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HOUSE BILL 1072

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State of Washington                      53rd Legislature                      1993 Regular Session

By Representatives Appelwick, Ludwig, Johanson and Ogden

Read first time 01/13/93. Referred to Committee on Judiciary.

1            AN ACT Relating to guardians ad litem; and amending RCW 26.09.220,  
2 26.10.130, 26.12.060, and 26.12.175.

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

4            **Sec. 1.** RCW 26.09.220 and 1989 c 375 s 12 are each amended to read  
5 as follows:

6            (1) The court may order an investigation and report concerning  
7 parenting arrangements for the child, or may appoint a guardian ad  
8 litem pursuant to RCW 26.12.175, or both. The investigation and report  
9 may be made by the guardian ad litem, the staff of the juvenile court,  
10 or other professional social service organization experienced in  
11 counseling children and families.

12            (2) In preparing (~~his~~) the report concerning a child, the  
13 investigator may consult any person who may have information about the  
14 child and the potential parenting or custodian arrangements. Upon  
15 order of the court, the investigator may refer the child to  
16 professional personnel for diagnosis. The investigator may consult  
17 with and obtain information from medical, psychiatric, or other expert  
18 persons who have served the child in the past without obtaining the  
19 consent of the parent or the child's custodian; but the child's consent

1 must be obtained if ((he)) the child has reached the age of twelve,  
2 unless the court finds that the child lacks mental capacity to consent.  
3 If the requirements of subsection (3) of this section are fulfilled,  
4 the investigator's report may be received in evidence at the hearing.

5 (3) The ((court)) investigator shall mail the investigator's report  
6 to counsel and to any party not represented by counsel at least ten  
7 days prior to the hearing unless a shorter time is ordered by the court  
8 for good cause shown. The investigator shall make available to counsel  
9 and to any party not represented by counsel the investigator's file of  
10 underlying data and reports, complete texts of diagnostic reports made  
11 to the investigator pursuant to the provisions of subsection (2) of  
12 this section, and the names and addresses of all persons whom the  
13 investigator has consulted. Any party to the proceeding may call the  
14 investigator and any person whom ((he)) the investigator has consulted  
15 for cross-examination. A party may not waive the right of cross-  
16 examination prior to the hearing.

17 **Sec. 2.** RCW 26.10.130 and 1987 c 460 s 41 are each amended to read  
18 as follows:

19 (1) In contested custody proceedings, and in other custody  
20 proceedings if a parent or the child's custodian so requests, the court  
21 may order an investigation and report concerning custodian arrangements  
22 for the child, or may appoint a guardian ad litem pursuant to RCW  
23 26.12.175, or both. The investigation and report may be made by the  
24 guardian ad litem, the staff of the juvenile court, or other  
25 professional social service organization experienced in counseling  
26 children and families.

27 (2) In preparing the report concerning a child, the investigator  
28 may consult any person who may have information about the child and  
29 potential custodian arrangements. Upon order of the court, the  
30 investigator may refer the child to professional personnel for  
31 diagnosis. The investigator may consult with and obtain information  
32 from medical, psychiatric, or other expert persons who have served the  
33 child in the past without obtaining the consent of the parent or the  
34 child's custodian; but the child's consent must be obtained if the  
35 child has reached the age of twelve, unless the court finds that the  
36 child lacks mental capacity to consent. If the requirements of  
37 subsection (3) of this section are fulfilled, the investigator's report  
38 may be received in evidence at the hearing.

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8 this section, and the names and addresses of all persons whom the  
9 investigator has consulted. Any party to the proceeding may call the  
10 investigator and any person whom (~~he~~) the investigator has consulted  
11 for cross-examination. A party may not waive the right of cross-  
12 examination prior to the hearing.

13       **Sec. 3.** RCW 26.12.060 and 1991 c 367 s 12 are each amended to read  
14 as follows:

15       The court commissioners shall: (1) Make appropriate referrals to  
16 county family court services program if the county has a family court  
17 services program or appoint a guardian ad litem pursuant to RCW  
18 26.12.175; (2) order investigation and reporting of the facts upon  
19 which to base warrants, subpoenas, orders or directions in actions or  
20 proceedings under this chapter; (3) exercise all the powers and perform  
21 all the duties of court commissioners; (4) make written reports of all  
22 proceedings had which shall become a part of the record of the family  
23 court; (5) provide supervision over the exercise of its jurisdiction as  
24 the judge of the family court may order; (6) cause the orders and  
25 findings of the family court to be entered in the same manner as orders  
26 and findings are entered in cases in the superior court; (7) cause  
27 other reports to be made and records kept as will indicate the value  
28 and extent of reconciliation, mediation, investigation, and treatment  
29 services; and (8) conduct hearings under chapter 13.34 RCW as provided  
30 in RCW 13.04.021.

31       **Sec. 4.** RCW 26.12.175 and 1991 c 367 s 17 are each amended to read  
32 as follows:

33       (1) The court may appoint a guardian ad litem to represent the  
34 interests of a minor or dependent child when the court believes the  
35 appointment of a guardian ad litem is (~~is~~) necessary to protect the  
36 best interests of the child in any proceeding under this chapter. The  
37 family court services professionals (~~shall~~) may also make a

1 recommendation to the court regarding whether a guardian ad litem  
2 should be appointed for the child. The court may appoint a guardian ad  
3 litem from the court-appointed special advocate program, if that  
4 program exists in the county, to investigate and report to the court  
5 concerning parenting arrangements for the child, and to represent the  
6 child's best interests. The court shall enter an order for costs,  
7 fees, and disbursements to cover the costs of the guardian ad litem.  
8 The court may order either or both parents to pay for the costs of the  
9 guardian ad litem, according to their ability to pay. If both parents  
10 are indigent, the county shall bear the cost of the guardian, subject  
11 to appropriation for guardians' ad litem services by the county  
12 legislative authority.

13 (2)(a) If the guardian appointed is from the county court-appointed  
14 special advocate program, the court shall appoint the court-appointed  
15 special advocate program as a party to the proceeding. The program  
16 shall supervise any guardian ad litem assigned to the case. The  
17 program's role is to: (i) Provide independent factual information to  
18 the court; (ii) advocate for the child's best interests; and (iii)  
19 assist the court by performing any other duties assigned by the court.

20 (b) The court-appointed special advocate program shall be treated  
21 as a party to the proceedings and to any agreement, parenting plan, or  
22 order or decree entered regarding the child, except those agreements,  
23 orders, or decrees relating solely to child support. The guardian ad  
24 litem may call and examine witnesses and cross-examine witnesses called  
25 by other parties.

26 (c) The court shall dismiss the court-appointed special advocate  
27 program as a party when the case is concluded. For purposes of this  
28 section, the case shall be considered concluded upon the sooner of  
29 entry of: (i) A final order of decree, provided that the signature of  
30 a representative of the program is obtained; (ii) an order dismissing  
31 the action; or (iii) an order dismissing the program. The court may  
32 reappoint the program to a case at any time. Regardless of the  
33 dismissal of the program, the program shall remain a party for  
34 appellate purposes.

35 (d) The legislative authority of each county may authorize creation  
36 of a court-appointed special advocate program. The county legislative

1 authority may adopt rules of eligibility for court-appointed special  
2 advocate program services.

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