

2 **ESSB 6257** - CONF REPT
3 By Conference Committee

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

1 persons who act as guardians ad litem under Title 13 or 26 RCW. The
2 curriculum shall be made available July 1, 1997, and include specialty
3 sections on child development, child sexual abuse, child physical
4 abuse, child neglect, clinical and forensic investigative and
5 interviewing techniques, family reconciliation and mediation services,
6 and relevant statutory and legal requirements. The curriculum shall be
7 made available to all superior court judges, court personnel, and all
8 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 and feasibility of the state-wide mandatory use of court-appointed
34 special advocates as described in RCW 26.12.175 to act as guardians ad
35 litem in appropriate cases under Titles 13 and 26 RCW. The review must
36 explore the feasibility of obtaining various sources of private and
37 public funding to implement state-wide mandatory use of court-appointed

1 special advocates, such as grants and donations, instead of or in
2 combination with raising court fees or assessments.

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

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

23 (4) The office of the administrator for the courts shall also
24 conduct a review of problems and concerns about the role of guardians
25 ad litem in actions under Titles 11, 13, and 26 RCW and recommend
26 alternatives to strengthen judicial oversight of guardians ad litem and
27 ensure fairness and impartiality of the process. The office of the
28 administrator for the courts must accept and obtain comments from
29 parties designated in subsection (3) of this section.

30 NEW SECTION. **Sec. 4.** The review and study required under section
31 3 of this act shall be presented to the governor and to the legislature
32 no later than December 1, 1996.

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

35 When an ((insane)) incapacitated person is a party to an action in
36 the superior courts he or she shall appear by guardian, or if he or she
37 has no guardian, or in the opinion of the court the guardian is an

1 improper person, the court shall appoint one to act as guardian ad
2 litem. Said guardian shall be appointed as follows:

3 (1) When the ((insane)) incapacitated person is plaintiff, upon
4 the application of a relative or friend of the ((insane)) incapacitated
5 person.

6 (2) When the ((insane)) incapacitated person is defendant, upon the
7 application of a relative or friend of such ((insane)) incapacitated
8 person, such application shall be made within thirty days after the
9 service of summons if served in the state of Washington, and if served
10 out of the state or service is made by publication, then such
11 application shall be made within sixty days after the first publication
12 of summons or within sixty days after the service out of the state. If
13 no such application be made within the time above limited, application
14 may be made by any party to the action.

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

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

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

35 Notwithstanding any other provision of this title, no notice of any
36 hearing in probate or probate proceeding need be given to any legally
37 competent person who is interested in any hearing in any probate as an

1 heir, legatee, or devisee of the decedent who has in person or by
2 attorney waived in writing notice of such hearing or proceeding. Such
3 waiver of notice may apply to either a specific hearing or proceeding,
4 or to any and all hearings and proceedings to be held during the
5 administration of the estate in which event such waiver of notice shall
6 be of continuing effect unless subsequently revoked by the filing of a
7 written notice of revocation of the waiver and the mailing of a copy
8 thereof to the personal representative and his or her attorney. Unless
9 notice of a hearing is required to be given by publication, if all
10 persons entitled to notice thereof shall have waived such notice, the
11 court may hear the matter forthwith. A guardian of the estate or a
12 guardian ad litem may make such waivers on behalf of (~~his~~
13 ~~incompetent~~) an incapacitated person, as defined in RCW 11.88.010, and
14 a trustee may make such waivers on behalf of any competent or
15 (~~incompetent~~) incapacitated beneficiary of his or her trust. A
16 consul or other representative of a foreign government, whose
17 appearance has been entered as provided by law on behalf of any person
18 residing in a foreign country, may make such waiver of notice on behalf
19 of such person. Any person who submits to the jurisdiction of the
20 court in any hearing shall be deemed to have waived notice thereof.

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

23 (1) Any person or entity may petition for the appointment of a
24 qualified person, trust company, national bank, or nonprofit
25 corporation authorized in RCW 11.88.020 (~~as now or hereafter amended~~)
26 as the guardian or limited guardian of an incapacitated person. No
27 liability for filing a petition for guardianship or limited
28 guardianship shall attach to a petitioner acting in good faith and upon
29 reasonable basis. A petition for guardianship or limited guardianship
30 shall state:

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

33 (b) The nature of the alleged incapacity in accordance with RCW
34 11.88.010;

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

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

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

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

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

11 (h) The reason why the appointment of a guardian or limited
12 guardian is sought and the interest of the petitioner in the
13 appointment, and whether the appointment is sought as guardian or
14 limited guardian of the person, the estate, or both(~~(, and why no~~
15 ~~alternative to guardianship is appropriate))~~);

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

20 (j) The nature and degree of the alleged incapacity and the
21 specific areas of protection and assistance requested and the
22 limitation of rights requested to be included in the court's order of
23 appointment;

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

26 ~~((+k))~~ (l) Whether the petitioner is proposing a specific
27 individual to act as guardian ad litem and, if so, the individual's
28 knowledge of or relationship to any of the parties, and why the
29 individual is proposed.

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

34 (b) Prepayment of a filing fee shall not be required in any
35 guardianship or limited guardianship brought by the attorney general.
36 Payment of the filing fee shall be ordered from the estate of the
37 incapacitated person at the hearing on the merits of the petition,
38 unless in the judgment of the court, such payment would impose a

1 hardship upon the incapacitated person, in which case the filing shall
2 be waived.

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

7 (4)(a) Notice that a guardianship proceeding has been commenced
8 shall be personally served upon the alleged incapacitated person and
9 the guardian ad litem along with a copy of the petition for appointment
10 of a guardian. Such notice shall be served not more than five court
11 days after the petition has been filed.

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

19 IMPORTANT NOTICE
20 PLEASE READ CAREFULLY

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

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

34 UNDER THE LAW, YOU HAVE CERTAIN RIGHTS.

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

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

6 YOU HAVE THE RIGHT TO BE PRESENT IN COURT AND TESTIFY WHEN THE HEARING
7 IS HELD TO DECIDE WHETHER OR NOT YOU NEED A GUARDIAN. IF A GUARDIAN AD
8 LITEM IS APPOINTED, YOU HAVE THE RIGHT TO REQUEST THE COURT TO REPLACE
9 THAT PERSON.

10 (5) All petitions filed under the provisions of this section shall
11 be heard within sixty days unless an extension of time is requested by
12 a party or the guardian ad litem within such sixty day period and
13 granted for good cause shown. If an extension is granted, the court
14 shall set a new hearing date.

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

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

36 (b) Counsel for an alleged incapacitated individual shall act as an
37 advocate for the client and shall not substitute counsel's own judgment

1 for that of the client on the subject of what may be in the client's
2 best interests. Counsel's role shall be distinct from that of the
3 guardian ad litem, who is expected to promote the best interest of the
4 alleged incapacitated individual, rather than the alleged incapacitated
5 individual's expressed preferences.

6 (c) If an alleged incapacitated person is represented by counsel
7 and does not communicate with counsel, counsel may ask the court for
8 leave to withdraw for that reason. If satisfied, after affording the
9 alleged incapacitated person an opportunity for a hearing, that the
10 request is justified, the court may grant the request and allow the
11 case to proceed with the alleged incapacitated person unrepresented.

12 (2) During the pendency of any guardianship, any attorney
13 purporting to represent a person alleged or adjudicated to be
14 incapacitated shall petition to be appointed to represent the
15 incapacitated or alleged incapacitated person. Fees for representation
16 described in this section shall be subject to approval by the court
17 pursuant to the provisions of RCW 11.92.180.

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

23 (4) In all proceedings for appointment of a guardian or limited
24 guardian, the court must be presented with a written report from a
25 physician licensed to practice under chapter 18.71 or 18.57 RCW or
26 licensed or certified psychologist selected by the guardian ad litem.
27 If the alleged incapacitated person opposes the health care
28 professional selected by the guardian ad litem to prepare the medical
29 report, then the guardian ad litem shall use the health care
30 professional selected by the alleged incapacitated person. The
31 guardian ad litem may also obtain a supplemental examination. The
32 physician or psychologist shall have personally examined and
33 interviewed the alleged incapacitated person within thirty days of
34 preparation of the report to the court and shall have expertise in the
35 type of disorder or incapacity the alleged incapacitated person is
36 believed to have. The report shall contain the following information
37 and shall be set forth in substantially the following format:

38 (a) The name and address of the examining physician or
39 psychologist;

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

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

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

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

9 (f) Current medications;

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

13 (h) Opinions on the specific assistance the alleged incapacitated
14 person needs;

15 (i) Identification of persons with whom the physician or
16 psychologist has met or spoken regarding the alleged incapacitated
17 person.

18 The court shall not enter an order appointing a guardian or limited
19 guardian until a medical or psychological report meeting the above
20 requirements is filed.

21 The requirement of filing a medical report is waived if the basis
22 of the guardianship is minority.

23 (5) During the pendency of an action to establish a guardianship,
24 a petitioner or any person may move for temporary relief under chapter
25 7.40 RCW, to protect the alleged incapacitated person from abuse,
26 neglect, abandonment, or exploitation, as those terms are defined in
27 RCW 74.34.020, or to address any other emergency needs of the alleged
28 incapacitated person. Any alternative arrangement executed before
29 filing the petition for guardianship shall remain effective unless the
30 court grants the relief requested under chapter 7.40 RCW, or unless,
31 following notice and a hearing at which all parties directly affected
32 by the arrangement are present, the court finds that the alternative
33 arrangement should not remain effective.

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

36 (1) Nothing contained in RCW 11.88.080 through 11.88.120, 11.92.010
37 through 11.92.040, 11.92.060 through 11.92.120, 11.92.170, and
38 11.92.180(~~(, as now or hereafter amended,)~~) shall affect or impair the

1 power of any court to appoint a guardian ad litem to defend the
2 interests of any incapacitated person interested in any suit or matter
3 pending therein, or to commence and prosecute any suit in his or her
4 behalf.

5 (2) Upon receipt of a petition for appointment of guardian or
6 limited guardian, except as provided herein, the court shall appoint a
7 guardian ad litem to represent the best interests of the alleged
8 incapacitated person, who shall be a person found or known by the court
9 to:

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

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

14 The guardian ad litem shall within five days of receipt of notice
15 of appointment file with the court and serve, either personally or by
16 certified mail with return receipt, each party with a statement
17 including: His or her training relating to the duties as a guardian ad
18 litem; his or her criminal history as defined in RCW 9.94A.030 for the
19 period covering ten years prior to the appointment; his or her hourly
20 rate, if compensated; whether the guardian ad litem has had any contact
21 with a party to the proceeding prior to his or her appointment; and
22 whether he or she has an apparent conflict of interest. Within three
23 days of the later of the actual service or filing of the guardian ad
24 litem's statement, any party may set a hearing and file and serve a
25 motion for an order to show cause why the guardian ad litem should not
26 be removed for one of the following three reasons: (i) Lack of
27 expertise necessary for the proceeding; (ii) an hourly rate higher than
28 what is reasonable for the particular proceeding; or (iii) a conflict
29 of interest. Notice of the hearing shall be provided to the guardian
30 ad litem and all parties. If, after a hearing, the court enters an
31 order replacing the guardian ad litem, findings shall be included,
32 expressly stating the reasons for the removal. If the guardian ad
33 litem is not removed, the court has the authority to assess to the
34 moving party, attorneys' fees and costs related to the motion. The
35 court shall assess attorneys' fees and costs for frivolous motions.

36 No guardian ad litem need be appointed when a parent is petitioning
37 for a guardian or a limited guardian to be appointed for his or her
38 minor child and the minority of the child, as defined by RCW 11.92.010,
39 is the sole basis of the petition. The order appointing the guardian

1 ad litem shall recite the duties set forth in subsection ~~((+5))~~ (4) of
2 this section. The appointment of a guardian ad litem shall have no
3 effect on the legal competency of the alleged incapacitated person and
4 shall not overcome the presumption of competency or full legal and
5 civil rights of the alleged incapacitated person.

6 (3)(a) The superior court of each county shall develop ~~((by~~
7 ~~September 1, 1991,))~~ and maintain a registry of persons who are willing
8 and qualified to serve as guardians ad litem in guardianship matters.
9 The court shall choose as guardian~~((s))~~ ad litem ~~((only))~~ a person~~((s))~~
10 whose name~~((s))~~ appears on the registry in a system of consistent
11 rotation, except in extraordinary circumstances such as the need for
12 particular expertise. The court shall develop procedures for periodic
13 review of the persons on the registry and for probation, suspension, or
14 removal of persons on the registry for failure to perform properly
15 their duties as guardian ad litem. In the event the court does not
16 select the person next on the list, it shall include in the order of
17 appointment a written reason for its decision.

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

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

22 (A) Level of formal education;

23 (B) Training related to the guardian ad litem's duties;

24 (C) Number of years' experience as a guardian ad litem;

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

27 (E) Criminal history, as defined in RCW 9.94A.030; and

28 (F) Evidence of the person's knowledge, training, and experience in
29 each of the following: Needs of impaired elderly people, physical
30 disabilities, mental illness, developmental disabilities, and other
31 areas relevant to the needs of incapacitated persons, legal procedure,
32 and the requirements of chapters 11.88 and 11.92 RCW.

33 The written statement of qualifications shall include a statement
34 of the number of times the guardian ad litem has been removed for
35 failure to perform his or her duties as guardian ad litem; and

36 (ii) Complete ~~((a training program adopted by the court, or, in the~~
37 ~~absence of a locally adopted program, a candidate for inclusion upon~~
38 ~~the registry shall have completed a))~~ the model training program as
39 described in (d) of this subsection.

1 (c) (~~The superior court of each county shall approve training~~
2 ~~programs designed to:~~

3 (i) ~~Train otherwise qualified human service professionals in those~~
4 ~~aspects of legal procedure and the requirements of chapters 11.88 and~~
5 ~~11.92 RCW with which a guardian ad litem should be familiar;~~

6 (ii) ~~Train otherwise qualified legal professionals in those aspects~~
7 ~~of medicine, social welfare, and social service delivery systems with~~
8 ~~which a guardian ad litem should be familiar.))~~ The background and
9 qualification information shall be updated annually.

10 (d) (~~The superior court of each county may approve a guardian ad~~
11 ~~litem training program on or before June 1, 1991.))~~ The department of
12 social and health services(~~(, aging and adult services~~
13 ~~administration,)) shall convene an advisory group to develop a model
14 guardian ad litem training program and shall update the program
15 biennially. The advisory group shall consist of representatives from
16 consumer, advocacy, and professional groups knowledgeable in
17 developmental disabilities, neurological impairment, physical
18 disabilities, mental illness, aging, legal, court administration, the
19 Washington state bar association, and other interested parties.~~

20 (e) (~~Any))~~ The superior court (~~(that has not adopted a guardian ad~~
21 ~~litem training program by September 1, 1991,))~~ shall require
22 utilization of ((a)) the model program developed by the advisory group
23 as described in (d) of this subsection, to assure that candidates
24 applying for registration as a qualified guardian ad litem shall have
25 satisfactorily completed training to attain these essential minimum
26 qualifications to act as guardian ad litem.

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

30 (5)) The guardian ad litem appointed pursuant to this section
31 shall have the following duties:

32 (a) To meet and consult with the alleged incapacitated person as
33 soon as practicable following appointment and explain, in language
34 which such person can reasonably be expected to understand, the
35 substance of the petition, the nature of the resultant proceedings, the
36 person's right to contest the petition, the identification of the
37 proposed guardian or limited guardian, the right to a jury trial on the
38 issue of his or her alleged incapacity, the right to independent legal

1 counsel as provided by RCW 11.88.045, and the right to be present in
2 court at the hearing on the petition;

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

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

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

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

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

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

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

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

27 (ii) A description of the needs of the incapacitated person for
28 care and treatment, the probable residential requirements of the
29 alleged incapacitated person and the basis upon which these findings
30 were made;

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

35 (iv) A description of any alternative arrangements previously made
36 by the alleged incapacitated person or which could be made, and whether
37 and to what extent such alternatives should be used in lieu of a
38 guardianship, and if the guardian ad litem is recommending
39 discontinuation of any such arrangements, specific findings as to why

1 such arrangements are contrary to the best interest of the alleged
2 incapacitated person;

3 (v) A description of the abilities of the alleged incapacitated
4 person and a recommendation as to whether a guardian or limited
5 guardian should be appointed. If appointment of a limited guardian is
6 recommended, the guardian ad litem shall recommend the specific areas
7 of authority the limited guardian should have and the limitations and
8 disabilities to be placed on the incapacitated person;

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

12 ~~((vi))~~ (vii) Any expression of approval or disapproval made by
13 the alleged incapacitated person concerning the proposed guardian or
14 limited guardian or guardianship or limited guardianship;

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

19 ~~((viii))~~ (ix) Unless independent counsel has appeared for the
20 alleged incapacitated person, an explanation of how the alleged
21 incapacitated person responded to the advice of the right to jury
22 trial, to independent counsel and to be present at the hearing on the
23 petition.

24 Within forty-five days after notice of commencement of the
25 guardianship proceeding has been served upon the guardian ad litem, and
26 at least ~~((ten))~~ fifteen days before the hearing on the petition,
27 unless an extension or reduction of time has been granted by the court
28 for good cause, the guardian ad litem shall file its report and send a
29 copy to the alleged incapacitated person and his or her counsel,
30 spouse, all children not residing with a notified person, those persons
31 described in ~~((e)(vii))~~ (f)(viii) of this subsection, and persons who
32 have filed a request for special notice pursuant to RCW 11.92.150. If
33 the guardian ad litem needs additional time to finalize his or her
34 report, then the guardian ad litem shall petition the court for a
35 postponement of the hearing or, with the consent of all other parties,
36 an extension or reduction of time for filing the report. If the
37 hearing does not occur within sixty days of filing the petition, then
38 upon the two-month anniversary of filing the petition and on or before
39 the same day of each following month until the hearing, the guardian ad

1 litem shall file interim reports summarizing his or her activities on
2 the proceeding during that time period as well as fees and costs
3 incurred;

4 ~~((f))~~ (g) To advise the court of the need for appointment of
5 counsel for the alleged incapacitated person within five court days
6 after the meeting described in (a) of this subsection unless (i)
7 counsel has appeared, (ii) the alleged incapacitated person
8 affirmatively communicated a wish not to be represented by counsel
9 after being advised of the right to representation and of the
10 conditions under which court-provided counsel may be available, or
11 (iii) the alleged incapacitated person was unable to communicate at all
12 on the subject, and the guardian ad litem is satisfied that the alleged
13 incapacitated person does not affirmatively desire to be represented by
14 counsel.

15 ~~((6))~~ (5) If the petition is brought by an interested person or
16 entity requesting the appointment of some other qualified person or
17 entity and a prospective guardian or limited guardian cannot be found,
18 the court shall order the guardian ad litem to investigate the
19 availability of a possible guardian or limited guardian and to include
20 the findings in a report to the court pursuant to ~~((RCW 11.88.090(5)(e)~~
21 ~~as now or hereafter amended))~~ subsection (4)(f) of this section.

22 (6) The parties to the proceeding may file responses to the
23 guardian ad litem report with the court and deliver such responses to
24 the other parties and the guardian ad litem at any time up to the
25 second day prior to the hearing. If a guardian ad litem fails to file
26 his or her report in a timely manner, the hearing shall be continued to
27 give the court and the parties at least fifteen days before the hearing
28 to review the report. At any time during the proceeding upon motion of
29 any party or on the court's own motion, the court may remove the
30 guardian ad litem for failure to perform his or her duties as specified
31 in this chapter, provided that the guardian ad litem shall have five
32 days notice of any motion to remove before the court enters such order.
33 In addition, the court in its discretion may reduce a guardian ad
34 litem's fee for failure to carry out his or her duties.

35 (7) The court appointed guardian ad litem shall have the authority,
36 in the event that the alleged incapacitated person is in need of
37 emergency life-saving medical services, and is unable to consent to
38 such medical services due to incapacity pending the hearing on the

1 petition to give consent for such emergency life-saving medical
2 services on behalf of the alleged incapacitated person.

3 (8) The court appointed guardian ad litem shall have the authority,
4 to move for temporary relief under chapter 7.40 RCW to protect the
5 alleged incapacitated person from abuse, neglect, abandonment, or
6 exploitation, as those terms are defined in RCW 74.34.020, or to
7 address any other emergency needs of the alleged incapacitated person.
8 Any alternative arrangement executed before filing the petition for
9 guardianship shall remain effective unless the court grants the relief
10 requested under chapter 7.40 RCW, or unless, following notice and a
11 hearing at which all parties directly affected by the arrangement are
12 present, the court finds that the alternative arrangement should not
13 remain effective.

14 (9) The guardian ad litem shall receive a fee determined by the
15 court. The fee shall be charged to the alleged incapacitated person
16 unless the court finds that such payment would result in substantial
17 hardship upon such person, in which case the county shall be
18 responsible for such costs: PROVIDED, That if no guardian or limited
19 guardian is appointed the court may charge such fee to the petitioner
20 or the alleged incapacitated person, or divide the fee, as it deems
21 just; and if the petition is found to be frivolous or not brought in
22 good faith, the guardian ad litem fee shall be charged to the
23 petitioner. The court shall not be required to provide for the payment
24 of a fee to any salaried employee of a public agency.

25 ~~((+9))~~ (10) Upon the presentation of the guardian ad litem report
26 and the entry of an order either dismissing the petition for
27 appointment of guardian or limited guardian or appointing a guardian or
28 limited guardian, the guardian ad litem shall be dismissed and shall
29 have no further duties or obligations unless otherwise ordered by the
30 court. If the court orders the guardian ad litem to perform further
31 duties or obligations, they shall not be performed at county expense.

32 (11) The guardian ad litem shall appear in person at all hearings
33 on the petition unless all parties provide a written waiver of the
34 requirement to appear.

35 (12) At any hearing the court may consider whether any person who
36 makes decisions regarding the alleged incapacitated person or estate
37 has breached a statutory or fiduciary duty.

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

3 No residential treatment facility which provides nursing or other
4 care may detain a person within such facility against their will. Any
5 court order, other than an order issued in accordance with the
6 involuntary treatment provisions of chapters 10.77, 71.05, and 72.23
7 RCW, which purports to authorize such involuntary detention or purports
8 to authorize a guardian or limited guardian to consent to such
9 involuntary detention on behalf of an (~~incompetent or disabled~~)
10 incapacitated person shall be void and of no force or effect. This
11 section does not apply to the detention of a minor as provided in
12 chapter 70.96A or 71.34 RCW.

13 Nothing in this section shall be construed to require a court order
14 authorizing placement of an (~~incompetent or disabled~~) incapacitated
15 person in a residential treatment facility if such order is not
16 otherwise required by law: PROVIDED, That notice of any residential
17 placement of an (~~incompetent or disabled~~) incapacitated person shall
18 be served, either before or after placement, by the guardian or limited
19 guardian on such person, the guardian ad litem of record, and any
20 attorney of record.

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

23 An attorney may not serve as a superior court judge pro tempore or
24 a superior court commissioner pro tempore in a judicial district while
25 appointed to or serving on a case in that judicial district as a
26 guardian ad litem for compensation under Title 11, 13, or 26 RCW, if
27 that judicial district is contained within division one or two of the
28 court of appeals and has a population of more than one hundred
29 thousand.

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

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

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

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

10 (a) Level of formal education;

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

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

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

15 (e) Criminal history, as defined in RCW 9.94A.030.

16 The background information report shall be updated annually. As a
17 condition of appointment, the guardian ad litem's background
18 information record shall be made available to the court. If the
19 appointed guardian ad litem is not a member of a guardian ad litem
20 program the person shall provide the background information to the
21 court.

22 Upon appointment, the guardian ad litem, or guardian ad litem
23 program, shall provide the parties or their attorneys with a statement
24 containing his or her training relating to the duties as a guardian ad
25 litem and criminal history as defined in RCW 9.94A.030 for the period
26 covering ten years prior to the appointment. The background statement
27 shall not include identifying information that may be used to harm a
28 guardian ad litem, such as home addresses and home telephone numbers,
29 and for volunteer guardians ad litem the court may allow the use of
30 maiden names or pseudonyms as necessary for their safety.

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

35 (5) A guardian ad litem through counsel, or as otherwise authorized
36 by the court, shall have the right to present evidence, examine and
37 cross-examine witnesses, and to be present at all hearings. A guardian
38 ad litem shall receive copies of all pleadings and other documents
39 filed or submitted to the court, and notice of all hearings according

1 to court rules. The guardian ad litem shall receive all notice
2 contemplated for a parent or other party in all proceedings under this
3 chapter.

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

8 (7) For the purposes of child abuse prevention and treatment act
9 (42 U.S.C. Secs. 5101 et seq.) grants to this state under P.L. 93-247,
10 or any related state or federal legislation, a person appointed
11 pursuant to RCW 13.34.100 shall be deemed a guardian ad litem to
12 represent the best interests of the minor in proceedings before the
13 court.

14 (8) When a court-appointed special advocate or volunteer guardian
15 ad litem is requested on a case, the program shall give the court the
16 name of the person it recommends and the appointment shall be effective
17 immediately. The court shall appoint the person recommended by the
18 program. If a party in a case reasonably believes the court-appointed
19 special advocate or volunteer is inappropriate or unqualified, the
20 party may request a review of the appointment by the program. The
21 program must complete the review within five judicial days and remove
22 any appointee for good cause. If the party seeking the review is not
23 satisfied with the outcome of the review, the party may file a motion
24 with the court for the removal of the court-appointed special advocate
25 on the grounds the advocate or volunteer is inappropriate or
26 unqualified.

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

29 (1) To aid the court in its decision on disposition, a social
30 study, consisting of a written evaluation of matters relevant to the
31 disposition of the case, shall be made by the person or agency filing
32 the petition. The study shall include all social records and may also
33 include facts relating to the child's cultural heritage, and shall be
34 made available to the court. The court shall consider the social file,
35 social study, guardian ad litem report, the court-appointed special
36 advocate's report, if any, and any reports filed by a party at the
37 disposition hearing in addition to evidence produced at the fact-
38 finding hearing. At least ten working days before the disposition

1 hearing, the department shall mail to the parent and his or her
2 attorney a copy of the agency's social study and proposed service plan,
3 which shall be in writing or in a form understandable to the parents or
4 custodians. In addition, the department shall provide an opportunity
5 for parents to review and comment on the plan at the community service
6 office. If the parents disagree with the agency's plan or any part
7 thereof, the parents shall submit to the court at least twenty-four
8 hours before the hearing, in writing, or signed oral statement, an
9 alternative plan to correct the problems which led to the finding of
10 dependency. This section shall not interfere with the right of the
11 parents or custodians to submit oral arguments regarding the
12 disposition plan at the hearing.

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

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

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

24 (c) If removal is recommended, a full description of the reasons
25 why the child cannot be protected adequately in the home, including a
26 description of any previous efforts to work with the parents and the
27 child in the home; the in-home treatment programs which have been
28 considered and rejected; the preventive services that have been offered
29 or provided and have failed to prevent the need for out-of-home
30 placement, unless the health, safety, and welfare of the child cannot
31 be protected adequately in the home; and the parents' attitude toward
32 placement of the child;

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

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

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

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

5 (1)(a) The court may appoint a guardian ad litem to represent the
6 interests of a minor or dependent child when the court believes the
7 appointment of a guardian ad litem is necessary to protect the best
8 interests of the child in any proceeding under this chapter. The
9 family court services professionals may also make a recommendation to
10 the court regarding whether a guardian ad litem should be appointed for
11 the child. The court may appoint a guardian ad litem from the court-
12 appointed special advocate program, if that program exists in the
13 county.

14 (b) Unless otherwise ordered, the guardian ad litem's role is to
15 investigate and report to the court concerning parenting arrangements
16 for the child, and to represent the child's best interests. The court
17 may require the guardian ad litem to provide periodic reports to the
18 parties regarding the status of his or her investigation. The guardian
19 ad litem shall file his or her report at least sixty days prior to
20 trial.

21 (c) The court shall enter an order for costs, fees, and
22 disbursements to cover the costs of the guardian ad litem. The court
23 may order either or both parents to pay for the costs of the guardian
24 ad litem, according to their ability to pay. If both parents are
25 indigent, the county shall bear the cost of the guardian, subject to
26 appropriation for guardians' ad litem services by the county
27 legislative authority. Guardians ad litem who are not volunteers shall
28 provide the parties with an itemized accounting of their time and
29 billing for services each month.

30 (2)(a) If the guardian ad litem appointed is from the county court-
31 appointed special advocate program, the program shall supervise any
32 guardian ad litem assigned to the case. The court-appointed special
33 advocate program shall be entitled to notice of all proceedings in the
34 case.

35 (b) The legislative authority of each county may authorize creation
36 of a court-appointed special advocate program. The county legislative
37 authority may adopt rules of eligibility for court-appointed special
38 advocate program services.

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

5 (a) Level of formal education;

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

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

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

10 (e) Criminal history, as defined in RCW 9.94A.030.

11 The background information report shall be updated annually. As a
12 condition of appointment, the guardian ad litem's background
13 information record shall be made available to the court. If the
14 appointed guardian ad litem is not a member of a guardian ad litem
15 program the person shall provide the background information to the
16 court.

17 Upon appointment, the guardian ad litem, or guardian ad litem
18 program, shall provide the parties or their attorneys with a statement
19 containing his or her training relating to the duties as a guardian ad
20 litem and criminal history as defined in RCW 9.94A.030 for the period
21 covering ten years prior to the appointment. The background statement
22 shall not include identifying information that may be used to harm a
23 guardian ad litem, such as home addresses and home telephone numbers,
24 and for volunteer guardians ad litem the court may allow the use of
25 maiden names or pseudonyms as necessary for their safety.

26 (4) When a court-appointed special advocate or volunteer guardian
27 ad litem is requested on a case, the program shall give the court the
28 name of the person it recommends and the appointment shall be effective
29 immediately. The court shall appoint the person recommended by the
30 program. If a party in a case reasonably believes the court-appointed
31 special advocate or volunteer is inappropriate or unqualified, the
32 party may request a review of the appointment by the program. The
33 program must complete the review within five judicial days and remove
34 any appointee for good cause. If the party seeking the review is not
35 satisfied with the outcome of the review, the party may file a motion
36 with the court for the removal of the court-appointed special advocate
37 on the grounds the advocate or volunteer is inappropriate or
38 unqualified.

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

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

9 (2) At any time prior to or during a hearing in such a case, the
10 court may, on its own motion, or the motion of the guardian ad litem,
11 or other parties, order the examination by a physician, psychologist,
12 or psychiatrist, of any parent or child or other person having custody
13 of the child at the time of the alleged child abuse or neglect, if the
14 court finds such an examination is necessary to the proper
15 determination of the case. The hearing may be continued pending the
16 completion of such examination. The physician, psychologist, or
17 psychiatrist conducting such an examination may be required to testify
18 concerning the results of such examination and may be asked to give his
19 or her opinion as to whether the protection of the child requires that
20 he or she not be returned to the custody of his or her parents or other
21 persons having custody of him or her at the time of the alleged child
22 abuse or neglect. Persons so testifying shall be subject to cross-
23 examination as are other witnesses. No information given at any such
24 examination of the parent or any other person having custody of the
25 child may be used against such person in any subsequent criminal
26 proceedings against such person or custodian concerning the abuse or
27 neglect of the child.

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

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

34 (1) All guardians ad litem, who have not previously served or been
35 trained as a guardian ad litem in this state, who are appointed after
36 January 1, 1998, must complete the curriculum developed by the office
37 of the administrator for the courts under RCW 2.56.030(16), prior to
38 their appointment in cases under Title 13 RCW except that volunteer

1 guardians ad litem or court appointed special advocates accepted into
2 a volunteer program after January 1, 1998, may complete an alternative
3 curriculum approved by the office of the administrator for the courts
4 that meets or exceeds the state-wide curriculum.

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

13 (b) In judicial districts with a population over one hundred
14 thousand, a list of three names shall be selected from the registry and
15 given to the parties along with the background information as specified
16 in RCW 13.34.100(3), including their hourly rate for services. Each
17 party may, within three judicial days, strike one name from the list.
18 If more than one name remains on the list, the court shall make the
19 appointment from the names on the list. In the event all three names
20 are stricken the person whose name appears next on the registry shall
21 be appointed.

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

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

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

32 (1) All guardians ad litem, who have not previously served or been
33 trained as a guardian ad litem in this state, who are appointed after
34 January 1, 1998, must complete the curriculum developed by the office
35 of the administrator for the courts under RCW 2.56.030(16), prior to
36 their appointment in cases under Title 26 RCW except that volunteer
37 guardians ad litem or court appointed special advocates accepted into
38 a volunteer program after January 1, 1998, may complete an alternative

1 curriculum approved by the office of the administrator for the courts
2 that meets or exceeds the state-wide curriculum.

3 (2)(a) Each guardian ad litem program for compensated guardians ad
4 litem shall establish a rotational registry system for the appointment
5 of guardians ad litem. If a judicial district does not have a program
6 the court shall establish the rotational registry system. Guardians ad
7 litem shall be selected from the registry except in exceptional
8 circumstances as determined and documented by the court. The parties
9 may make a joint recommendation for the appointment of a guardian ad
10 litem from the registry.

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

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

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

28 **ESSB 6257** - CONF REPT
29 By Conference Committee

30

31 On page 1, line 2 of the title, after "persons;" strike the
32 remainder of the title and insert "amending RCW 2.56.030, 4.08.060,
33 8.25.270, 11.16.083, 11.88.030, 11.88.045, 11.88.090, 11.92.190,
34 13.34.100, 13.34.120, 26.12.175, and 26.44.053; adding a new section to
35 chapter 2.56 RCW; adding a new section to chapter 2.08 RCW; adding a

1 new section to chapter 13.34 RCW; adding a new section to chapter 26.12
2 RCW; and creating new sections."

--- **END** ---