

RCW 13.34.100 Appointment of guardian ad litem—Background information—Rights—Notification and inquiry—Review and removal. (1)

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

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

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

- (a) Level of formal education;
- (b) General training related to the guardian ad litem's duties;
- (c) Specific training related to issues potentially faced by children in the dependency system;
- (d) Specific training or education related to child disability or developmental issues;
- (e) Number of years' experience as a guardian ad litem;
- (f) Number of appointments as a guardian ad litem and the county or counties of appointment;
- (g) The names of any counties in which the person was removed from a guardian ad litem registry pursuant to a grievance action, and the name of the court and the cause number of any case in which the court has removed the person for cause;
- (h) Founded allegations of abuse or neglect as defined in RCW 26.44.020;
- (i) The results of an examination of state and national criminal identification data. The examination shall consist of a background check as allowed through the Washington state criminal records privacy act under RCW 10.97.050, the Washington state patrol criminal identification system under RCW 43.43.832 through 43.43.834, and the federal bureau of investigation. The background check shall be done through the Washington state patrol criminal identification section and must include a national check from the federal bureau of investigation based on the submission of fingerprints; and
- (j) Criminal history, as defined in RCW 9.94A.030, for the period covering 10 years prior to the appointment.

The background information record shall be updated annually and fingerprint-based background checks shall be updated every three years. As a condition of appointment, the guardian ad litem's background information record shall be made available to the court. If the appointed guardian ad litem is not a member of a guardian ad litem program a suitable person appointed by the court to act as guardian ad litem shall provide the background information record to the court.

Upon appointment, the guardian ad litem, or guardian ad litem program, shall provide the parties or their attorneys with a copy of the background information record. The portion of the background information record containing the results of the criminal background

check and the criminal history shall not be disclosed to the parties or their attorneys. The background information record shall not include identifying information that may be used to harm a guardian ad litem, such as home addresses and home telephone numbers, and for volunteer guardians ad litem the court may allow the use of maiden names or pseudonyms as necessary for their safety.

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

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

(6) For the purposes of child abuse prevention and treatment act (42 U.S.C. Secs. 5101 et seq.) grants to this state under P.L. 93-247, or any related state or federal legislation, a person appointed pursuant to this section shall be deemed a guardian ad litem.

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

(8) If a party in a case reasonably believes the court-appointed special advocate or volunteer guardian ad litem is inappropriate or unqualified, the party may request a review of the appointment by the program. The program must complete the review within five judicial days and remove any appointee for good cause. If the party seeking the review is not satisfied with the outcome of the review, the party may file a motion with the court for the removal of the court-appointed special advocate or volunteer guardian ad litem on the grounds the advocate or volunteer is inappropriate or unqualified.

(9) The court shall remove any person from serving as a court-appointed special advocate or volunteer guardian ad litem if the court is notified that the person has been removed from another county's registry pursuant to the disposition of a grievance or if the court is otherwise made aware that the individual was found by a court to have made a materially false statement that he or she knows to be false during an official proceeding under oath. [2021 c 210 § 4; 2019 c 57 § 1; 2017 c 99 § 2; 2014 c 108 § 2; 2010 c 180 § 2; 2009 c 480 § 2; 2000 c 124 § 2; 1996 c 249 § 13; 1994 c 110 § 2; 1993 c 241 § 2; 1988 c 232 § 1; 1979 c 155 § 43; 1977 ex.s. c 291 § 38.]

Findings—Intent—2021 c 210: See note following RCW 13.34.090.

Finding—Intent—2017 c 99: "The legislature finds that the integrity of court-appointed special advocates and volunteer guardians ad litem is necessary to protect the best interest of children in child welfare proceedings.

Although courts must be notified regarding the removal of a guardian ad litem from a county's registry pursuant to a grievance,

there is no requirement that a county must act on that information. For that reason, the legislature intends to require counties to remove child welfare volunteer guardians ad litem from their registries when counties are notified that the person has been removed from another county's registry pursuant to the disposition of a grievance or if the court is otherwise made aware that a guardian ad litem has been found by a court to have made a materially false statement that he or she knows to be false during an official proceeding under oath." [2017 c 99 § 1.]

Finding—Construction—2014 c 108: "(1) The legislature recognizes that some children may remain in foster care following the termination of the parent and child relationship. These children have legal rights and no longer have a parent to advocate on their behalf, and no other party represents their legal interests. The legislature finds that providing attorneys for children following the termination of the parent and child relationship is fundamental to protecting the child's legal rights and to accelerate permanency.

(2) Although the legislature recognizes that many jurisdictions provide attorneys to children prior to termination of the parent and child relationship, nothing in this act may be construed against the parent's fundamental liberty interest in parenting the child prior to termination of the parent and child relationship as stated in *In re Dependency of K.N.J.*, 171 Wn.2d 568, 574 (2011) and *In re Welfare of Luscier*, 84 Wn.2d 135, 136-37 (1974), unless such a position would jeopardize the child's right to conditions of basic nurture, health, or safety." [2014 c 108 § 1.]

Effective date—2014 c 108: "This act takes effect July 1, 2014." [2014 c 108 § 4.]

Findings—2010 c 180: "(1) The legislature recognizes that inconsistent practices in and among counties in Washington have resulted in few children being notified of their right to request legal counsel in their dependency and termination proceedings under RCW 13.34.100.

(2) The legislature recognizes that when children are provided attorneys in their dependency and termination proceedings, it is imperative to provide them with well-trained advocates so that their legal rights around health, safety, and well-being are protected. Attorneys, who have different skills and obligations than guardians ad litem and court-appointed special advocates, especially in forming a confidential and privileged relationship with a child, should be trained in meaningful and effective child advocacy, the child welfare system and services available to a child client, child and adolescent brain development, child and adolescent mental health, and the distinct legal rights of dependent youth, among other things. Well-trained attorneys can provide legal counsel to a child on issues such as placement options, visitation rights, educational rights, access to services while in care and services available to a child upon aging out of care. Well-trained attorneys for a child can:

(a) Ensure the child's voice is considered in judicial proceedings;

(b) Engage the child in his or her legal proceedings;

(c) Explain to the child his or her legal rights;

(d) Assist the child, through the attorney's counseling role, to consider the consequences of different decisions; and

(e) Encourage accountability, when appropriate, among the different systems that provide services to children." [2010 c 180 § 1.]

Grievance rules—2000 c 124: "Each superior court shall adopt rules establishing and governing procedures for filing, investigating, and adjudicating grievances made by or against guardians ad litem under Titles 11, 13, and 26 RCW." [2000 c 124 § 16.]

Intent—1996 c 249: See note following RCW 2.56.030.

Conflict with federal requirements—1993 c 241: See note following RCW 13.34.030.

Effective date—Severability—1979 c 155: See notes following RCW 13.04.011.

Effective dates—Severability—1977 ex.s. c 291: See notes following RCW 13.04.005.