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**SUBSTITUTE SENATE BILL 5447**

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**State of Washington**

**56th Legislature**

**1999 Regular Session**

**By** Senate Committee on Human Services & Corrections (originally sponsored by Senators Franklin, Long, Hargrove, Stevens, Winsley, Costa and Rasmussen)

Read first time 03/01/1999.

1 AN ACT Relating to guardians ad litem; amending RCW 2.56.030,  
2 11.88.090, 13.34.100, 13.34.102, 13.34.105, 26.12.175, and 26.12.177;  
3 adding new sections to chapter 11.88 RCW; adding new sections to  
4 chapter 13.34 RCW; adding new sections to chapter 26.12 RCW; providing  
5 effective dates; and declaring an emergency.

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

7 **Sec. 1.** RCW 2.56.030 and 1997 c 41 s 2 are each amended to read as  
8 follows:

9 The administrator for the courts shall, under the supervision and  
10 direction of the chief justice:

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

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

17 (3) Make recommendations to the chief justice relating to the  
18 assignment of judges where courts are in need of assistance and carry

1 out the direction of the chief justice as to the assignments of judges  
2 to counties and districts where the courts are in need of assistance;

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

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

10 (6) Collect statistical and other data and make reports relating to  
11 the expenditure of public moneys, state and local, for the maintenance  
12 and operation of the judicial system and the offices connected  
13 therewith;

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

19 (8) Act as secretary of the judicial conference referred to in RCW  
20 2.56.060;

21 (9) Submit annually, as of February 1st, to the chief justice, a  
22 report of the activities of the administrator's office for the  
23 preceding calendar year including activities related to courthouse  
24 security;

25 (10) Administer programs and standards for the training and  
26 education of judicial personnel;

27 (11) Examine the need for new superior court and district judge  
28 positions under a weighted caseload analysis that takes into account  
29 the time required to hear all the cases in a particular court and the  
30 amount of time existing judges have available to hear cases in that  
31 court. The results of the weighted caseload analysis shall be reviewed  
32 by the board for judicial administration which shall make  
33 recommendations to the legislature. It is the intent of the  
34 legislature that weighted caseload analysis become the basis for  
35 creating additional district court positions, and recommendations  
36 should address that objective;

37 (12) Provide staff to the judicial retirement account plan under  
38 chapter 2.14 RCW;

1 (13) Attend to such other matters as may be assigned by the supreme  
2 court of this state;

3 (14) Within available funds, develop a curriculum for a general  
4 understanding of child development, placement, and treatment resources,  
5 as well as specific legal skills and knowledge of relevant statutes  
6 including chapters 13.32A, 13.34, and 13.40 RCW, cases, court rules,  
7 interviewing skills, and special needs of the abused or neglected  
8 child. This curriculum shall be completed and made available to all  
9 juvenile court judges, court personnel, and service providers and be  
10 updated yearly to reflect changes in statutes, court rules, or case  
11 law;

12 (15) Develop, in consultation with the entities set forth in RCW  
13 2.56.150(3), a comprehensive state-wide curriculum, training  
14 requirements, and continuing education requirements for persons who act  
15 as guardians ad litem under Title 13 or 26 RCW except these  
16 requirements do not apply to the attorney general or any prosecuting  
17 attorney functioning as the guardian ad litem pursuant to RCW  
18 74.20.310. The curriculum, training requirements, and continuing  
19 education requirements shall ((be made available July 1, 1997, and))  
20 include specialty sections on child development, child sexual abuse,  
21 child physical abuse, child neglect, clinical and forensic  
22 investigative and interviewing techniques, family reconciliation and  
23 mediation services, and relevant statutory and legal requirements. The  
24 curriculum, training requirements, and continuing education  
25 requirements shall be made available to all superior court judges,  
26 court personnel, and all persons who act as guardians ad litem and be  
27 updated yearly to reflect changes in statutes, court rules, or case  
28 law;

29 (16) Develop a curriculum for a general understanding of crimes of  
30 malicious harassment, as well as specific legal skills and knowledge of  
31 RCW 9A.36.080, relevant cases, court rules, and the special needs of  
32 malicious harassment victims. This curriculum shall be made available  
33 to all superior court and court of appeals judges and to all justices  
34 of the supreme court;

35 (17) Develop, in consultation with the criminal justice training  
36 commission and the commissions established under chapters 43.113,  
37 43.115, and 43.117 RCW, a curriculum for a general understanding of  
38 ethnic and cultural diversity and its implications for working with  
39 youth of color and their families. The curriculum shall be available

1 to all superior court judges and court commissioners assigned to  
2 juvenile court, and other court personnel. Ethnic and cultural  
3 diversity training shall be provided annually so as to incorporate  
4 cultural sensitivity and awareness into the daily operation of juvenile  
5 courts state-wide;

6 (18) Authorize the use of closed circuit television and other  
7 electronic equipment in judicial proceedings. The administrator shall  
8 promulgate necessary standards and procedures and shall provide  
9 technical assistance to courts as required;

10 (19) Maintain a list of all guardians ad litem or parenting  
11 investigators appointed pursuant to Titles 11, 13, and 26 RCW, who have  
12 been removed from the guardian ad litem registry in any superior court  
13 within the state pursuant to a grievance action that orders removal  
14 from the registry. Superior courts shall report to the administrator  
15 for the courts any order removing a guardian ad litem, parenting  
16 investigator, or court-appointed special advocates from the registry;  
17 and

18 (20) Develop a model grievance procedure for use by the superior  
19 courts when dealing with complaints against: A guardian ad litem under  
20 chapter 11.88, 13.34, or 26.12 RCW; a court-appointed special advocate  
21 appointed under chapter 13.34 or 26.12 RCW; or a parenting investigator  
22 appointed under chapter 26.12 RCW.

23 **Sec. 2.** RCW 11.88.090 and 1996 c 249 s 10 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 shall affect or impair the power of any court to appoint a  
28 guardian ad litem to defend the interests of any incapacitated person  
29 interested in any suit or matter pending therein, or to commence and  
30 prosecute any suit in his or her behalf.

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

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

25 No guardian ad litem need be appointed when a parent is petitioning  
26 for a guardian or a limited guardian to be appointed for his or her  
27 minor child and the minority of the child, as defined by RCW 11.92.010,  
28 is the sole basis of the petition. The order appointing the guardian  
29 ad litem shall recite the duties set forth in subsection (4) of this  
30 section. The appointment of a guardian ad litem shall have no effect  
31 on the legal competency of the alleged incapacitated person and shall  
32 not overcome the presumption of competency or full legal and civil  
33 rights of the alleged incapacitated person.

34 (3)(a) The superior court of each county shall develop and maintain  
35 a registry of persons who are willing and qualified to serve as  
36 guardians ad litem in guardianship matters. The court shall choose as  
37 guardian ad litem a person whose name appears on the registry in a  
38 system of consistent rotation, except in extraordinary circumstances  
39 such as the need for particular expertise. A person appointed under

1 exceptional circumstances because of a particular expertise may be  
2 exempt from the training and continuing education requirements by the  
3 court if the court limits the scope of the person's appointment and  
4 finds the training and continuing education requirements are unrelated  
5 to the tasks the court has assigned to the person. The court shall  
6 develop procedures for periodic review of the persons on the registry  
7 and for probation, suspension, or removal of persons on the registry  
8 for failure to perform properly their duties as guardian ad litem. In  
9 the event the court does not select the person next on the list, it  
10 shall include in the order of appointment a written reason for its  
11 decision.

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

13 (i) Present a written statement outlining his or her background and  
14 qualifications. The background statement shall include, but is not  
15 limited to, the following information:

16 (A) Level of formal education;

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

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

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

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

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

27 The written statement of qualifications shall include ~~((a statement~~  
28 ~~of the number of times the guardian ad litem has been removed for~~  
29 ~~failure to perform his or her duties as guardian ad litem))~~ the names  
30 of any counties in which the person was removed from a guardian ad  
31 litem registry pursuant to a grievance action that orders removal from  
32 the registry, and the cause number of any case in which the court  
33 orders removal of the person because the person fails to perform his or  
34 her duties as guardian ad litem; and

35 (ii) Complete the ~~((model))~~ training ~~((program))~~ and continuing  
36 educational requirements as described in ~~((d))~~ (e) of this  
37 subsection. The training and continuing education requirements are not  
38 applicable to guardians ad litem appointed pursuant to court rule

1 solely for the limited purpose of assessing a personal injury  
2 settlement.

3 (c) Superior court shall remove any person from the guardian ad  
4 litem registry who misrepresents his or her qualifications.

5 (d) The background and qualification information shall be updated  
6 annually.

7 ~~((d))~~ (e) The department of social and health services shall  
8 convene an advisory group to develop a model guardian ad litem training  
9 program and establish training and continuing educational requirements.  
10 The department, in consultation with the advisory group, shall update  
11 the model training program biennially. The advisory group shall  
12 consist of representatives from consumer, advocacy, and professional  
13 groups knowledgeable in developmental disabilities, neurological  
14 impairment, physical disabilities, mental illness, aging, legal, court  
15 administration, the Washington state bar association, and other  
16 interested parties.

17 ~~((e))~~ (f) The superior court shall require ~~((utilization of the~~  
18 ~~model program developed by the advisory group as))~~ that any guardian ad  
19 litem appointed pursuant to this chapter comply with the training and  
20 continuing education requirements described in ~~((d))~~ (e) of this  
21 subsection~~((, to assure that candidates applying for registration as a~~  
22 ~~qualified guardian ad litem shall have satisfactorily completed~~  
23 ~~training to attain these essential minimum qualifications to act as~~  
24 ~~guardian ad litem))~~, unless the guardian ad litem is appointed solely  
25 for the limited purposes of assessing a personal injury settlement.

26 (4) The guardian ad litem appointed pursuant to this section shall  
27 have the following duties:

28 (a) To meet and consult with the alleged incapacitated person as  
29 soon as practicable following appointment and explain, in language  
30 which such person can reasonably be expected to understand, the  
31 substance of the petition, the nature of the resultant proceedings, the  
32 person's right to contest the petition, the identification of the  
33 proposed guardian or limited guardian, the right to a jury trial on the  
34 issue of his or her alleged incapacity, the right to independent legal  
35 counsel as provided by RCW 11.88.045, and the right to be present in  
36 court at the hearing on the petition;

37 (b) To obtain a written report according to RCW 11.88.045; and such  
38 other written or oral reports from other qualified professionals as are

1 necessary to permit the guardian ad litem to complete the report  
2 required by this section;

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

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

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

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

13 (e) To investigate alternate arrangements made, or which might be  
14 created, by or on behalf of the alleged incapacitated person, such as  
15 revocable or irrevocable trusts, or durable powers of attorney, or  
16 blocked accounts in cases of personal injury settlements; whether good  
17 cause exists for any such arrangements to be discontinued; and why such  
18 arrangements should not be continued or created in lieu of a  
19 guardianship;

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

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

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

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

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



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

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

10 (vii) Any expression of approval or disapproval made by the alleged  
11 incapacitated person concerning the proposed guardian or limited  
12 guardian or guardianship or limited guardianship;

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

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

22 (x) In cases of personal injury settlements, information relevant  
23 to the court's analysis of the offered settlement. The information  
24 relevant to the court's analysis may be specified by local court rule,  
25 and need not include information specified in subsection (4)(f)(i)  
26 through (ix) of this section.

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

1 days of filing the petition, then upon the two-month anniversary of  
2 filing the petition and on or before the same day of each following  
3 month until the hearing, the guardian ad litem shall file interim  
4 reports summarizing his or her activities on the proceeding during that  
5 time period as well as fees and costs incurred;

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

16 (5) If the petition is brought by an interested person or entity  
17 requesting the appointment of some other qualified person or entity and  
18 a prospective guardian or limited guardian cannot be found, the court  
19 shall order the guardian ad litem to investigate the availability of a  
20 possible guardian or limited guardian and to include the findings in a  
21 report to the court pursuant to 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  
33 order. In addition, the court in its discretion may reduce a guardian  
34 ad 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. In cases of  
25 personal injury settlements, guardian ad litem fees shall be negotiated  
26 among the parties, and approved by the court.

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

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

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

1        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 11.88 RCW  
2 to read as follows:

3        The court shall, in each order of appointment, specify the hourly  
4 rate the guardian ad litem may charge for his or her services, and  
5 shall specify the maximum amount the guardian ad litem may charge  
6 without additional court review and approval.

7        NEW SECTION.    **Sec. 4.**    A new section is added to chapter 11.88 RCW  
8 to read as follows:

9        All guardians ad litem are prohibited from engaging in ex parte  
10 communications with any judicial officer regarding the matter for which  
11 he or she is appointed, except as approved pursuant to a hearing  
12 conducted with appropriate notice to all parties. All guardians ad  
13 litem may petition the court to shorten time to hear any emergency  
14 motions pursuant to court rules. Unauthorized communication shall be  
15 immediately reported to all parties and their attorneys. The court,  
16 upon its own motion, or upon the motion of a party, may consider the  
17 removal of any guardian ad litem who violates this section from any  
18 pending case or the guardian ad litem rotational registry, and if so  
19 removed may require forfeiture of any fees for professional services on  
20 any pending cases.

21        **Sec. 5.**    RCW 13.34.100 and 1996 c 249 s 13 are each amended to read  
22 as follows:

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

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

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

37        (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; (~~and~~)
- 5 (e) The name of any counties in which the person was removed from  
6 a guardian ad litem registry pursuant to a grievance action that orders  
7 removal from the registry, and the cause number of any case in which  
8 the court orders removal of the person because the person fails to  
9 perform his or her duties as guardian ad litem; and
- 10 (f) 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  
20 ad litem; the name of any counties in which the person was removed from  
21 a guardian ad litem registry pursuant to a grievance action that orders  
22 removal from the registry, and the cause number of any case in which  
23 the court orders removal of the person because the person fails to  
24 perform his or her duties as guardian ad litem; and his or her criminal  
25 history as defined in RCW 9.94A.030 for the period covering ten years  
26 prior to the appointment. The background statement shall not include  
27 identifying information that may be used to harm a guardian ad litem,  
28 such as home addresses and home telephone numbers, and for volunteer  
29 guardians ad litem the court may allow the use of maiden names or  
30 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. 6.** RCW 13.34.102 and 1997 c 41 s 6 are each amended to read  
28 as follows:

29 (1)(a) All guardians ad litem(~~(, who have not previously served or~~  
30 ~~been trained as a guardian ad litem in this state, who are appointed~~  
31 ~~after January 1, 1998,)) must ((complete the curriculum developed by~~  
32 ~~the office of the administrator for the courts)) comply with the  
33 training requirements established under RCW 2.56.030(15), prior to  
34 their appointment in cases under Title 13 RCW, except that volunteer  
35 guardians ad litem or court-appointed special advocates ((accepted into  
36 a volunteer program after January 1, 1998,)) may ((complete an  
37 alternative curriculum)) comply with alternative training requirements~~

1 approved by the office of the administrator for the courts that  
2 meet(~~(s)~~) or exceed(~~(s)~~) the state-wide (~~(curriculum)~~) requirements.

3 (b) All persons appointed as guardians ad litem or court-appointed  
4 special advocates must comply with the continuing education  
5 requirements established under RCW 2.56.030(15).

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

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

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

29 (d) Upon the motion of any party the court shall, if located in a  
30 judicial district with a population over one hundred thousand, remove  
31 a compensated guardian ad litem who was not selected from a rotational  
32 registry system. This subsection (2)(d) does not apply when the  
33 guardian ad litem was appointed: (i) Under exceptional circumstances  
34 authorized under (a) of this subsection; or (ii) as a result of a joint  
35 recommendation of the parties.

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

1       **Sec. 7.** RCW 13.34.105 and 1993 c 241 s 3 are each amended to read  
2 as follows:

3       (1) Unless otherwise directed by the court, the duties of the  
4 guardian ad litem include but are not limited to the following:

5       (a) To ~~((represent))~~ investigate and ~~((be an advocate for))~~ report  
6 to the court factual information regarding the best interests of the  
7 child;

8       (b) To collect relevant information about the child's situation;

9       (c) To monitor all court orders for compliance and to bring to the  
10 court's attention any change in circumstances that may require a  
11 modification of the court's order; ~~((and))~~

12       (d) To report to the court information on: (i) The legal status of  
13 a child's membership in any Indian tribe or band; and (ii) the facts  
14 relating to the child's best interests; and

15       (e) Court-appointed special advocates may make recommendations  
16 based upon an independent investigation in the best interests of the  
17 child, which the court may consider and weigh in conjunction with the  
18 recommendations of all of the parties.

19       (2) ~~((The))~~ A guardian ad litem shall be deemed an officer of the  
20 court for the purpose of immunity from civil liability.

21       (3) Except for information or records specified in RCW  
22 13.50.100(4), the guardian ad litem shall have access to all  
23 information available to the state or agency on the case. Upon  
24 presentation of the order of appointment by the guardian ad litem, any  
25 agency, hospital, school organization, division or department of the  
26 state, doctor, nurse, or other health care provider, psychologist,  
27 psychiatrist, police department, or mental health clinic shall permit  
28 the guardian ad litem to inspect and copy any records relating to the  
29 child or children involved in the case, without the consent of the  
30 parent or guardian of the child, or of the child if the child is under  
31 the age of thirteen years, unless such access is otherwise specifically  
32 prohibited by law.

33       (4) A guardian ad litem may release confidential information,  
34 records, and reports to the office of the family and children's  
35 ombudsman for the purposes of carrying out its duties under chapter  
36 43.06A RCW.

37       (5) The guardian ad litem shall release case information in  
38 accordance with the provisions of RCW 13.50.100.



1        NEW SECTION.    **Sec. 8.**    A new section is added to chapter 13.34 RCW  
2 to read as follows:

3        The court shall, in each order of appointment, specify the hourly  
4 rate the guardian ad litem may charge for his or her services, and  
5 shall specify the maximum amount the guardian ad litem may charge  
6 without additional court review and approval.

7        NEW SECTION.    **Sec. 9.**    A new section is added to chapter 13.34 RCW  
8 to read as follows:

9        All guardians ad litem and court-appointed special advocates are  
10 prohibited from engaging in ex parte communications with any judicial  
11 officer regarding the matter for which he or she is appointed, except  
12 as approved pursuant to a hearing conducted with appropriate notice to  
13 all parties. All guardians ad litem may petition the court to shorten  
14 time to hear any emergency motions pursuant to court rules.  
15 Unauthorized communication shall be immediately reported to all parties  
16 and their attorneys. The court, upon its own motion, or upon the  
17 motion of a party, may consider the removal of any guardian ad litem or  
18 court-appointed special advocate who violates this section from any  
19 pending case or from any court-authorized registry, and if so removed  
20 may require forfeiture of any fees for professional services on any  
21 pending cases.

22        **Sec. 10.**    RCW 26.12.175 and 1996 c 249 s 15 are each amended to  
23 read as follows:

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

33        (b) Unless otherwise ordered, the guardian ad litem's role is to  
34 investigate and report to the court concerning parenting arrangements  
35 for the child(~~(, and to represent the child's best interests)~~). This  
36 should include factual information regarding the best interests of the  
37 child. Additionally, if a minor expresses his or her custody wishes,

1 the guardian ad litem must report the wishes to the court. The child's  
2 wishes do not determine placement. The court may require the guardian  
3 ad litem to provide periodic reports to the parties regarding the  
4 status of his or her investigation. The guardian ad litem shall file  
5 his or her report at least sixty days prior to trial.

6 (c) The court shall enter an order for costs, fees, and  
7 disbursements to cover the costs of the guardian ad litem. The court  
8 may order either or both parents to pay for the costs of the guardian  
9 ad litem, according to their ability to pay. If both parents are  
10 indigent, the county shall bear the cost of the guardian, subject to  
11 appropriation for guardians' ad litem services by the county  
12 legislative authority. Guardians ad litem who are not volunteers shall  
13 provide the parties with an itemized accounting of their time and  
14 billing for services each month.

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

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

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

28 (a) Level of formal education;

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

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

31 (d) Number of appointments as a guardian ad litem and county or  
32 counties of appointment; (~~and~~)

33 (e) The name of any counties in which the person was removed from  
34 a guardian ad litem registry pursuant to a grievance action that orders  
35 removal from the registry, and the cause number of any case in which  
36 the court orders removal of the person because the person fails to  
37 perform his or her duties as guardian ad litem; and

38 (f) Criminal history, as defined in RCW 9.94A.030.

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

7 Upon appointment, the guardian ad litem, or guardian ad litem  
8 program, shall provide the parties or their attorneys with a statement  
9 containing: His or her training relating to the duties as a guardian  
10 ad litem; the name of any counties in which the person was removed from  
11 a guardian ad litem registry pursuant to a grievance action that orders  
12 removal from the registry, and the cause number of any case in which  
13 the court orders removal of the person because the person fails to  
14 perform his or her duties as guardian ad litem; and his or her criminal  
15 history as defined in RCW 9.94A.030 for the period covering ten years  
16 prior to the appointment. The background statement shall not include  
17 identifying information that may be used to harm a guardian ad litem,  
18 such as home addresses and home telephone numbers, and for volunteer  
19 guardians ad litem the court may allow the use of maiden names or  
20 pseudonyms as necessary for their safety.

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

34 **Sec. 11.** RCW 26.12.177 and 1997 c 41 s 7 are each amended to read  
35 as follows:

36 (1)(a) All guardians ad litem(~~(, who have not previously served or~~  
37 ~~been trained as a guardian ad litem in this state, who are appointed~~  
38 ~~after January 1, 1998,)) and parenting investigators appointed under~~

1 RCW 26.09.220 must ~~((complete the curriculum developed by the office of~~  
2 ~~the administrator for the courts))~~ comply with the training  
3 requirements established under RCW 2.56.030(15), prior to their  
4 appointment in cases under Title 26 RCW, except that volunteer  
5 guardians ad litem or court-appointed special advocates ~~((accepted into~~  
6 ~~a volunteer program after January 1, 1998,))~~ may ~~((complete an~~  
7 ~~alternative curriculum))~~ comply with alternative training requirements  
8 approved by the office of the administrator for the courts that  
9 meet~~((s))~~ or exceed~~((s))~~ the state-wide ~~((curriculum))~~ requirements.

10 (b) All persons appointed as guardians ad litem, parenting  
11 investigators, or court-appointed special advocates must comply with  
12 the continuing education requirements established under RCW  
13 2.56.030(15).

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

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

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

38 (d) Upon the motion of any party the court shall, if located in a  
39 judicial district with a population over one hundred thousand, remove

1 a compensated guardian ad litem who was not selected from a rotational  
2 registry system. This subsection (2)(d) does not apply when the  
3 guardian ad litem was appointed: (i) Under exceptional circumstances  
4 authorized under (a) of this subsection; or (ii) as a result of a joint  
5 recommendation of the parties.

6 (e) Under this section, within either registry referred to in (a)  
7 of this subsection, a subregistry may be created that consists of  
8 guardians ad litem under contract with the department of social and  
9 health services' division of child support. Guardians ad litem on such  
10 a subregistry shall be selected and appointed in state-initiated  
11 paternity cases only.

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

14 NEW SECTION. Sec. 12. A new section is added to chapter 26.12 RCW  
15 to read as follows:

16 The court shall, in each order of appointment, specify the hourly  
17 rate the guardian ad litem or parenting investigator may charge for his  
18 or her services, and shall specify the maximum amount the guardian ad  
19 litem may charge without additional court review and approval.

20 NEW SECTION. Sec. 13. A new section is added to chapter 26.12 RCW  
21 to read as follows:

22 All guardians ad litem, court-appointed special advocates, and  
23 parenting investigators are prohibited from engaging in ex parte  
24 communications with any judicial officer regarding the matter for which  
25 he or she is appointed, except as approved pursuant to a hearing  
26 conducted with appropriate notice to all parties. All guardians ad  
27 litem may petition the court to shorten time to hear any emergency  
28 motions pursuant to court rules. Unauthorized communication shall be  
29 immediately reported to all parties and their attorneys. The court,  
30 upon its own motion, or upon the motion of a party, may consider the  
31 removal of any guardian ad litem, court-appointed special advocate, or  
32 parenting investigator who violates this section from any pending case  
33 or from any court-authorized registry, and if so removed may require  
34 forfeiture of any fees for professional services on any pending cases.

35 NEW SECTION. Sec. 14. A new section is added to chapter 26.12 RCW  
36 to read as follows:

1 All information, records, and reports obtained or created by a  
2 guardian ad litem, court-appointed special advocate, or parenting  
3 investigator shall be discoverable pursuant to court rule to the  
4 parties and their attorneys. The guardian ad litem, court-appointed  
5 special advocate, or parenting investigator shall maintain the privacy  
6 of the parties and the confidentiality of information obtained,  
7 pursuant to the investigation, as to third parties. Any guardian ad  
8 litem can move the court to seal the court file to protect information  
9 obtained by the guardian ad litem from disclosure to third persons,  
10 particularly in cases where no evidentiary rulings have been made on  
11 information introduced by affidavit, declaration, or other means.  
12 Nothing in this section shall be interpreted to authorize disclosure of  
13 guardian ad litem records in personal injury actions.

14 NEW SECTION. **Sec. 15.** A new section is added to chapter 26.12 RCW  
15 to read as follows:

16 Any guardian ad litem appointed under this chapter may release  
17 confidential information, records, and reports to the office of the  
18 family and children's ombudsman for the purposes of carrying out its  
19 duties under chapter 43.06A RCW.

20 NEW SECTION. **Sec. 16.** This act is necessary for the immediate  
21 preservation of the public peace, health, or safety, or support of the  
22 state government and its existing public institutions, and takes effect  
23 July 1, 1999, except for sections 6 and 11 of this act, which take  
24 effect January 1, 2001.

--- END ---