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HOUSE BILL 1297

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State of Washington

63rd Legislature

2013 Regular Session

By Representatives Springer, Hunt, Appleton, and Ryu; by request of Public Records Exemptions Accountability Committee

Read first time 01/22/13. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to implementing a recommendation of the sunshine  
2 committee; and amending RCW 13.34.100.

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

4 **Sec. 1.** RCW 13.34.100 and 2010 c 180 s 2 are each amended to read  
5 as follows:

6 (1) The court shall appoint a guardian ad litem for a child who is  
7 the subject of an action under this chapter, unless a court for good  
8 cause finds the appointment unnecessary. The requirement of a guardian  
9 ad litem may be deemed satisfied if the child is represented by  
10 independent counsel in the proceedings. The court shall attempt to  
11 match a child with special needs with a guardian ad litem who has  
12 specific training or education related to the child's individual needs.

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

18 (3) Each guardian ad litem program shall maintain a background

1 information record for each guardian ad litem in the program. The  
2 background information record shall include, but is not limited to, the  
3 following information:

4 (a) Level of formal education;

5 (b) General training related to the guardian ad litem's duties;

6 (c) Specific training related to issues potentially faced by  
7 children in the dependency system;

8 (d) Specific training or education related to child disability or  
9 developmental issues;

10 (e) Number of years' experience as a guardian ad litem;

11 (f) Number of appointments as a guardian ad litem and the county or  
12 counties of appointment;

13 (g) The names of any counties in which the person was removed from  
14 a guardian ad litem registry pursuant to a grievance action, and the  
15 name of the court and the cause number of any case in which the court  
16 has removed the person for cause;

17 (h) Founded allegations of abuse or neglect as defined in RCW  
18 26.44.020;

19 (i) The results of an examination of state and national criminal  
20 identification data. The examination shall consist of a background  
21 check as allowed through the Washington state criminal records privacy  
22 act under RCW 10.97.050, the Washington state patrol criminal  
23 identification system under RCW 43.43.832 through 43.43.834, and the  
24 federal bureau of investigation. The background check shall be done  
25 through the Washington state patrol criminal identification section and  
26 must include a national check from the federal bureau of investigation  
27 based on the submission of fingerprints; and

28 (j) Criminal history, as defined in RCW 9.94A.030, for the period  
29 covering ten years prior to the appointment.

30 The background information record shall be updated annually. As a  
31 condition of appointment, the guardian ad litem's background  
32 information record shall be made available to the court. If the  
33 appointed guardian ad litem is not a member of a guardian ad litem  
34 program a suitable person appointed by the court to act as guardian ad  
35 litem shall provide the background information record to the court.

36 Upon appointment, the guardian ad litem, or guardian ad litem  
37 program, shall provide the parties or their attorneys with a copy of  
38 the background information record containing the results of the

1 background check conducted through the Washington state patrol criminal  
2 identification system under RCW 43.43.832 through 43.43.834. The  
3 portion of the background information record containing the results of  
4 the criminal background check and the criminal history from the federal  
5 bureau of investigation shall not be disclosed to the parties or their  
6 attorneys. The background information record shall not include  
7 identifying information that may be used to harm a guardian ad litem,  
8 such as home addresses and home telephone numbers, and for volunteer  
9 guardians ad litem the court may allow the use of maiden names or  
10 pseudonyms as necessary for their safety.

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

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

23 (6)(a) Pursuant to this subsection, the department or supervising  
24 agency and the child's guardian ad litem shall each notify a child of  
25 his or her right to request counsel and shall ask the child whether he  
26 or she wishes to have counsel. The department or supervising agency  
27 and the child's guardian ad litem shall notify the child and make this  
28 inquiry immediately after:

- 29 (i) The date of the child's twelfth birthday;  
30 (ii) Assignment of a case involving a child age twelve or older; or  
31 (iii) July 1, 2010, for a child who turned twelve years old before  
32 July 1, 2010.

33 (b) The department or supervising agency and the child's guardian  
34 ad litem shall repeat the notification and inquiry at least annually  
35 and upon the filing of any motion or petition affecting the child's  
36 placement, services, or familial relationships.

37 (c) The notification and inquiry is not required if the child has  
38 already been appointed counsel.

1 (d) The department or supervising agency shall note in the child's  
2 individual service and safety plan, and the guardian ad litem shall  
3 note in his or her report to the court, that the child was notified of  
4 the right to request counsel and indicate the child's position  
5 regarding appointment of counsel.

6 (e) At the first regularly scheduled hearing after:

7 (i) The date of the child's twelfth birthday;

8 (ii) The date that a dependency petition is filed pursuant to this  
9 chapter on a child age twelve or older; or

10 (iii) July 1, 2010, for a child who turned twelve years old before  
11 July 1, 2010;

12 the court shall inquire whether the child has received notice of his or  
13 her right to request legal counsel from the department or supervising  
14 agency and the child's guardian ad litem. The court shall make an  
15 additional inquiry at the first regularly scheduled hearing after the  
16 child's fifteenth birthday. No inquiry is necessary if the child has  
17 already been appointed counsel.

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

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

28 (8) When a court-appointed special advocate or volunteer guardian  
29 ad litem is requested on a case, the program shall give the court the  
30 name of the person it recommends. The program shall attempt to match  
31 a child with special needs with a guardian ad litem who has specific  
32 training or education related to the child's individual needs. The  
33 court shall immediately appoint the person recommended by the program.

34 (9) If a party in a case reasonably believes the court-appointed  
35 special advocate or volunteer guardian ad litem is inappropriate or  
36 unqualified, the party may request a review of the appointment by the  
37 program. The program must complete the review within five judicial  
38 days and remove any appointee for good cause. If the party seeking the

1 review is not satisfied with the outcome of the review, the party may  
2 file a motion with the court for the removal of the court-appointed  
3 special advocate or volunteer guardian ad litem on the grounds the  
4 advocate or volunteer is inappropriate or unqualified.

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