
SENATE BILL 6604

State of Washington

62nd Legislature

2012 Regular Session

By Senators Roach and Chase

Read first time 02/23/12. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to guardians ad litem; and amending RCW 13.34.100
2 and 13.34.102.

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

4 **Sec. 1.** RCW 13.34.100 and 2010 c 180 s 2 are each amended to read
5 as follows:

6 (1) The court shall appoint a guardian ad litem for a child who is
7 the subject of an action under this chapter(~~(, unless a court for good~~
8 ~~cause finds the appointment unnecessary. The requirement of a guardian~~
9 ~~ad litem may be deemed satisfied if the child is represented by~~
10 ~~independent counsel in the proceedings)). The court shall attempt to
11 match a child with special needs with a guardian ad litem who has
12 specific training or education related to the child's individual needs.~~

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

18 (3) Each guardian ad litem program shall maintain a background

1 information record for each guardian ad litem in the program. The
2 background information record shall include, but is not limited to, the
3 following information:

4 (a) Level of formal education;

5 (b) General training related to the guardian ad litem's duties;

6 (c) Specific training related to issues potentially faced by
7 children in the dependency system;

8 (d) Specific training or education related to child disability or
9 developmental issues;

10 (e) Number of years' experience as a guardian ad litem;

11 (f) Number of appointments as a guardian ad litem and the county or
12 counties of appointment;

13 (g) The names of any counties in which the person was removed from
14 a guardian ad litem registry pursuant to a grievance action, and the
15 name of the court and the cause number of any case in which the court
16 has removed the person for cause;

17 (h) Founded allegations of abuse or neglect as defined in RCW
18 26.44.020;

19 (i) The results of an examination of state and national criminal
20 identification data. The examination shall consist of a background
21 check as allowed through the Washington state criminal records privacy
22 act under RCW 10.97.050, the Washington state patrol criminal
23 identification system under RCW 43.43.832 through 43.43.834, and the
24 federal bureau of investigation. The background check shall be done
25 through the Washington state patrol criminal identification section and
26 must include a national check from the federal bureau of investigation
27 based on the submission of fingerprints; (~~and~~)

28 (j) A statement of financial affairs that includes the topics
29 listed in RCW 42.17A.710; and

30 (k) Criminal history, as defined in RCW 9.94A.030, for the period
31 covering ten years prior to the appointment.

32 The background information record 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 a suitable person appointed by the court to act as guardian ad
37 litem shall provide the background information record to the court.

1 Upon appointment, the guardian ad litem, or guardian ad litem
2 program, shall provide the parties or their attorneys with a copy of
3 the background information record. The portion of the background
4 information record containing the results of the criminal background
5 check and the criminal history shall not be disclosed to the parties or
6 their attorneys. The background information record shall not include
7 identifying information that may be used to harm a guardian ad litem,
8 such as home addresses and home telephone numbers, and for volunteer
9 guardians ad litem the court may allow the use of maiden names or
10 pseudonyms as necessary for their safety.

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

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

23 (6)(a) Pursuant to this subsection, the department or supervising
24 agency and the child's guardian ad litem shall each notify a child of
25 his or her right to request counsel and shall ask the child whether he
26 or she wishes to have counsel. The department or supervising agency
27 and the child's guardian ad litem shall notify the child and make this
28 inquiry immediately after:

- 29 (i) The date of the child's twelfth birthday;
30 (ii) Assignment of a case involving a child age twelve or older; or
31 (iii) July 1, 2010, for a child who turned twelve years old before
32 July 1, 2010.

33 (b) The department or supervising agency and the child's guardian
34 ad litem shall repeat the notification and inquiry at least annually
35 and upon the filing of any motion or petition affecting the child's
36 placement, services, or familial relationships.

37 (c) The notification and inquiry is not required if the child has
38 already been appointed counsel.

1 (d) The department or supervising agency shall note in the child's
2 individual service and safety plan, and the guardian ad litem shall
3 note in his or her report to the court, that the child was notified of
4 the right to request counsel and indicate the child's position
5 regarding appointment of counsel.

6 (e) At the first regularly scheduled hearing after:

7 (i) The date of the child's twelfth birthday;

8 (ii) The date that a dependency petition is filed pursuant to this
9 chapter on a child age twelve or older; or

10 (iii) July 1, 2010, for a child who turned twelve years old before
11 July 1, 2010;

12 the court shall inquire whether the child has received notice of his or
13 her right to request legal counsel from the department or supervising
14 agency and the child's guardian ad litem. The court shall make an
15 additional inquiry at the first regularly scheduled hearing after the
16 child's fifteenth birthday. No inquiry is necessary if the child has
17 already been appointed counsel.

18 (f) If the child requests legal counsel and is age twelve or older,
19 or if the guardian ad litem or the court determines that the child
20 needs to be independently represented by counsel, the court may appoint
21 an attorney to represent the child's position.

22 (7) For the purposes of child abuse prevention and treatment act
23 (42 U.S.C. Secs. 5101 et seq.) grants to this state under P.L. 93-247,
24 or any related state or federal legislation, a person appointed
25 pursuant to this section shall be deemed a guardian ad litem to
26 represent the best interests of the minor in proceedings before the
27 court.

28 (8) When a court-appointed special advocate or volunteer guardian
29 ad litem is requested on a case, the program shall give the court the
30 name of the person it recommends. The program shall attempt to match
31 a child with special needs with a guardian ad litem who has specific
32 training or education related to the child's individual needs. The
33 court (~~shall~~) may immediately appoint the person recommended by the
34 program.

35 (9) If a party in a case reasonably believes the court-appointed
36 special advocate or volunteer guardian ad litem is inappropriate or
37 unqualified, the party may request a review of the appointment by the
38 program. The program must complete the review within five judicial

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

6 **Sec. 2.** RCW 13.34.102 and 2005 c 282 s 26 are each amended to read
7 as follows:

8 (1) All guardians ad litem must comply with the training
9 requirements established under RCW 2.56.030(15), prior to their
10 appointment in cases under Title 13 RCW, except that volunteer
11 guardians ad litem or court-appointed special advocates may comply with
12 alternative training requirements approved by the administrative office
13 of the courts that meet or exceed the statewide requirements.

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

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

26 (i) Level of formal education;

27 (ii) Training related to the guardian ad litem's duties;

28 (iii) Number of years' experience as a guardian ad litem;

29 (iv) Number of appointments as a guardian ad litem and the county
30 or counties of appointment;

31 (v) The names of any counties in which the person was removed from
32 a guardian ad litem registry pursuant to a grievance action, and the
33 name of the court and the cause number of any case in which the court
34 has removed the person for cause;

35 (vi) Founded allegations of child abuse or neglect as defined in
36 RCW 26.44.020;

1 (vii) A statement of financial affairs that includes the topics
2 listed in RCW 42.17A.710; and

3 (viii) Criminal history, as defined in RCW 9.94A.030.

4 (c) The background information report shall be updated annually.
5 As a condition of appointment, the guardian ad litem's background
6 information record shall be made available to the court.

7 (d) Upon appointment, the guardian ad litem, or guardian ad litem
8 program, shall provide the parties or their attorneys with a copy of
9 the background information record.

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

19 ~~((e))~~ (4) If a party reasonably believes that the appointed
20 guardian ad litem lacks the necessary expertise for the proceeding,
21 charges an hourly rate higher than what is reasonable for the
22 particular proceeding, or has a conflict of interest, the party may,
23 within three judicial days from the appointment, move for substitution
24 of the appointed guardian ad litem by filing a motion with the court.

25 ~~((d))~~ (5) The superior court shall remove any person from the
26 guardian ad litem registry who misrepresents his or her qualifications
27 pursuant to a grievance procedure established by the court.

28 ~~((3))~~ (6) The rotational registry system shall not apply to
29 court-appointed special advocate programs.

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