

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1072

Chapter 289, Laws of 1993

53rd Legislature
1993 Regular Session

GUARDIANS AD LITEM--APPOINTMENT AND RESPONSIBILITIES
IN FAMILY COURT

EFFECTIVE DATE: 7/25/93

Passed by the House April 20, 1993
Yeas 97 Nays 0

BRIAN EBERSOLE
**Speaker of the
House of Representatives**

Passed by the Senate April 16, 1993
Yeas 41 Nays 0

JOEL PRITCHARD
President of the Senate

Approved May 12, 1993

MIKE LOWRY
Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1072** as passed by the House of Representatives and the Senate on the dates hereon set forth.

ALAN THOMPSON
Chief Clerk

FILED

May 12, 1993 - 10:14 a.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1072

AS AMENDED BY THE SENATE

Passed Legislature - 1993 Regular Session

State of Washington 53rd Legislature 1993 Regular Session

By House Committee on Judiciary (originally sponsored by Representatives Appelwick, Ludwig, Johanson and Ogden)

Read first time 02/19/93.

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.

1 (3) The (~~court~~) investigator shall mail the investigator's report
2 to counsel and to any party not represented by counsel at least ten
3 days prior to the hearing unless a shorter time is ordered by the court
4 for good cause shown. The investigator shall make available to counsel
5 and to any party not represented by counsel the investigator's file of
6 underlying data and reports, complete texts of diagnostic reports made
7 to the investigator pursuant to the provisions of subsection (2) of
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. Unless otherwise ordered, the guardian
5 ad litem's role is to investigate and report to the court concerning
6 parenting arrangements for the child, and to represent the child's best
7 interests. The court shall enter an order for costs, fees, and
8 disbursements to cover the costs of the guardian ad litem. The court
9 may order either or both parents to pay for the costs of the guardian
10 ad litem, according to their ability to pay. If both parents are
11 indigent, the county shall bear the cost of the guardian, subject to
12 appropriation for guardians' ad litem services by the county
13 legislative authority.

14 (2)(a) If the guardian ad litem appointed is from the county court-
15 appointed special advocate program, the program shall supervise any
16 guardian ad litem assigned to the case. The court-appointed special
17 advocate program shall be entitled to notice of all proceedings in the
18 case.

19 (b) The legislative authority of each county may authorize creation
20 of a court-appointed special advocate program. The county legislative
21 authority may adopt rules of eligibility for court-appointed special
22 advocate program services.

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

- 27 (a) Level of formal education;
- 28 (b) Training related to the guardian's duties;
- 29 (c) Number of years' experience as a guardian ad litem;
- 30 (d) Number of appointments as a guardian ad litem; and
- 31 (e) Criminal history, as defined in RCW 9.94A.030.

32 The background information report 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 the person shall provide the background information to the
37 court.

Passed the House April 20, 1993.
Passed the Senate April 16, 1993.
Approved by the Governor May 12, 1993.
Filed in Office of Secretary of State May 12, 1993.