
Judiciary Committee

SSB 5285

Title: An act relating to guardians ad litem.

Brief Description: Revising procedures for appointment of guardians ad litem.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Regala, Hargrove, Kauffman and Stevens).

Brief Summary of Substitute Bill

- Requires a guardian ad litem (GAL) to report child abuse or neglect under the mandatory reporting statute.
- Requires the court in family law and dependency cases to attempt to match the child with a GAL who has specific training or education related to the child's needs.
- Creates an additional procedure for a party in a family law case to request removal of a GAL.
- Requires GALs to provide additional background information to the court and the parties.
- Makes other changes to the statutes governing GALs.

Hearing Date: 3/16/09

Staff: Trudes Tango (786-7384)

Background:

Mandatory reporting of child abuse or neglect

Certain persons, such as physicians, social service counselors, and nurses, are required to report to the Department of Social and Health Services (DSHS) or to law enforcement if the person has reasonable cause to believe that a child has suffered abuse or neglect. The mandatory reporting

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statute establishes procedures that the DSHS and law enforcement must follow when they receive a report.

Guardians ad Litem

A guardian ad litem (GAL) is a person who is appointed by the court to represent the best interests of the child in family law and dependencies. The GAL performs an investigation and reports findings and recommendations to the court. In family law cases, the court may also appoint an investigator who may make recommendations to the court. There are compensated GALs and volunteer GALs. Volunteer GALs generally serve as court appointed special advocates (CASA) in dependency cases.

Appointment and Removal of a GAL

For family law cases, superior courts maintain a registry of qualified GALs, and appointments are generally made by agreement or by rotation from the GAL registry. The court must remove any person from the GAL registry who misrepresents his or her qualifications under a grievance procedure established by the court.

When a volunteer GAL is requested in a dependency or family law case, the GAL program must give the court the name of the volunteer it recommends and that person's appointment is effective immediately. If a party reasonably believes the volunteer GAL is inappropriate or unqualified, the party may request that the GAL program review the appointment. The review must be completed within five judicial days, and the program must remove any appointee for good cause. If the party seeking review is not satisfied with the outcome of the review, the party may file a motion with the court for the removal of the volunteer on the grounds the person is inappropriate or unqualified.

For compensated GALs, a party who reasonably believes that the GAL lacks the necessary expertise, charges an hourly rate higher than what is reasonable for the proceeding, or has a conflict of interest, the party may, within three judicial days from the appointment, file a motion with the court for substitution of the GAL.

A different appointment and removal process for compensated GALs applies in judicial districts with a population of more than 100,000. In those districts, a list of three names is selected from the GAL registry and given to the parties, along with the GALs' background information. Each party may, within three judicial days, strike one name from the list. If one name remains on the list, that GAL will be appointed. Once appointed, if a party reasonably believes that the appointed GAL lacks the necessary expertise for the proceeding, charges an hourly rate higher than what is reasonable for the proceeding, or has a conflict of interest, the party may, within three judicial days, file a motion with the court seeking a substitution of the GAL.

Background Information Required

Volunteer GAL programs must maintain a background information record for each GAL in the program. The background information includes, but is not limited to, information such as level of formal education; training related to the GAL's duties; number of years experience as a GAL; number of appointments as a GAL; the names of any counties in which the GAL was removed

from a GAL registry under a grievance action; and criminal history. As a condition of appointment, the GAL's background information must be made available to the court. Upon appointment, the GAL must provide the parties or their attorneys with that background information, including criminal history for the period covering ten years prior to the appointment.

Summary of Bill:

Mandatory reporting of child abuse and neglect

The mandatory reporting requirement applies to GALs. A GAL appointed in a dependency or family court matter who, during the course of the GAL's representation of the child has reasonable cause to believe a child has been abused or neglected, must make a report to the DSHS or law enforcement.

GALs

Changes are made to the GAL statutes for dependency and family law cases. Courts must attempt to match the child with a GAL who has specific training or education related to the child's needs. For CASA and volunteer GALs, the court need not immediately appoint the person recommended by the program if the court believes the person is inappropriate or unqualified.

GALs in dependency actions

The background information record must include: the GAL's general training; specific training related to issues potentially faced by dependent children; specific training or education related to child disability or developmental issues; founded allegations of abuse or neglect; results of an examination of state and national criminal identification data that consists of a background check through the Washington State Patrol and the Federal Bureau of Investigation. Upon appointment, the GAL or GAL program must provide the parties with a copy of the background information, but information related to the criminal background check and criminal history must not be disclosed to the parties.

GALs in family law cases

The background information record required to be maintained by GAL programs for volunteer GALs in family law cases is the same as the information required for GALs in dependency cases. The background information record required to be maintained by GAL programs for compensated GALs is substantially the same but does not include the results of an examination of state and national criminal identification data that consists of the Washington State Patrol criminal background check and the national check from the federal bureau of investigation.

A new process for removing a GAL in family law cases is created. Either party may request, within five judicial days of appointment of the GAL, that the GAL be removed. The court must grant the first request unless, because of the limited pool of GALs, removal would cause substantial harm to the child involved. Subsequent requests to remove a GAL must follow current procedures to remove a GAL. If a party requests removal of a GAL in the first five days

of the appointment, the court must determine whether fees should be paid to the GAL for work completed during the five day period; or if fees have already been paid, the court must determine how much, if any, should be refunded to the parties.

Investigators are no longer authorized to make recommendations to the court. GALs in family law cases must investigate and report factual information regarding the issues ordered to be reported.

To be removed from the GAL registry by the superior court, the GAL must have substantially misrepresented his or her qualifications.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.