

2 **ESSB 6257** - H COMM AMD **ADOPTED 2-29-96**  
3 By Committee on Law & Justice

4

5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. **Sec. 1.** It is the intent of this act to make  
8 improvements to the guardian and guardian ad litem systems currently in  
9 place for the protection of minors and incapacitated persons.

10 **Sec. 2.** RCW 2.56.030 and 1994 c 240 s 1 are each amended to read  
11 as follows:

12 The administrator for the courts shall, under the supervision and  
13 direction of the chief justice:

14 (1) Examine the administrative methods and systems employed in the  
15 offices of the judges, clerks, stenographers, and employees of the  
16 courts and make recommendations, through the chief justice, for the  
17 improvement of the same;

18 (2) Examine the state of the dockets of the courts and determine  
19 the need for assistance by any court;

20 (3) Make recommendations to the chief justice relating to the  
21 assignment of judges where courts are in need of assistance and carry  
22 out the direction of the chief justice as to the assignments of judges  
23 to counties and districts where the courts are in need of assistance;

24 (4) Collect and compile statistical and other data and make reports  
25 of the business transacted by the courts and transmit the same to the  
26 chief justice to the end that proper action may be taken in respect  
27 thereto;

28 (5) Prepare and submit budget estimates of state appropriations  
29 necessary for the maintenance and operation of the judicial system and  
30 make recommendations in respect thereto;

31 (6) Collect statistical and other data and make reports relating to  
32 the expenditure of public moneys, state and local, for the maintenance  
33 and operation of the judicial system and the offices connected  
34 therewith;

1 (7) Obtain reports from clerks of courts in accordance with law or  
2 rules adopted by the supreme court of this state on cases and other  
3 judicial business in which action has been delayed beyond periods of  
4 time specified by law or rules of court and make report thereof to  
5 supreme court of this state;

6 (8) Act as secretary of the judicial conference referred to in RCW  
7 2.56.060;

8 (9) Formulate and submit to the judicial council of this state  
9 recommendations of policies for the improvement of the judicial system;

10 (10) Submit annually, as of February 1st, to the chief justice and  
11 the judicial council, a report of the activities of the administrator's  
12 office for the preceding calendar year;

13 (11) Administer programs and standards for the training and  
14 education of judicial personnel;

15 (12) Examine the need for new superior court and district judge  
16 positions under a weighted caseload analysis that takes into account  
17 the time required to hear all the cases in a particular court and the  
18 amount of time existing judges have available to hear cases in that  
19 court. The results of the weighted caseload analysis shall be reviewed  
20 by the board for judicial administration and the judicial council, both  
21 of which shall make recommendations to the legislature (~~by January 1,~~  
22 ~~1989~~). It is the intent of the legislature that weighted caseload  
23 analysis become the basis for creating additional district court  
24 positions, and recommendations should address that objective;

25 (13) Provide staff to the judicial retirement account plan under  
26 chapter 2.14 RCW;

27 (14) Attend to such other matters as may be assigned by the supreme  
28 court of this state;

29 (15) Within available funds, develop a curriculum for a general  
30 understanding of child development, placement, and treatment resources,  
31 as well as specific legal skills and knowledge of relevant statutes  
32 including chapters 13.32A, 13.34, and 13.40 RCW, cases, court rules,  
33 interviewing skills, and special needs of the abused or neglected  
34 child. This curriculum shall be completed and made available to all  
35 juvenile court judges, court personnel, and service providers (~~by July~~  
36 ~~1, 1988. The curriculum shall~~) and be updated yearly to reflect  
37 changes in statutes, court rules, or case law;

38 (16) Develop, in consultation with the entities set forth in  
39 section 3(3) of this act, a comprehensive state-wide curriculum for all

1 persons who act as paid guardians ad litem under Title 13 or 26 RCW.  
2 The curriculum shall be made available July 1, 1997, and include  
3 specialty sections on child development, child sexual abuse, child  
4 physical abuse, child neglect, clinical and forensic investigative and  
5 interviewing techniques, family reconciliation and mediation services  
6 and techniques, and relevant statutory and legal requirements. The  
7 curriculum shall be made available to all superior court judges, court  
8 personnel, and all persons who act as guardians ad litem;

9 (17) Develop a curriculum for a general understanding of crimes of  
10 malicious harassment, as well as specific legal skills and knowledge of  
11 RCW 9A.36.080, relevant cases, court rules, and the special needs of  
12 malicious harassment victims. This curriculum shall be (~~completed~~  
13 ~~and~~) made available to all superior court and court of appeals judges  
14 and to all justices of the supreme court (~~by July 1, 1989~~);

15 (~~(17)~~) (18) Develop, in consultation with the criminal justice  
16 training commission and the commissions established under chapters  
17 43.113, 43.115, and 43.117 RCW, a curriculum for a general  
18 understanding of ethnic and cultural diversity and its implications for  
19 working with youth of color and their families. The curriculum shall  
20 be (~~completed and made~~) available to all superior court judges and  
21 court commissioners assigned to juvenile court, and other court  
22 personnel (~~by October 1, 1993~~). Ethnic and cultural diversity  
23 training shall be provided annually so as to incorporate cultural  
24 sensitivity and awareness into the daily operation of juvenile courts  
25 state-wide;

26 (~~(18)~~) (19) Authorize the use of closed circuit television and  
27 other electronic equipment in judicial proceedings. The administrator  
28 shall promulgate necessary standards and procedures and shall provide  
29 technical assistance to courts as required.

30 NEW SECTION. Sec. 3. A new section is added to chapter 2.56 RCW  
31 to read as follows:

32 (1) The administrator for the courts shall review the advisability  
33 of the state-wide mandatory use of court-appointed special advocates as  
34 described in RCW 26.12.175 to act as guardians ad litem in appropriate  
35 cases under Titles 13 and 26 RCW. The review shall include  
36 recommendations regarding the increase of court fees or assessments as  
37 necessary to fully fund implementation and continuation of the possible  
38 state-wide use of court-appointed special advocates.

1 (2) The administrator shall also conduct a study on the feasibility  
2 and desirability of requiring all persons who act as guardians ad litem  
3 under Titles 11, 13, and 26 RCW to be certified as qualified guardians  
4 ad litem prior to their eligibility for appointment.

5 (3) In conducting the review and study the administrator shall  
6 consult with: (a) The presidents or directors of all public benefit  
7 nonprofit corporations that are eligible to receive state funds under  
8 RCW 43.330.135; (b) the attorney general, or a designee; (c) the  
9 secretary of the department of social and health services, or a  
10 designee; (d) the superior court judges association; (e) the Washington  
11 state bar association; (f) public defenders who represent children  
12 under Title 13 or 26 RCW; (g) private attorneys who represent parents  
13 under Title 13 or 26 RCW; (h) professionals who evaluate families for  
14 the purposes of determining the custody or placement decisions of  
15 children; (i) the office of financial management; (j) persons who act  
16 as volunteer or compensated guardians ad litem; and (k) parents who  
17 have dealt with guardians ad litem in court cases. For the purposes of  
18 studying the feasibility of a certification requirement for guardians  
19 ad litem acting under Title 11 RCW the administrator shall consult with  
20 the advisory group formed under RCW 11.88.090.

21 NEW SECTION. **Sec. 4.** The review and study required under section  
22 3 of this act shall be presented to the governor and to the legislature  
23 no later than December 1, 1996.

24 **Sec. 5.** RCW 4.08.060 and 1899 c 91 s 1 are each amended to read as  
25 follows:

26 When an (~~insane~~) incapacitated person, as defined in RCW  
27 11.88.010, is a party to an action in the superior courts he or she  
28 shall appear by guardian, or if he or she has no guardian, or in the  
29 opinion of the court the guardian is an improper person, the court  
30 shall appoint one to act as guardian ad litem. Said guardian shall be  
31 appointed as follows:

32 (1) When the (~~insane~~) incapacitated person is plaintiff, upon  
33 the application of a relative or friend of the (~~insane~~) incapacitated  
34 person.

35 (2) When the (~~insane~~) incapacitated person is defendant, upon the  
36 application of a relative or friend of such (~~insane~~) incapacitated  
37 person, such application shall be made within thirty days after the

1 service of summons if served in the state of Washington, and if served  
2 out of the state or service is made by publication, then such  
3 application shall be made within sixty days after the first publication  
4 of summons or within sixty days after the service out of the state. If  
5 no such application be made within the time above limited, application  
6 may be made by any party to the action.

7 **Sec. 6.** RCW 8.25.270 and 1977 ex.s. c 80 s 12 are each amended to  
8 read as follows:

9 When it ~~((shall))~~ appears in any petition or otherwise at any time  
10 during the proceedings for condemnation brought pursuant to chapters  
11 8.04, 8.08, 8.12, 8.16, 8.20, and 8.24 RCW~~((, each as now or hereafter  
12 amended,))~~ that any ~~((infant))~~ minor, or ~~((allegedly incompetent or  
13 disabled))~~ alleged incapacitated person, as defined in RCW 11.88.010,  
14 is interested in any property that is to be taken or damaged, the court  
15 shall appoint a guardian ad litem for ~~((such infant))~~ the minor or  
16 ~~((allegedly incompetent or disabled))~~ alleged incapacitated person to  
17 appear and assist in ~~((his, her or their))~~ the person's defense, unless  
18 a guardian or limited guardian has previously been appointed, in which  
19 case the duty to appear and assist shall be delegated to the properly  
20 qualified guardian or limited guardian. The court shall make such  
21 orders or decrees as it shall deem necessary to protect and secure the  
22 interest of the ~~((infant))~~ minor or ~~((allegedly incompetent or  
23 disabled))~~ alleged incapacitated person ~~((in the property sought to be  
24 condemned or the compensation which shall be awarded therefore)).~~

25 **Sec. 7.** RCW 11.16.083 and 1977 ex.s. c 234 s 1 are each amended to  
26 read as follows:

27 Notwithstanding any other provision of this title, no notice of any  
28 hearing in probate or probate proceeding need be given to any legally  
29 competent person who is interested in any hearing in any probate as an  
30 heir, legatee, or devisee of the decedent who has in person or by  
31 attorney waived in writing notice of such hearing or proceeding. Such  
32 waiver of notice may apply to either a specific hearing or proceeding,  
33 or to any and all hearings and proceedings to be held during the  
34 administration of the estate in which event such waiver of notice shall  
35 be of continuing effect unless subsequently revoked by the filing of a  
36 written notice of revocation of the waiver and the mailing of a copy  
37 thereof to the personal representative and his or her attorney. Unless

1 notice of a hearing is required to be given by publication, if all  
2 persons entitled to notice thereof shall have waived such notice, the  
3 court may hear the matter forthwith. A guardian of the estate or a  
4 guardian ad litem may make such waivers on behalf of (~~his~~  
5 ~~incompetent~~) an incapacitated person, as defined in RCW 11.88.010, and  
6 a trustee may make such waivers on behalf of any competent or  
7 (~~incompetent~~) incapacitated beneficiary of his or her trust. A  
8 consul or other representative of a foreign government, whose  
9 appearance has been entered as provided by law on behalf of any person  
10 residing in a foreign country, may make such waiver of notice on behalf  
11 of such person. Any person who submits to the jurisdiction of the  
12 court in any hearing shall be deemed to have waived notice thereof.

13 **Sec. 8.** RCW 11.88.030 and 1995 c 297 s 1 are each amended to read  
14 as follows:

15 (1) Any person or entity may petition for the appointment of a  
16 qualified person, trust company, national bank, or nonprofit  
17 corporation authorized in RCW 11.88.020 (~~as now or hereafter amended~~)  
18 as the guardian or limited guardian of an incapacitated person. No  
19 liability for filing a petition for guardianship or limited  
20 guardianship shall attach to a petitioner acting in good faith and upon  
21 reasonable basis. A petition for guardianship or limited guardianship  
22 shall state:

23 (a) The name, age, residence, and post office address of the  
24 alleged incapacitated person;

25 (b) The nature of the alleged incapacity in accordance with RCW  
26 11.88.010;

27 (c) The approximate value and description of property, including  
28 any compensation, pension, insurance, or allowance, to which the  
29 alleged incapacitated person may be entitled;

30 (d) Whether there is, in any state, a guardian or limited guardian,  
31 or pending guardianship action for the person or estate of the alleged  
32 incapacitated person;

33 (e) The residence and post office address of the person whom  
34 petitioner asks to be appointed guardian or limited guardian;

35 (f) The names and addresses, and nature of the relationship, so far  
36 as known or can be reasonably ascertained, of the persons most closely  
37 related by blood or marriage to the alleged incapacitated person;

1 (g) The name and address of the person or facility having the care  
2 and custody of the alleged incapacitated person;

3 (h) The reason why the appointment of a guardian or limited  
4 guardian is sought and the interest of the petitioner in the  
5 appointment, and whether the appointment is sought as guardian or  
6 limited guardian of the person, the estate, or both(~~(, and why no~~  
7 ~~alternative to guardianship is appropriate))~~);

8 (i) A description of any alternate arrangements previously made by  
9 the alleged incapacitated person, such as trusts or powers of attorney,  
10 including identifying any guardianship nominations contained in a power  
11 of attorney, and why a guardianship is nevertheless necessary;

12 (j) The nature and degree of the alleged incapacity and the  
13 specific areas of protection and assistance requested and the  
14 limitation of rights requested to be included in the court's order of  
15 appointment;

16 (~~(j)~~) (k) The requested term of the limited guardianship to be  
17 included in the court's order of appointment;

18 (~~(k)~~) (l) Whether the petitioner is proposing a specific  
19 individual to act as guardian ad litem and, if so, the individual's  
20 knowledge of or relationship to any of the parties, and why the  
21 individual is proposed.

22 (2)(a) The attorney general may petition for the appointment of a  
23 guardian or limited guardian in any case in which there is cause to  
24 believe that a guardianship is necessary and no private party is able  
25 and willing to petition.

26 (b) Prepayment of a filing fee shall not be required in any  
27 guardianship or limited guardianship brought by the attorney general.  
28 Payment of the filing fee shall be ordered from the estate of the  
29 incapacitated person at the hearing on the merits of the petition,  
30 unless in the judgment of the court, such payment would impose a  
31 hardship upon the incapacitated person, in which case the filing shall  
32 be waived.

33 (3) No filing fee shall be charged by the court for filing either  
34 a petition for guardianship or a petition for limited guardianship if  
35 the petition alleges that the alleged incapacitated person has total  
36 assets of a value of less than three thousand dollars.

37 (4)(a) Notice that a guardianship proceeding has been commenced  
38 shall be personally served upon the alleged incapacitated person and  
39 the guardian ad litem along with a copy of the petition for appointment

1 of a guardian. Such notice shall be served not more than five court  
2 days after the petition has been filed.

3 (b) Notice under this subsection shall include a clear and easily  
4 readable statement of the legal rights of the alleged incapacitated  
5 person that could be restricted or transferred to a guardian by a  
6 guardianship order as well as the right to counsel of choice and to a  
7 jury trial on the issue of incapacity. Such notice shall be in  
8 substantially the following form and shall be in capital letters,  
9 double-spaced, and in a type size not smaller than ten-point type:

10 IMPORTANT NOTICE  
11 PLEASE READ CAREFULLY

12 A PETITION TO HAVE A GUARDIAN APPOINTED FOR YOU HAS BEEN FILED IN THE  
13 . . . . . COUNTY SUPERIOR COURT BY . . . . . IF A GUARDIAN IS  
14 APPOINTED, YOU COULD LOSE ONE OR MORE OF THE FOLLOWING RIGHTS:

- 15 (1) TO MARRY OR DIVORCE;  
16 (2) TO VOTE OR HOLD AN ELECTED OFFICE;  
17 (3) TO ENTER INTO A CONTRACT OR MAKE OR REVOKE A WILL;  
18 (4) TO APPOINT SOMEONE TO ACT ON YOUR BEHALF;  
19 (5) TO SUE AND BE SUED OTHER THAN THROUGH A GUARDIAN;  
20 (6) TO POSSESS A LICENSE TO DRIVE;  
21 (7) TO BUY, SELL, OWN, MORTGAGE, OR LEASE PROPERTY;  
22 (8) TO CONSENT TO OR REFUSE MEDICAL TREATMENT;  
23 (9) TO DECIDE WHO SHALL PROVIDE CARE AND ASSISTANCE;  
24 (10) TO MAKE DECISIONS REGARDING SOCIAL ASPECTS OF YOUR LIFE.

25 UNDER THE LAW, YOU HAVE CERTAIN RIGHTS.

26 YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER OF YOUR OWN CHOOSING.  
27 THE COURT WILL APPOINT A LAWYER TO REPRESENT YOU IF YOU ARE UNABLE TO  
28 PAY OR PAYMENT WOULD RESULT IN A SUBSTANTIAL HARDSHIP TO YOU.

29 YOU HAVE THE RIGHT TO ASK FOR A JURY TO DECIDE WHETHER OR NOT YOU NEED  
30 A GUARDIAN TO HELP YOU.

31 YOU HAVE THE RIGHT TO BE PRESENT IN COURT AND TESTIFY WHEN THE HEARING  
32 IS HELD TO DECIDE WHETHER OR NOT YOU NEED A GUARDIAN.

33 (5) All petitions filed under the provisions of this section shall  
34 be heard within sixty days unless an extension of time is requested by  
35 a party or the guardian ad litem within such sixty day period and



1 granted for good cause shown. If an extension is granted, the court  
2 shall set a new hearing date.

3 **Sec. 9.** RCW 11.88.045 and 1995 c 297 s 3 are each amended to read  
4 as follows:

5 (1)(a) Alleged incapacitated individuals shall have the right to be  
6 represented by counsel of their choosing at any stage in guardianship  
7 proceedings. The court shall provide counsel to represent any alleged  
8 incapacitated person at public expense when either: (i) The individual  
9 is unable to afford counsel, or (ii) the expense of counsel would  
10 result in substantial hardship to the individual, or (iii) the  
11 individual does not have practical access to funds with which to pay  
12 counsel. If the individual can afford counsel but lacks practical  
13 access to funds, the court shall provide counsel and may impose a  
14 reimbursement requirement as part of a final order. When, in the  
15 opinion of the court, the rights and interests of an alleged or  
16 adjudicated incapacitated person cannot otherwise be adequately  
17 protected and represented, the court on its own motion shall appoint an  
18 attorney at any time to represent such person. Counsel shall be  
19 provided as soon as practicable after a petition is filed and long  
20 enough before any final hearing to allow adequate time for consultation  
21 and preparation. Absent a convincing showing in the record to the  
22 contrary, a period of less than three weeks shall be presumed by a  
23 reviewing court to be inadequate time for consultation and preparation.

24 (b) Counsel for an alleged incapacitated individual shall act as an  
25 advocate for the client and shall not substitute counsel's own judgment  
26 for that of the client on the subject of what may be in the client's  
27 best interests. Counsel's role shall be distinct from that of the  
28 guardian ad litem, who is expected to promote the best interest of the  
29 alleged incapacitated individual, rather than the alleged incapacitated  
30 individual's expressed preferences.

31 (c) If an alleged incapacitated person is represented by counsel  
32 and does not communicate with counsel, counsel may ask the court for  
33 leave to withdraw for that reason. If satisfied, after affording the  
34 alleged incapacitated person an opportunity for a hearing, that the  
35 request is justified, the court may grant the request and allow the  
36 case to proceed with the alleged incapacitated person unrepresented.

37 (2) During the pendency of any guardianship, any attorney  
38 purporting to represent a person alleged or adjudicated to be

1 incapacitated shall petition to be appointed to represent the  
2 incapacitated or alleged incapacitated person. Fees for representation  
3 described in this section shall be subject to approval by the court  
4 pursuant to the provisions of RCW 11.92.180.

5 (3) The alleged incapacitated person is further entitled to testify  
6 and present evidence and, upon request, entitled to a jury trial on the  
7 issues of his or her alleged incapacity. The standard of proof to be  
8 applied in a contested case, whether before a jury or the court, shall  
9 be that of clear, cogent, and convincing evidence.

10 (4) In all proceedings for appointment of a guardian or limited  
11 guardian, the court must be presented with a written report from a  
12 physician licensed to practice under chapter 18.71 or 18.57 RCW or  
13 licensed or certified psychologist selected by the guardian ad litem.  
14 If the alleged incapacitated person opposes the health care  
15 professional selected by the guardian ad litem to prepare the medical  
16 report, then the guardian ad litem must either use the health care  
17 professional selected by the alleged incapacitated person or obtain  
18 court approval, following a hearing, for the guardian ad litem's  
19 selection. The physician or psychologist shall have personally  
20 examined and interviewed the alleged incapacitated person within thirty  
21 days of preparation of the report to the court and shall have expertise  
22 in the type of disorder or incapacity the alleged incapacitated person  
23 is believed to have. The report shall contain the following  
24 information and shall be set forth in substantially the following  
25 format:

26 (a) The name and address of the examining physician or  
27 psychologist;

28 (b) The education and experience of the physician or psychologist  
29 pertinent to the case;

30 (c) The dates of examinations of the alleged incapacitated person;

31 (d) A summary of the relevant medical, functional, neurological,  
32 psychological, or psychiatric history of the alleged incapacitated  
33 person as known to the examining physician or psychologist;

34 (e) The findings of the examining physician or psychologist as to  
35 the condition of the alleged incapacitated person;

36 (f) Current medications;

37 (g) The effect of current medications on the alleged incapacitated  
38 person's ability to understand or participate in guardianship  
39 proceedings;

1 (h) Opinions on the specific assistance the alleged incapacitated  
2 person needs;

3 (i) Identification of persons with whom the physician or  
4 psychologist has met or spoken regarding the alleged incapacitated  
5 person.

6 The court shall not enter an order appointing a guardian or limited  
7 guardian until a medical or psychological report meeting the above  
8 requirements is filed.

9 The requirement of filing a medical report is waived if the basis  
10 of the guardianship is minority.

11 (5) During the pendency of an action to establish a guardianship,  
12 a petitioner or any person may move for temporary relief under chapter  
13 7.40 RCW, to protect the alleged incapacitated person from abuse,  
14 neglect, abandonment, or exploitation, as those terms are defined in  
15 RCW 74.34.020, or to address any other emergency needs of the alleged  
16 incapacitated person. Any alternative arrangement executed before  
17 filing the petition for guardianship shall remain effective unless the  
18 court grants the relief requested under chapter 7.40 RCW, or unless,  
19 following notice and a hearing at which all parties directly affected  
20 by the arrangement are present, the court finds by clear, cogent, and  
21 convincing evidence that the alternative arrangement should not remain  
22 effective.

23 **Sec. 10.** RCW 11.88.090 and 1995 c 297 s 4 are each amended to read  
24 as follows:

25 (1) Nothing contained in RCW 11.88.080 through 11.88.120, 11.92.010  
26 through 11.92.040, 11.92.060 through 11.92.120, 11.92.170, and  
27 11.92.180(~~(, as now or hereafter amended,)~~) shall affect or impair the  
28 power of any court to appoint a guardian ad litem to defend the  
29 interests of any incapacitated person interested in any suit or matter  
30 pending therein, or to commence and prosecute any suit in his or her  
31 behalf.

32 (2) Upon receipt of a petition for appointment of guardian or  
33 limited guardian, except as provided herein, the court shall appoint a  
34 guardian ad litem to represent the best interests of the alleged  
35 incapacitated person, who shall be a person found or known by the court  
36 to:

37 (a) Be free of influence from anyone interested in the result of  
38 the proceeding; and

1 (b) Have the requisite knowledge, training, or expertise to perform  
2 the duties required by this section.

3 The guardian ad litem shall within five days of receipt of notice  
4 of appointment file with the court and serve each party with a  
5 statement including: His or her background and qualifications; his or  
6 her hourly rate, if compensated; and whether or not he or she is or has  
7 been a guardian, a guardian ad litem, or an attorney in another action  
8 under Title 11, 13, or 26 RCW in which any of the attorneys for the  
9 parties were involved. Upon receipt of such statement, any party or  
10 the court may, within three days, move for substitution of the guardian  
11 ad litem upon a showing of lack of expertise necessary for the  
12 proceeding, an hourly rate higher than what is reasonable for the  
13 particular proceeding, or a conflict of interest.

14 No guardian ad litem need be appointed when a parent is petitioning  
15 for a guardian or a limited guardian to be appointed for his or her  
16 minor child and the minority of the child, as defined by RCW 11.92.010,  
17 is the sole basis of the petition. The order appointing the guardian  
18 ad litem shall recite the duties set forth in subsection ~~((+5))~~ (4) of  
19 this section. The appointment of a guardian ad litem shall have no  
20 effect on the legal competency of the alleged incapacitated person and  
21 shall not overcome the presumption of competency or full legal and  
22 civil rights of the alleged incapacitated person.

23 (3)(a) The superior court of each county shall develop ~~((by~~  
24 ~~September 1, 1991,))~~ and maintain a registry of persons who are willing  
25 and qualified to serve as guardians ad litem in guardianship matters.  
26 The court shall choose as guardian~~((s))~~ ad litem ~~((only))~~ a person~~((s))~~  
27 whose name~~((s))~~ appears on the registry in a system of consistent  
28 rotation, except in extraordinary circumstances such as the need for  
29 particular expertise. The court shall develop procedures for periodic  
30 review of the persons on the registry and for probation, suspension, or  
31 removal of persons on the registry for failure to perform properly  
32 their duties as guardian ad litem. In the event the court does not  
33 select the person next on the list, it shall include in the order of  
34 appointment a written reason for its decision.

35 (b) To be eligible for the registry a person shall:

36 (i) Present a written statement ~~((of))~~ outlining his or her  
37 background and qualifications ~~((describing))~~. The background statement  
38 shall include, but is not limited to, the following information:

39 (A) Level of formal education;

1        (B) Training related to the guardian's duties;  
2        (C) Number of years' experience as a guardian ad litem;  
3        (D) Number of appointments as a guardian ad litem and the county or  
4 counties of appointment;  
5        (E) Criminal history, as defined in RCW 9.94A.030; and  
6        (F) Evidence of the person's knowledge, training, and experience in  
7 each of the following: Needs of impaired elderly people, physical  
8 disabilities, mental illness, developmental disabilities, and other  
9 areas relevant to the needs of incapacitated persons, legal procedure,  
10 and the requirements of chapters 11.88 and 11.92 RCW.  
11        The written statement of qualifications shall include a statement  
12 of the number of times the guardian ad litem has been removed for  
13 failure to perform his or her duties as guardian ad litem; and  
14        (ii) Complete ~~((a training program adopted by the court, or, in the~~  
15 ~~absence of a locally adopted program, a candidate for inclusion upon~~  
16 ~~the registry shall have completed a))~~ the model training program as  
17 described in (d) of this subsection.  
18        (c) ~~((The superior court of each county shall approve training~~  
19 ~~programs designed to:~~  
20        (i) ~~Train otherwise qualified human service professionals in those~~  
21 ~~aspects of legal procedure and the requirements of chapters 11.88 and~~  
22 ~~11.92 RCW with which a guardian ad litem should be familiar;~~  
23        (ii) ~~Train otherwise qualified legal professionals in those aspects~~  
24 ~~of medicine, social welfare, and social service delivery systems with~~  
25 ~~which a guardian ad litem should be familiar.))~~ The background and  
26 qualification information shall be updated annually.  
27        (d) ~~((The superior court of each county may approve a guardian ad~~  
28 ~~litem training program on or before June 1, 1991.))~~ The department of  
29 social and health services ~~((, —aging— and —adult— services~~  
30 ~~administration,))~~ shall convene an advisory group to develop a model  
31 guardian ad litem training program and shall update the program  
32 biennially. The advisory group shall consist of representatives from  
33 consumer, advocacy, and professional groups knowledgeable in  
34 developmental disabilities, neurological impairment, physical  
35 disabilities, mental illness, aging, legal, court administration, the  
36 Washington state bar association, and other interested parties.  
37        (e) ~~((Any))~~ The superior court ~~((that has not adopted a guardian ad~~  
38 ~~litem training program by September 1, 1991,))~~ shall require  
39 utilization of ~~((a))~~ the model program developed by the advisory group

1 as described in (d) of this subsection, to assure that candidates  
2 applying for registration as a qualified guardian ad litem shall have  
3 satisfactorily completed training to attain these essential minimum  
4 qualifications to act as guardian ad litem.

5 ~~(4) ((The guardian ad litem's written statement of qualifications  
6 required by RCW 11.88.090(3)(b)(i) shall be made part of the record in  
7 each matter in which the person is appointed guardian ad litem.~~

8 ~~(5))~~ The guardian ad litem appointed pursuant to this section  
9 shall have the following duties:

10 (a) To meet and consult with the alleged incapacitated person as  
11 soon as practicable following appointment and explain, in language  
12 which such person can reasonably be expected to understand, the  
13 substance of the petition, the nature of the resultant proceedings, the  
14 person's right to contest the petition, the identification of the  
15 proposed guardian or limited guardian, the right to a jury trial on the  
16 issue of his or her alleged incapacity, the right to independent legal  
17 counsel as provided by RCW 11.88.045, and the right to be present in  
18 court at the hearing on the petition;

19 (b) To obtain a written report according to RCW 11.88.045; and such  
20 other written or oral reports from other qualified professionals as are  
21 necessary to permit the guardian ad litem to complete the report  
22 required by this section;

23 (c) To meet with the person whose appointment is sought as guardian  
24 or limited guardian and ascertain:

25 (i) The proposed guardian's knowledge of the duties, requirements,  
26 and limitations of a guardian; and

27 (ii) The steps the proposed guardian intends to take or has taken  
28 to identify and meet the needs of the alleged incapacitated person;

29 (d) To consult as necessary to complete the investigation and  
30 report required by this section with those known relatives, friends, or  
31 other persons the guardian ad litem determines have had a significant,  
32 continuing interest in the welfare of the alleged incapacitated person;

33 (e) To investigate alternate arrangements made, or which might be  
34 created, by or on behalf of the alleged incapacitated person, such as  
35 revocable or irrevocable trusts, or durable powers of attorney; whether  
36 good cause exists for any such arrangements to be discontinued; and why  
37 such arrangements should not be continued or created in lieu of a  
38 guardianship;

1       (f) To provide the court with a written report which shall include  
2 the following:

3       (i) A description of the nature, cause, and degree of incapacity,  
4 and the basis upon which this judgment was made;

5       (ii) A description of the needs of the incapacitated person for  
6 care and treatment, the probable residential requirements of the  
7 alleged incapacitated person and the basis upon which these findings  
8 were made;

9       (iii) An evaluation of the appropriateness of the guardian or  
10 limited guardian whose appointment is sought and a description of the  
11 steps the proposed guardian has taken or intends to take to identify  
12 and meet current and emerging needs of the incapacitated person;

13       (iv) A description of any alternative arrangements previously made  
14 by the alleged incapacitated person or which could be made, and whether  
15 and to what extent such alternatives should be used in lieu of a  
16 guardianship, and if the guardian ad litem is recommending  
17 discontinuation of any such arrangements, specific findings as to why  
18 such arrangements are contrary to the best interest of the alleged  
19 incapacitated person;

20       (v) A description of the abilities of the alleged incapacitated  
21 person and a recommendation as to whether a guardian or limited  
22 guardian should be appointed. If appointment of a limited guardian is  
23 recommended, the guardian ad litem shall recommend the specific areas  
24 of authority the limited guardian should have and the limitations and  
25 disabilities to be placed on the incapacitated person;

26       ~~((v))~~ (vi) An evaluation of the person's mental ability to  
27 rationally exercise the right to vote and the basis upon which the  
28 evaluation is made;

29       ~~((vi))~~ (vii) Any expression of approval or disapproval made by  
30 the alleged incapacitated person concerning the proposed guardian or  
31 limited guardian or guardianship or limited guardianship;

32       ~~((vii))~~ (viii) Identification of persons with significant  
33 interest in the welfare of the alleged incapacitated person who should  
34 be advised of their right to request special notice of proceedings  
35 pursuant to RCW 11.92.150; and

36       ~~((viii))~~ (ix) Unless independent counsel has appeared for the  
37 alleged incapacitated person, an explanation of how the alleged  
38 incapacitated person responded to the advice of the right to jury

1 trial, to independent counsel and to be present at the hearing on the  
2 petition.

3 Within forty-five days after notice of commencement of the  
4 guardianship proceeding has been served upon the guardian ad litem, and  
5 at least ~~((ten))~~ fifteen days before the hearing on the petition,  
6 ~~((unless an extension or reduction of time has been granted by the  
7 court for good cause,))~~ the guardian ad litem shall file its report and  
8 send a copy to the alleged incapacitated person and his or her counsel,  
9 spouse, all children not residing with a notified person, those persons  
10 described in ~~((e)(vii))~~ (f)(viii) of this subsection, and persons who  
11 have filed a request for special notice pursuant to RCW 11.92.150. If  
12 the guardian ad litem needs additional time to finalize his or her  
13 report, then the guardian ad litem shall petition the court for a  
14 postponement of the hearing or, with the consent of all other parties,  
15 an extension or reduction of time for filing the report. If the  
16 hearing does not occur within sixty days of filing the petition, then  
17 upon the two-month anniversary of filing the petition and on or before  
18 the same day of each following month until the hearing, the guardian ad  
19 litem shall file interim reports summarizing his or her activities on  
20 the proceeding during that time period as well as fees and costs  
21 incurred;

22 ~~((f))~~ (g) To advise the court of the need for appointment of  
23 counsel for the alleged incapacitated person within five court days  
24 after the meeting described in (a) of this subsection unless (i)  
25 counsel has appeared, (ii) the alleged incapacitated person  
26 affirmatively communicated a wish not to be represented by counsel  
27 after being advised of the right to representation and of the  
28 conditions under which court-provided counsel may be available, or  
29 (iii) the alleged incapacitated person was unable to communicate at all  
30 on the subject, and the guardian ad litem is satisfied that the alleged  
31 incapacitated person does not affirmatively desire to be represented by  
32 counsel.

33 ~~((6))~~ (5) If the petition is brought by an interested person or  
34 entity requesting the appointment of some other qualified person or  
35 entity and a prospective guardian or limited guardian cannot be found,  
36 the court shall order the guardian ad litem to investigate the  
37 availability of a possible guardian or limited guardian and to include  
38 the findings in a report to the court pursuant to ~~((RCW 11.88.090(5)(e)~~  
39 ~~as now or hereafter amended))~~ subsection (4)(f) of this section.



1       (6) The parties to the proceeding may file responses to the  
2 guardian ad litem report with the court and deliver such responses to  
3 the other parties and the guardian ad litem at any time up to the  
4 second day prior to the hearing. If a guardian ad litem fails to file  
5 his or her report in a timely manner, the hearing shall be continued to  
6 give the court and the parties at least fifteen days before the hearing  
7 to review the report. At any time during the proceeding upon motion of  
8 any party or on the court's own motion, the court may remove the  
9 guardian ad litem for failure to perform his or her duties as specified  
10 in this chapter, provided that the guardian ad litem shall have five  
11 days' notice of any motion to remove before the court enters such  
12 order. In addition, the court in its discretion may reduce a guardian  
13 ad litem's fee for failure to carry out his or her duties.

14       (7) The court appointed guardian ad litem shall have the authority,  
15 in the event that the alleged incapacitated person is in need of  
16 emergency life-saving medical services, and is unable to consent to  
17 such medical services due to incapacity pending the hearing on the  
18 petition to give consent for such emergency life-saving medical  
19 services on behalf of the alleged incapacitated person.

20       (8) The court appointed guardian ad litem shall have the authority,  
21 to move for temporary relief under chapter 7.40 RCW to protect the  
22 alleged incapacitated person from abuse, neglect, abandonment, or  
23 exploitation, as those terms are defined in RCW 74.34.020, or to  
24 address any other emergency needs of the alleged incapacitated person.  
25 Any alternative arrangement executed before filing the petition for  
26 guardianship shall remain effective unless the court grants the relief  
27 requested under chapter 7.40 RCW, or unless, following notice and a  
28 hearing at which all parties directly affected by the arrangement are  
29 present, the court finds by clear, cogent, and convincing evidence that  
30 the alternative arrangement should not remain effective.

31       (9) The guardian ad litem shall receive a fee determined by the  
32 court. The fee shall be charged to the alleged incapacitated person  
33 unless the court finds that such payment would result in substantial  
34 hardship upon such person, in which case the county shall be  
35 responsible for such costs: PROVIDED, That if no guardian or limited  
36 guardian is appointed the court may charge such fee to the petitioner  
37 or the alleged incapacitated person, or divide the fee, as it deems  
38 just; and if the petition is found to be frivolous or not brought in  
39 good faith, the guardian ad litem fee shall be charged to the

1 petitioner. The court shall not be required to provide for the payment  
2 of a fee to any salaried employee of a public agency.

3 ~~((+9))~~ (10) Upon the presentation of the guardian ad litem report  
4 and the entry of an order either dismissing the petition for  
5 appointment of guardian or limited guardian or appointing a guardian or  
6 limited guardian, the guardian ad litem shall be dismissed and shall  
7 have no further duties or obligations unless otherwise ordered by the  
8 court. If the court orders the guardian ad litem to perform further  
9 duties or obligations, they shall not be performed at county expense.

10 (11) The guardian ad litem shall appear in person at the final  
11 hearing on the petition unless all parties provide a written waiver of  
12 the requirement to appear.

13 (12) At any hearing the court may consider whether or not any  
14 person who acts as a fiduciary has breached a statutory or fiduciary  
15 duty or is unable to continue.

16 **Sec. 11.** RCW 11.92.190 and 1977 ex.s. c 309 s 14 are each amended  
17 to read as follows:

18 No residential treatment facility which provides nursing or other  
19 care may detain a person within such facility against their will. Any  
20 court order, other than an order issued in accordance with the  
21 involuntary treatment provisions of chapters 10.77, 71.05, and 72.23  
22 RCW, which purports to authorize such involuntary detention or purports  
23 to authorize a guardian or limited guardian to consent to such  
24 involuntary detention on behalf of an ~~((incompetent or disabled))~~  
25 incapacitated person shall be void and of no force or effect. This  
26 section does not apply to the detention of a minor as provided in  
27 chapter 70.96A or 71.34 RCW.

28 Nothing in this section shall be construed to require a court order  
29 authorizing placement of an ~~((incompetent or disabled))~~ incapacitated  
30 person in a residential treatment facility if such order is not  
31 otherwise required by law: PROVIDED, That notice of any residential  
32 placement of an ~~((incompetent or disabled))~~ incapacitated person shall  
33 be served, either before or after placement, by the guardian or limited  
34 guardian on such person, the guardian ad litem of record, and any  
35 attorney of record.

36 NEW SECTION. **Sec. 12.** A new section is added to chapter 2.08 RCW  
37 to read as follows:

1 In judicial districts with a population of more than six hundred  
2 thousand, attorneys may not serve as a superior court judge pro tempore  
3 or commissioner pro tempore while appointed to or serving on a case as  
4 a guardian ad litem for compensation under Title 11, 13, or 26 RCW.

5 **Sec. 13.** RCW 13.34.100 and 1994 c 110 s 2 are each amended to read  
6 as follows:

7 (1) The court shall appoint a guardian ad litem for a child who is  
8 the subject of an action under this chapter, unless a court for good  
9 cause finds the appointment unnecessary. The requirement of a guardian  
10 ad litem may be deemed satisfied if the child is represented by  
11 independent counsel in the proceedings.

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

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

21 (a) Level of formal education;

22 (b) Training related to the guardian's duties;

23 (c) Number of years' experience as a guardian ad litem;

24 (d) Number of appointments as a guardian ad litem and the county or  
25 counties of appointment; and

26 (e) Criminal history, as defined in RCW 9.94A.030. The background  
27 statement shall not include identifying information that may be used to  
28 harm a guardian ad litem, such as home addresses and home telephone  
29 numbers, and for volunteer guardians ad litem the court may allow the  
30 use of maiden names or pseudonyms as necessary for their safety.

31 The background information report shall be updated annually. As a  
32 condition of appointment, the guardian ad litem's background  
33 information record shall be made available to the court. If the  
34 appointed guardian ad litem is not a member of a guardian ad litem  
35 program the person shall provide the background information directly to  
36 the court. Paid guardians ad litem also shall immediately provide the  
37 background information record to the parties or their attorneys. If a  
38 guardian ad litem or court-appointed special advocate is a member of a

1 volunteer program, a party or the party's attorney may file a motion  
2 requesting the background information for good cause. The moving party  
3 must notify the other parties and the program of the motion and any  
4 hearing on the motion according to applicable court rules. Upon a  
5 showing of good cause for allowing the moving party access to the  
6 background information, the court shall grant the motion.

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.

29 (8) When a volunteer guardian ad litem or a court-appointed special  
30 advocate is ordered on a case, the program shall give the court the  
31 name of the person assigned and the assignment shall be effective  
32 immediately. Pending the assignment of a volunteer guardian ad litem  
33 or court-appointed special advocate, the volunteer guardian ad litem  
34 program may serve as the guardian ad litem. If a party reasonably  
35 believes the court-appointed special advocate or volunteer guardian ad  
36 litem is incompetent, the party may request a review of the appointment  
37 by the program upon a showing of good cause. The program shall  
38 complete the review within five judicial days. If the party seeking  
39 review is not satisfied with the outcome of the review, the party may

1 file a motion with the court for the removal of the court-appointed  
2 special advocate or volunteer guardian ad litem.

3 **Sec. 14.** RCW 13.34.120 and 1994 c 288 s 2 are each amended to read  
4 as follows:

5 (1) To aid the court in its decision on disposition, a social  
6 study, consisting of a written evaluation of matters relevant to the  
7 disposition of the case, shall be made by the person or agency filing  
8 the petition. The study shall include all social records and may also  
9 include facts relating to the child's cultural heritage, and shall be  
10 made available to the court. The court shall consider the social file,  
11 social study, guardian ad litem report, the court-appointed special  
12 advocate's report, if any, and any reports filed by a party at the  
13 disposition hearing in addition to evidence produced at the fact-  
14 finding hearing. At least ten working days before the disposition  
15 hearing, the department shall mail to the parent and his or her  
16 attorney a copy of the agency's social study and proposed service plan,  
17 which shall be in writing or in a form understandable to the parents or  
18 custodians. In addition, the department shall provide an opportunity  
19 for parents to review and comment on the plan at the community service  
20 office. If the parents disagree with the agency's plan or any part  
21 thereof, the parents shall submit to the court at least twenty-four  
22 hours before the hearing, in writing, or signed oral statement, an  
23 alternative plan to correct the problems which led to the finding of  
24 dependency. This section shall not interfere with the right of the  
25 parents or custodians to submit oral arguments regarding the  
26 disposition plan at the hearing.

27 (2) In addition to the requirements set forth in subsection (1) of  
28 this section, a predisposition study to the court in cases of  
29 dependency alleged pursuant to RCW (~~13.34.030(2)~~) 13.34.030(4) (b) or  
30 (c) shall contain the following information:

31 (a) A statement of the specific harm or harms to the child that  
32 intervention is designed to alleviate;

33 (b) A description of the specific programs, for both the parents  
34 and child, that are needed in order to prevent serious harm to the  
35 child; the reasons why such programs are likely to be useful; the  
36 availability of any proposed services; and the agency's overall plan  
37 for ensuring that the services will be delivered;

1 (c) If removal is recommended, a full description of the reasons  
2 why the child cannot be protected adequately in the home, including a  
3 description of any previous efforts to work with the parents and the  
4 child in the home; the in-home treatment programs which have been  
5 considered and rejected; the preventive services that have been offered  
6 or provided and have failed to prevent the need for out-of-home  
7 placement, unless the health, safety, and welfare of the child cannot  
8 be protected adequately in the home; and the parents' attitude toward  
9 placement of the child;

10 (d) A statement of the likely harms the child will suffer as a  
11 result of removal. This section should include an exploration of the  
12 nature of the parent-child attachment and the meaning of separation and  
13 loss to both the parents and the child;

14 (e) A description of the steps that will be taken to minimize harm  
15 to the child that may result if separation occurs; and

16 (f) Behavior that will be expected before determination that  
17 supervision of the family or placement is no longer necessary.

18 **Sec. 15.** RCW 26.12.175 and 1993 c 289 s 4 are each amended to read  
19 as follows:

20 (1)(a) The court may appoint a guardian ad litem to represent the  
21 interests of a minor or dependent child when the court believes the  
22 appointment of a guardian ad litem is necessary to protect the best  
23 interests of the child in any proceeding under this chapter. The  
24 family court services professionals may also make a recommendation to  
25 the court regarding whether a guardian ad litem should be appointed for  
26 the child. The court may appoint a guardian ad litem from the court-  
27 appointed special advocate program, if that program exists in the  
28 county.

29 (b) Unless otherwise ordered, the guardian ad litem's role is to  
30 investigate and report to the court concerning parenting arrangements  
31 for the child, and to represent the child's best interests. The court  
32 may require the guardian ad litem to provide periodic reports to the  
33 parties regarding the status of his or her investigation. The guardian  
34 ad litem shall file his or her report at least sixty days prior to  
35 trial.

36 (c) The court shall enter an order for costs, fees, and  
37 disbursements to cover the costs of the guardian ad litem. The court  
38 may order either or both parents to pay for the costs of the guardian

1 ad litem, according to their ability to pay. If both parents are  
2 indigent, the county shall bear the cost of the guardian, subject to  
3 appropriation for guardians' ad litem services by the county  
4 legislative authority. Guardians ad litem who are not volunteers shall  
5 provide the parties with an itemized accounting of their time and  
6 billing for services each month.

7 (2)(a) If the guardian ad litem appointed is from the county court-  
8 appointed special advocate program, the program shall supervise any  
9 guardian ad litem assigned to the case. The court-appointed special  
10 advocate program shall be entitled to notice of all proceedings in the  
11 case.

12 (b) The legislative authority of each county may authorize creation  
13 of a court-appointed special advocate program. The county legislative  
14 authority may adopt rules of eligibility for court-appointed special  
15 advocate program services.

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

20 (a) Level of formal education;

21 (b) Training related to the guardian's duties;

22 (c) Number of years' experience as a guardian ad litem;

23 (d) Number of appointments as a guardian ad litem and county or  
24 counties of appointment; and

25 (e) Criminal history, as defined in RCW 9.94A.030. The background  
26 statement shall not include identifying information that may be used to  
27 harm a guardian ad litem, such as home addresses and home telephone  
28 numbers, and for volunteer guardians ad litem the court may allow the  
29 use of maiden names or pseudonyms as necessary for their safety.

30 The background information report shall be updated annually. As a  
31 condition of appointment, the guardian ad litem's background  
32 information record shall be made available to the court. If the  
33 appointed guardian ad litem is not a member of a guardian ad litem  
34 program the person shall provide the background information to the  
35 court. Paid guardians ad litem also shall immediately provide the  
36 background information record to the parties or their attorneys. If a  
37 guardian ad litem or court-appointed special advocate is a member of a  
38 volunteer program, a party or the party's attorney may file a motion  
39 requesting the background information for good cause. The moving party

1 must notify the other parties and the program of the motion and any  
2 hearing on the motion according to applicable court rules. Upon a  
3 showing of good cause for allowing the moving party access to the  
4 background information, the court shall grant the motion.

5 (4) When a volunteer guardian ad litem or a court-appointed special  
6 advocate is ordered on a case, the program shall give the court the  
7 name of the person assigned and the assignment shall be effective  
8 immediately. Pending the assignment of a volunteer guardian ad litem  
9 or court-appointed special advocate, the volunteer guardian ad litem  
10 program may serve as the guardian ad litem. If a party reasonably  
11 believes the court-appointed special advocate or volunteer guardian ad  
12 litem is incompetent, the party may request a review of the appointment  
13 by the program upon a showing of good cause. The program shall  
14 complete the review within five judicial days. If the party seeking  
15 review is not satisfied with the outcome of the review, the party may  
16 file a motion with the court for the removal of the court-appointed  
17 special advocate or volunteer guardian ad litem.

18 **Sec. 16.** RCW 26.44.053 and 1994 c 110 s 1 are each amended to read  
19 as follows:

20 (1) In any judicial proceeding under this chapter or chapter 13.34  
21 RCW in which it is alleged that a child has been subjected to child  
22 abuse or neglect, the court shall appoint a guardian ad litem for the  
23 child as provided in chapter 13.34 RCW. The requirement of a guardian  
24 ad litem may be deemed satisfied if the child is represented by counsel  
25 in the proceedings.

26 (2) At any time prior to or during a hearing in such a case, the  
27 court may, on its own motion, or the motion of the guardian ad litem,  
28 or other parties, order the examination by a physician, psychologist,  
29 or psychiatrist, of any parent or child or other person having custody  
30 of the child at the time of the alleged child abuse or neglect, if the  
31 court finds such an examination is necessary to the proper  
32 determination of the case. The hearing may be continued pending the  
33 completion of such examination. The physician, psychologist, or  
34 psychiatrist conducting such an examination may be required to testify  
35 concerning the results of such examination and may be asked to give his  
36 or her opinion as to whether the protection of the child requires that  
37 he or she not be returned to the custody of his or her parents or other  
38 persons having custody of him or her at the time of the alleged child



1 abuse or neglect. Persons so testifying shall be subject to cross-  
2 examination as are other witnesses. No information given at any such  
3 examination of the parent or any other person having custody of the  
4 child may be used against such person in any subsequent criminal  
5 proceedings against such person or custodian concerning the abuse or  
6 neglect of the child.

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

11 NEW SECTION. **Sec. 17.** A new section is added to chapter 13.34 RCW  
12 to read as follows:

13 (1) All paid guardians ad litem appointed under this chapter, after  
14 January 1, 1998, shall have completed the comprehensive state-wide  
15 curriculum developed by the office of the administrator for the courts,  
16 under RCW 2.56.030(16), prior to their appointment.

17 (2)(a) Each guardian ad litem program for compensated guardians ad  
18 litem shall establish a rotational registry system for the appointment  
19 of guardians ad litem. If a judicial district does not have a program  
20 the court shall establish the rotational registry system. Guardians ad  
21 litem shall be selected from the registry except in exceptional  
22 circumstances as determined and documented by the court. The parties  
23 may make a joint recommendation for the appointment of a guardian ad  
24 litem from the registry.

25 (b) In judicial districts with a population over one hundred  
26 thousand, a list of three names shall be selected from the registry and  
27 given to the parties along with the background information as specified  
28 in RCW 13.34.100(3), including their hourly rate for services. Each  
29 party may, within three judicial days, strike one name from the list.  
30 If more than one name remains on the list, the court shall make the  
31 appointment from the names on the list. In the event all three names  
32 are stricken the person whose name appears next on the registry shall  
33 be appointed.

34 (c) If a party reasonably believes that the appointed guardian ad  
35 litem lacks the necessary expertise for the proceeding, charges an  
36 hourly rate higher than what is reasonable for the particular  
37 proceeding, or has a conflict of interest, the party may, within three

1 judicial days from the appointment, move for substitution of the  
2 appointed guardian ad litem by filing a motion with the court.

3 (3) The rotational registry system shall not apply to court-  
4 appointed special advocate programs.

5 NEW SECTION. **Sec. 18.** A new section is added to chapter 26.12 RCW  
6 to read as follows:

7 (1) All paid guardians ad litem appointed under this chapter, after  
8 January 1, 1998, shall have completed the comprehensive state-wide  
9 curriculum developed by the office of the administrator for the courts,  
10 under RCW 2.56.030(16), prior to their appointment.

11 (2)(a) Each guardian ad litem program for compensated guardians ad  
12 litem shall establish a rotational registry system for the appointment  
13 of guardians ad litem. If a judicial district does not have a program  
14 the court shall establish the rotational registry system. Guardians ad  
15 litem shall be selected from the registry except in exceptional  
16 circumstances as determined and documented by the court. The parties  
17 may make a joint recommendation for the appointment of a guardian ad  
18 litem from the registry.

19 (b) In judicial districts with a population over one hundred  
20 thousand, a list of three names shall be selected from the registry and  
21 given to the parties along with the background information as specified  
22 in RCW 26.12.175(3), including their hourly rate for services. Each  
23 party may, within three judicial days, strike one name from the list.  
24 If more than one name remains on the list, the court shall make the  
25 appointment from the names on the list. In the event all three names  
26 are stricken the person whose name appears next on the registry shall  
27 be appointed.

28 (c) If a party reasonably believes that the appointed guardian ad  
29 litem lacks the necessary expertise for the proceeding, charges an  
30 hourly rate higher than what is reasonable for the particular  
31 proceeding, or has a conflict of interest, the party may, within three  
32 judicial days from the appointment, move for substitution of the  
33 appointed guardian ad litem by filing a motion with the court.

34 (3) The rotational registry system shall not apply to court-  
35 appointed special advocate programs."

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