 grievance, the person was removed from a pending case or a guardian ad
18 litem registry; and his or her criminal history as defined in RCW
19 9.94A.030 for the period covering ten years prior to the appointment.
20 The background statement shall not include identifying information that
21 may be used to harm a guardian ad litem, such as home addresses and
22 home telephone numbers, and for volunteer guardians ad litem the court
23 may allow the use of maiden names or pseudonyms as necessary for their
24 safety.

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

29 (5) A guardian ad litem through counsel, or as otherwise authorized
30 by the court, shall have the right to present evidence, examine and
31 cross-examine witnesses, and to be present at all hearings. A guardian
32 ad litem shall receive copies of all pleadings and other documents
33 filed or submitted to the court, and notice of all hearings according
34 to court rules. The guardian ad litem shall receive all notice
35 contemplated for a parent or other party in all proceedings under this
36 chapter.

37 (6) If the child requests legal counsel and is age twelve or older,
38 or if the guardian ad litem or the court determines that the child

1 needs to be independently represented by counsel, the court may appoint
2 an attorney to represent the child's position.

3 (7) For the purposes of child abuse prevention and treatment act
4 (42 U.S.C. Secs. 5101 et seq.) grants to this state under P.L. 93-247,
5 or any related state or federal legislation, a person appointed
6 pursuant to RCW 13.34.100 shall be deemed a guardian ad litem to
7 represent the best interests of the minor in proceedings before the
8 court.

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

22 **Sec. 4.** RCW 13.34.102 and 1997 c 41 s 6 are each amended to read
23 as follows:

24 (1)(a) All guardians ad litem(~~(, who have not previously served or~~
25 ~~been trained as a guardian ad litem in this state, who are appointed~~
26 ~~after January 1, 1998,)) must ((complete the curriculum developed by~~
27 ~~the office of the administrator for the courts)) comply with the
28 training requirements established under RCW 2.56.030(15), prior to
29 their appointment in cases under Title 13 RCW, except that volunteer
30 guardians ad litem or court-appointed special advocates ((accepted into
31 a volunteer program after January 1, 1998,)) may ((complete an
32 alternative curriculum)) comply with alternative training requirements
33 approved by the office of the administrator for the courts that
34 meet((s)) or exceed((s)) the state-wide ((curriculum)) requirements.~~

35 (b) All persons appointed as guardians ad litem or court-appointed
36 special advocates must comply with the continuing education
37 requirements established under RCW 2.56.030(15).

1 (2)(a) Each guardian ad litem program for compensated guardians ad
2 litem shall establish a rotational registry system for the appointment
3 of guardians ad litem. If a judicial district does not have a program
4 the court shall establish the rotational registry system. Guardians ad
5 litem shall be selected from the registry except in exceptional
6 circumstances as determined and documented by the court. The parties
7 may make a joint recommendation for the appointment of a guardian ad
8 litem from the registry.

9 (b) In judicial districts with a population over one hundred
10 thousand, a list of three names shall be selected from the registry and
11 given to the parties along with the background information as specified
12 in RCW 13.34.100(3), including their hourly rate for services. Each
13 party may, within three judicial days, strike one name from the list.
14 If more than one name remains on the list, the court shall make the
15 appointment from the names on the list. In the event all three names
16 are stricken the person whose name appears next on the registry shall
17 be appointed.

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

24 (d) Upon the motion of any party the court shall, if located in a
25 judicial district with a population over one hundred thousand, remove
26 a compensated guardian ad litem who was not selected from a rotational
27 registry system. This subsection (2)(d) does not apply when the
28 guardian ad litem was appointed: (i) Under exceptional circumstances
29 authorized under (a) of this subsection; or (ii) as a result of a joint
30 recommendation of the parties.

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

33 **Sec. 5.** RCW 13.34.105 and 1993 c 241 s 3 are each amended to read
34 as follows:

35 (1) Unless otherwise directed by the court, the duties of the
36 guardian ad litem include but are not limited to the following:

37 (a) To ~~((represent))~~ investigate and ~~((be an))~~ advocate for the
38 best interests of the child;

1 (b) To collect relevant information about the child's situation;
2 (c) To monitor all court orders for compliance and to bring to the
3 court's attention any change in circumstances that may require a
4 modification of the court's order; and

5 (d) To report to the court information on: (i) The legal status of
6 a child's membership in any Indian tribe or band; and (ii) the facts
7 relating to the child's best interests.

8 (2) ((The)) A guardian ad litem who is: (a) Selected from a
9 registry; (b) appointed under exceptional circumstances pursuant to RCW
10 13.34.102(2)(a); or (c) a court-appointed special advocate shall be
11 deemed an officer of the court for the purpose of immunity from civil
12 liability unless removed from a case pursuant to a founded grievance.

13 (3) Except for information or records specified in RCW
14 13.50.100(4), the guardian ad litem shall have access to all
15 information available to the state or agency on the case. Upon
16 presentation of the order of appointment by the guardian ad litem, any
17 agency, hospital, school organization, division or department of the
18 state, doctor, nurse, or other health care provider, psychologist,
19 psychiatrist, police department, or mental health clinic shall permit
20 the guardian ad litem to inspect and copy any records relating to the
21 child or children involved in the case, without the consent of the
22 parent or guardian of the child, or of the child if the child is under
23 the age of thirteen years, unless such access is otherwise specifically
24 prohibited by law.

25 (4) The guardian ad litem shall release case information in
26 accordance with the provisions of RCW 13.50.100.

27 **Sec. 6.** RCW 26.12.175 and 1996 c 249 s 15 are each amended to read
28 as follows:

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

1 (b) Unless otherwise ordered, the guardian ad litem's role is to:
2 (i) Investigate and report to the court concerning parenting
3 arrangements for the child((7)); (ii) report on the child's wishes when
4 the child is twelve years of age or older; and ~~((to represent))~~ (iii)
5 advocate for the child's best interests. The court may require the
6 guardian ad litem to provide periodic reports to the parties regarding
7 the status of his or her investigation. The guardian ad litem shall
8 file his or her report at least sixty days prior to trial.

9 (c) The court shall enter an order for costs, fees, and
10 disbursements to cover the costs of the guardian ad litem. The court
11 may order either or both parents to pay for the costs of the guardian
12 ad litem, according to their ability to pay. If both parents are
13 indigent, the county shall bear the cost of the guardian, subject to
14 appropriation for guardians' ad litem services by the county
15 legislative authority. Guardians ad litem who are not volunteers shall
16 provide the parties with an itemized accounting of their time and
17 billing for services each month.

18 (2)(a) If the guardian ad litem appointed is from the county court-
19 appointed special advocate program, the program shall supervise any
20 guardian ad litem assigned to the case. The court-appointed special
21 advocate program shall be entitled to notice of all proceedings in the
22 case.

23 (b) The legislative authority of each county may authorize creation
24 of a court-appointed special advocate program. The county legislative
25 authority may adopt rules of eligibility for court-appointed special
26 advocate program services.

27 (3) Each guardian ad litem program shall maintain a background
28 information record for each guardian ad litem in the program. The
29 background file shall include, but is not limited to, the following
30 information:

31 (a) Level of formal education;

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

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

34 (d) Number of appointments as a guardian ad litem and county or
35 counties of appointment; ~~((and))~~

36 (e) The name of any counties in which, pursuant to a founded
37 grievance, the person was removed from a pending case or a guardian ad
38 litem registry; and

39 (f) Criminal history, as defined in RCW 9.94A.030.

1 The background information report shall be updated annually. As a
2 condition of appointment, the guardian ad litem's background
3 information record shall be made available to the court. If the
4 appointed guardian ad litem is not a member of a guardian ad litem
5 program the person shall provide the background information to the
6 court.

7 Upon appointment, the guardian ad litem, or guardian ad litem
8 program, shall provide the parties or their attorneys with a statement
9 containing: His or her training relating to the duties as a guardian
10 ad litem; the name of any counties in which, pursuant to a founded
11 grievance, the person was removed from a pending case or a guardian ad
12 litem registry; and his or her criminal history as defined in RCW
13 9.94A.030 for the period covering ten years prior to the appointment.
14 The background statement shall not include identifying information that
15 may be used to harm a guardian ad litem, such as home addresses and
16 home telephone numbers, and for volunteer guardians ad litem the court
17 may allow the use of maiden names or pseudonyms as necessary for their
18 safety.

19 (4) When a court-appointed special advocate or volunteer guardian
20 ad litem is requested on a case, the program shall give the court the
21 name of the person it recommends and the appointment shall be effective
22 immediately. The court shall appoint the person recommended by the
23 program. If a party in a case reasonably believes the court-appointed
24 special advocate or volunteer is inappropriate or unqualified, the
25 party may request a review of the appointment by the program. The
26 program must complete the review within five judicial days and remove
27 any appointee for good cause. If the party seeking the review is not
28 satisfied with the outcome of the review, the party may file a motion
29 with the court for the removal of the court-appointed special advocate
30 on the grounds the advocate or volunteer is inappropriate or
31 unqualified.

32 **Sec. 7.** RCW 26.12.177 and 1997 c 41 s 7 are each amended to read
33 as follows:

34 (1)(a) All guardians ad litem(~~(, who have not previously served or~~
35 ~~been trained as a guardian ad litem in this state, who are appointed~~
36 ~~after January 1, 1998,)) must ((~~complete the curriculum developed by~~
37 ~~the office of the administrator for the courts)) comply with the
38 training requirements established under RCW 2.56.030(15), prior to~~~~

1 their appointment in cases under Title 26 RCW, except that volunteer
2 guardians ad litem or court-appointed special advocates (~~((accepted into~~
3 ~~a volunteer program after January 1, 1998,))~~) may ~~((complete an~~
4 ~~alternative curriculum))~~ comply with alternative training requirements
5 approved by the office of the administrator for the courts that
6 meet(~~((s))~~) or exceed(~~((s))~~) the state-wide (~~((curriculum))~~) requirements.

7 (b) All persons appointed as guardians ad litem or court-appointed
8 special advocates must comply with the continuing education
9 requirements established under RCW 2.56.030(15).

10 (2)(a) Each guardian ad litem program for compensated guardians ad
11 litem shall establish a rotational registry system for the appointment
12 of guardians ad litem. If a judicial district does not have a program
13 the court shall establish the rotational registry system. Guardians ad
14 litem shall be selected from the registry except in exceptional
15 circumstances as determined and documented by the court. The parties
16 may make a joint recommendation for the appointment of a guardian ad
17 litem from the registry.

18 (b) In judicial districts with a population over one hundred
19 thousand, a list of three names shall be selected from the registry and
20 given to the parties along with the background information as specified
21 in RCW 26.12.175(3), including their hourly rate for services. Each
22 party may, within three judicial days, strike one name from the list.
23 If more than one name remains on the list, the court shall make the
24 appointment from the names on the list. In the event all three names
25 are stricken the person whose name appears next on the registry shall
26 be appointed.

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

33 (d) Upon the motion of any party the court shall, if located in a
34 judicial district with a population over one hundred thousand, remove
35 a compensated guardian ad litem who was not selected from a rotational
36 registry system. This subsection (2)(d) does not apply when the
37 guardian ad litem was appointed: (i) Under exceptional circumstances
38 authorized under (a) of this subsection; or (ii) as a result of a joint
39 recommendation of the parties.

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

3 NEW SECTION. **Sec. 8.** A new section is added to chapter 26.12 RCW
4 to read as follows:

5 A guardian ad litem who is: (1) Selected from a registry; (2)
6 appointed under exceptional circumstances pursuant to RCW
7 26.12.177(2)(a); or (3) a court-appointed special advocate shall be
8 deemed an officer of the court for the purpose of immunity from civil
9 liability unless removed from a case pursuant to a founded grievance.

10 NEW SECTION. **Sec. 9.** A new section is added to chapter 11.88 RCW
11 to read as follows:

12 The court shall, in each order of appointment, specify the hourly
13 rate the guardian ad litem may charge for his or her services, and
14 shall specify the maximum amount the guardian ad litem may charge
15 without additional court review and approval.

16 NEW SECTION. **Sec. 10.** A new section is added to chapter 13.34 RCW
17 to read as follows:

18 The court shall, in each order of appointment, specify the hourly
19 rate the guardian ad litem may charge for his or her services, and
20 shall specify the maximum amount the guardian ad litem may charge
21 without additional court review and approval.

22 NEW SECTION. **Sec. 11.** A new section is added to chapter 26.12 RCW
23 to read as follows:

24 The court shall, in each order of appointment, specify the hourly
25 rate the guardian ad litem may charge for his or her services, and
26 shall specify the maximum amount the guardian ad litem may charge
27 without additional court review and approval.

28 NEW SECTION. **Sec. 12.** A new section is added to chapter 11.88 RCW
29 to read as follows:

30 All guardians ad litem are prohibited from engaging in ex parte
31 communications with any judicial officer regarding the matter for which
32 he or she is appointed, except as approved pursuant to a hearing
33 conducted with adequate notice to all parties. Unauthorized
34 communication shall be immediately reported to all parties and their

1 attorneys. The court, upon its own motion, or upon the motion of a
2 party, may consider the removal of any guardian ad litem who violates
3 this section from any pending case or the guardian ad litem rotational
4 registry, and if so removed may require forfeiture of any fees for
5 professional services on any pending cases.

6 NEW SECTION. **Sec. 13.** A new section is added to chapter 13.34 RCW
7 to read as follows:

8 All guardians ad litem and court-appointed special advocates are
9 prohibited from engaging in ex parte communications with any judicial
10 officer regarding the matter for which he or she is appointed, except
11 as approved pursuant to a hearing conducted with adequate notice to all
12 parties. Unauthorized communication shall be immediately reported to
13 all parties and their attorneys. The court, upon its own motion, or
14 upon the motion of a party, may consider the removal of any guardian ad
15 litem or court-appointed special advocate who violates this section
16 from any pending case or from any court-authorized registry, and if so
17 removed may require forfeiture of any fees for professional services on
18 any pending cases.

19 NEW SECTION. **Sec. 14.** A new section is added to chapter 26.12 RCW
20 to read as follows:

21 All guardians ad litem, court-appointed special advocates, and
22 parenting investigators are prohibited from engaging in ex parte
23 communications with any judicial officer regarding the matter for which
24 he or she is appointed, except as approved pursuant to a hearing
25 conducted with adequate notice to all parties. Unauthorized
26 communication shall be immediately reported to all parties and their
27 attorneys. The court, upon its own motion, or upon the motion of a
28 party, may consider the removal of any guardian ad litem, court-
29 appointed special advocate, or parenting investigator who violates this
30 section from any pending case or from any court-authorized registry,
31 and if so removed may require forfeiture of any fees for professional
32 services on any pending cases.

33 NEW SECTION. **Sec. 15.** A new section is added to chapter 26.12 RCW
34 to read as follows:

35 All information, records, and reports obtained or created by a
36 guardian ad litem, court-appointed special advocate, or parenting

1 investigator shall be discoverable to the parties and their attorneys.
2 The guardian ad litem, court-appointed special advocate, or parenting
3 investigator shall maintain the privacy of the parties and the
4 confidentiality of information obtained, pursuant to the investigation,
5 as to third parties. Any guardian ad litem can move the court to seal
6 the court file to protect information obtained by the guardian ad litem
7 from disclosure to third persons, particularly in cases where no
8 evidentiary rulings have been made on information introduced by
9 affidavit, declaration, or other means.

10 NEW SECTION. **Sec. 16.** This act takes effect July 1, 1998, except
11 for sections 4 and 7 of this act, which take effect January 1, 2000.

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