

ESSB 6792 - H AMD TO APP COMM AMD (H-5951.1/08) **1480**
By Representative Dickerson

ADOPTED 03/06/2008

1 On page 29, after line 15 of the amendment, insert the following:

2 "NEW SECTION. **Sec. 12.** A new section is added to chapter 13.34
3 RCW to read as follows:

4 (1) A child who is age twelve years or older and who is the subject
5 of a dependency under this chapter has the following rights with
6 respect to all hearings conducted on his or her behalf under this
7 chapter:

8 (a) The right to receive notice of the proceedings and hearings;

9 (b) The right to be present at hearings; and

10 (c) The right to be heard personally.

11 (2) At the request of the child, the child's guardian ad litem or
12 attorney, or upon the court's own motion, the court may conduct an
13 interview with the child in chambers to determine the child's wishes as
14 to the issues pending before the court. The court may permit counsel
15 to be present at the interview. The court shall cause a record of the
16 interview to be made and to be made part of the record in the case.

17 (3) A child's right to attend a hearing conducted on his or her
18 behalf and to be heard by the court cannot be denied or limited by the
19 court absent a specific written finding by the court that such denial
20 or limitation is in the best interests of the child and necessary for
21 the health, safety, and welfare of the child.

22 (4) Prior to each hearing, the child's guardian ad litem or
23 attorney shall determine if the child wishes to be present and to be
24 heard at the hearing. If the child wishes to attend the hearing, the
25 guardian ad litem or attorney shall coordinate with the child's
26 caregiver and the department or supervising agency to make arrangements
27 for the child to attend the hearing. Nothing in this subsection shall
28 be construed to create a duty on the department or supervising agency
29 to transport the child.

1 **Sec. 13.** RCW 13.34.096 and 2007 c 409 s 1 are each amended to read
2 as follows:

3 (1) Prior to each proceeding held with respect to a child in
4 juvenile court under this chapter, the department of social and health
5 services or other supervising agency shall provide notice of the right
6 to be present and to be heard:

7 (a) To the child's foster parents, preadoptive parents, or other
8 caregivers ((with notice of their right to be heard prior to each
9 proceeding held with respect to the child in juvenile court under this
10 chapter)); and

11 (b) To the child if the child is age twelve years or older.

12 (2) The rights to notice and to be heard apply only to the child
13 and persons with whom ((a)) the child has been placed by the department
14 or other supervising agency and who are providing care to the child at
15 the time of the proceeding. This section shall not be construed to
16 grant party status to any person solely on the basis of such notice and
17 right to be heard.

18 **Sec. 14.** RCW 13.34.105 and 2000 c 124 s 4 are each amended to read
19 as follows:

20 (1) Unless otherwise directed by the court, the duties of the
21 guardian ad litem for a child subject to a proceeding under this
22 chapter, including an attorney specifically appointed by the court to
23 serve as a guardian ad litem, include but are not limited to the
24 following:

25 (a) To investigate, collect relevant information about the child's
26 situation, and report to the court factual information regarding the
27 best interests of the child;

28 (b) To meet with, interview, or observe the child, depending on the
29 child's age and developmental status, and report to the court any views
30 or positions expressed by the child on issues pending before the court;

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

34 ((+e)) (d) To report to the court information on the legal status
35 of a child's membership in any Indian tribe or band;

36 ((+d)) (e) Court-appointed special advocates and guardians ad
37 litem may make recommendations based upon an independent investigation

1 regarding the best interests of the child, which the court may consider
2 and weigh in conjunction with the recommendations of all of the
3 parties; and

4 ~~((e))~~ (f) To represent and be an advocate for the best interests
5 of the child.

6 (2) A guardian ad litem shall be deemed an officer of the court for
7 the purpose of immunity from civil liability.

8 (3) Except for information or records specified in RCW
9 13.50.100~~((5))~~ (7), the guardian ad litem shall have access to all
10 information available to the state or agency on the case. Upon
11 presentation of the order of appointment by the guardian ad litem, any
12 agency, hospital, school organization, division or department of the
13 state, doctor, nurse, or other health care provider, psychologist,
14 psychiatrist, police department, or mental health clinic shall permit
15 the guardian ad litem to inspect and copy any records relating to the
16 child or children involved in the case, without the consent of the
17 parent or guardian of the child, or of the child if the child is under
18 the age of thirteen years, unless such access is otherwise specifically
19 prohibited by law.

20 (4) A guardian ad litem may release confidential information,
21 records, and reports to the office of the family and children's
22 ombudsman for the purposes of carrying out its duties under chapter
23 43.06A RCW.

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

26 Renumber the remaining sections consecutively and correct any
27 internal references accordingly.

EFFECT: Adds provisions to the engrossed substitute bill as follows:

1. Establishes rights for children ages 12 years and older who are the subject of dependency proceedings to receive notice, be present, and be heard in proceedings.
2. Requires guardians ad litem or other court-appointed advocates

to meet with or observe a child at least once before making recommendations to the court regarding the child's best interests.

3. Requires guardians ad litem or other court-appointed advocates to report to the court any preferences or views expressed by the child with regard to issues pending before the court.

4. Directs the child's attorney or guardian ad litem to coordinate transportation for a child who wishes to attend a hearing.

5. Permits the court to interview a child in chambers regarding issues before the court.

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