

SENATE BILL REPORT

ESSB 6305

As Passed Senate, February 11, 2000

Title: An act relating to guardians ad litem.

Brief Description: Changing provisions relating to guardians ad litem.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Franklin and Kohl-Welles).

Brief History:

Committee Activity: Human Services & Corrections: 1/20/2000, 1/26/2000 [DPS].
Passed Senate, 2/11/2000, 45-0.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 6305 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Costa, Vice Chair; Franklin, Long, Sheahan, Stevens and Zarelli.

Staff: Joan K. Mell (786-7447)

Background: In 1996, legislation passed making improvements to guardian ad litem (GAL) programs currently in place (ESSB 6257). GALs are appointed by the court to provide information to the court to aid the court in its decision making. GALs are appointed for minors or other incapacitated persons in probate cases, child custody cases, and child dependency cases. GALs serve for a short period of time, usually the course of the lawsuit. GALs can be distinguished from guardians appointed long-term in probate cases. A statewide curriculum was established for GALs and other language was included that was designed to improve GAL accountability. The bill established a steering committee to review Washington State courts' GAL systems. King County Superior Court Judge George Mattson agreed to chair the steering committee. The committee conducted a ten-month review and issued a final report dated August 1997 that included recommended statutory changes to the GAL provisions.

A bill addressing the recommendations passed through the Senate in 1998 and died in the House (SSB 6217), and again in 1999 (ESSB 5447).

Summary of Bill: Some statutory changes recommended in the August 1997 report are adopted:

Guardians ad litem in all types of actions must report their qualifications, including any removal from a case or court registry.

Superior court must remove any guardian ad litem from the registry who misrepresents his or her qualifications.

None of the provisions affect personal injury settlement guardians ad litem.

Guardians ad litem may be allocated fees by the court in a probate proceeding.

Guardians ad litem and investigators appointed in any domestic proceeding must complete training requirements.

Guardians ad litem are directed to report factual information to the court that they have discovered in their investigation in the best interests of the child. They may make recommendations to the court. They can advocate in the best interests of the child in any nonjudicial forum.

Courts must set guardian ad litem fees.

Guardians ad litem must not have ex parte communications with the court, which are not specifically authorized by law for purposes of ex parte motions.

Guardians ad litem in domestic cases must disclose their files to the parties pursuant to the rules of discovery, but must otherwise treat the files as confidential.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Representatives from the Bar Association are supportive of this bill. Volunteer court appointed special advocates are supportive, but would like advocate to be one of their duties.

Testimony Against: None.

Testified: PRO: Helen Owens, Volunteer Dependency CASA; Karen Pillar, Majken Ryherd, WA State CASA; John Hertog, attorney; Mike Longyear, WSBA Elder Law.

House Amendment(s): In dependency proceedings, the current law that the duties of a GAL include representing and being an advocate for the best interests of the child is restored, and the provisions specifying that GALs may be advocates only in nonjudicial proceedings and forums are removed.

In family law proceedings, current law that a GAL's role is to represent the child's best interests is restored, and the provision in the underlying bill that the GAL's role includes advocating in nonjudicial proceedings in the best interests of the child is removed.

In dependency proceedings, the GAL's or CASA's report must be filed with the court and parties prior to the hearing and parties are allowed to file written responses prior to the hearing.

The report must include a written list of persons interviewed and reports or documentation considered. The report must include specific information on which the GAL or CASA relied in making a particular recommendation. The court must consider responses to a GAL or CASA report.

In family law proceedings, parties are allowed to file written responses to the GAL's or investigator's report and the court must consider these responses.

Each superior court must adopt rules establishing procedures for filing, investigating and adjudicating grievances made by or against GALs.

The DSHS advisory group that develops model training for guardianship GALs must include representatives knowledgeable in domestic violence.

The sections requiring courts to set GAL fees apply except as provided by court rule.