

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2180

Chapter 110, Laws of 1994

53rd Legislature
1994 Regular Session

GUARDIANS AD LITEM

EFFECTIVE DATE: 6/9/94

Passed by the House February 11, 1994
Yeas 98 Nays 0

BRIAN EBERSOLE

**Speaker of the
House of Representatives**

Passed by the Senate March 3, 1994
Yeas 47 Nays 0

JOEL PRITCHARD

President of the Senate

Approved March 28, 1994

MIKE LOWRY

Governor of the State of Washington

CERTIFICATE

I, Marilyn Showalter, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2180** as passed by the House of Representatives and the Senate on the dates hereon set forth.

MARILYN SHOWALTER

Chief Clerk

FILED

March 28, 1994 - 11:16 a.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2180

Passed Legislature - 1994 Regular Session

State of Washington 53rd Legislature 1994 Regular Session

By House Committee on Judiciary (originally sponsored by Representatives H. Myers, Ogden, Thibaudeau and J. Kohl)

Read first time 02/04/94.

1 AN ACT Relating to appointment of guardians ad litem; and amending
2 RCW 26.44.053 and 13.34.100.

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

4 **Sec. 1.** RCW 26.44.053 and 1993 c 241 s 4 are each amended to read
5 as follows:

6 (1) In any (~~contested~~) judicial proceeding under this chapter or
7 chapter 13.34 RCW in which it is alleged that a child has been
8 subjected to child abuse or neglect, the court shall appoint a guardian
9 ad litem for the child(~~(:—PROVIDED, That)~~). The requirement of a
10 guardian ad litem may be deemed satisfied if the child is represented
11 by counsel in the proceedings.

12 (2) At any time prior to or during a hearing in such a case, the
13 court may, on its own motion, or the motion of the guardian ad litem,
14 or other parties, order the examination by a physician, psychologist,
15 or psychiatrist, of any parent or child or other person having custody
16 of the child at the time of the alleged child abuse or neglect, if the
17 court finds such an examination is necessary to the proper
18 determination of the case. The hearing may be continued pending the
19 completion of such examination. The physician, psychologist, or

1 psychiatrist conducting such an examination may be required to testify
2 concerning the results of such examination and may be asked to give his
3 or her opinion as to whether the protection of the child requires that
4 he or she not be returned to the custody of his or her parents or other
5 persons having custody of him or her at the time of the alleged child
6 abuse or neglect. Persons so testifying shall be subject to cross-
7 examination as are other witnesses. No information given at any such
8 examination of the parent or any other person having custody of the
9 child may be used against such person in any subsequent criminal
10 proceedings against such person or custodian concerning the abuse or
11 neglect of the child.

12 (3) A parent or other person having legal custody of a child
13 alleged to be abused or neglected shall be a party to any proceeding
14 that may impair or impede such person's interest in and custody or
15 control of the child.

16 **Sec. 2.** RCW 13.34.100 and 1993 c 241 s 2 are each amended to read
17 as follows:

18 (1) The court shall (~~in all contested cases~~) appoint a guardian
19 ad litem for a child who is the subject of an action under this
20 chapter, unless a court for good cause finds the appointment
21 unnecessary. (~~A guardian ad litem may be appointed at the discretion
22 of the court in uncontested proceedings.~~) The requirement of a
23 guardian ad litem (~~shall~~) may be deemed satisfied if the child is
24 represented by independent counsel in the proceedings.

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

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

- 34 (a) Level of formal education;
- 35 (b) Training related to the guardian's duties;
- 36 (c) Number of years' experience as a guardian ad litem;
- 37 (d) Number of appointments as a guardian ad litem; and
- 38 (e) Criminal history, as defined in RCW 9.94A.030.

1 The background information report shall be updated annually. As a
2 condition of appointment, the guardian ad litem's background
3 information record shall be made available to the court. If the
4 appointed guardian ad litem is not a member of a guardian ad litem
5 program the person shall provide the background information to the
6 court.

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

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

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

23 (7) For the purposes of child abuse prevention and treatment act
24 (42 U.S.C. Secs. 5101 et seq.) grants to this state under P.L. 93-247,
25 or any related state or federal legislation, a person appointed
26 pursuant to RCW 13.34.100 shall be deemed a guardian ad litem to
27 represent the best interests of the minor in proceedings before the
28 court.

Passed the House February 11, 1994.

Passed the Senate March 3, 1994.

Approved by the Governor March 28, 1994.

Filed in Office of Secretary of State March 28, 1994.