

SENATE BILL REPORT

SB 5823

As of February 17, 2015

Title: An act relating to guardians ad litem.

Brief Description: Concerning guardians ad litem.

Sponsors: Senators Rivers and Litzow.

Brief History:

Committee Activity: Law & Justice: 2/17/15.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Tim Ford (786-7423)

Background: A guardian ad litem may be appointed by the court to protect the best interests of a minor or dependent child for a legal action in family court. The guardian ad litem may be from a court-appointed special advocate program if that program exists in the county, in which case the program is responsible for supervising any guardian ad litem assigned to the case. Ultimately the court is responsible for supervising guardian ad litem which it appoints for any case. The court must attempt to match a child with special needs with a guardian ad litem who has specific training or education related to the child's needs. The guardian ad litem's role is to investigate and report factual information regarding issues ordered to be investigated and reported by the court. The guardian ad litem must file their report with the court at least 60 days prior to trial, and the court may consider responses to the guardian ad litem report by all parties along with any recommendations of all parties. Guardians who are not volunteers provide an itemized accounting of their time and billing each month to the court. The court may order either or both parents to pay for the costs of the guardian ad litem according to their ability to pay unless both parents are indigent.

Summary of Bill: Guardian ad litem must notify each party and court of any actual or potential conflicts of interest prior to accepting appointment. Failure to disclose conflicts of interest results in immediate dismissal of the guardian ad litem and all the guardian ad litem's reports and documents. A person knowingly withholding conflict of interest information is guilty of a misdemeanor.

The court only appoints a guardian ad litem from a guardian ad litem program or court-appointed special advocate program. The guardian ad litem's recommendations must be

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substantiated with accurate factual information and only according to the guardian ad litem's training and licensing. A guardian ad litem may not make recommendations based upon mental health, physical health, or other special circumstance without the aid of a licensed professional. The court must strike all nonprofessional recommendations from the guardian ad litem report. The court may not adopt or act upon the guardian ad litem report or recommendations prior to each party having at least 30 days to respond to the report.

The court may not award fees to the guardian ad litem if an itemized accounting has not been submitted to the court.

Appropriation: None.

Fiscal Note: Requested on February 16, 2015.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Family law is difficult. This bill will address the subjectivity of a guardian ad litem's (GAL's) opinion that can lead to very damaging results. It will require actual and potential conflicts of interest of a GAL. A GAL may falsify documents or billings and this will require an itemization of billings prior to payment. It is expensive to prove that a GAL's reports are inaccurate or falsified and this bill will require the nonprofessional recommendations of a GAL to be stricken from the record.

CON: Courts are seeking more GALs. The additional disclosure provisions may chill the ability to hire more GALs. The bill requires a court to wait 30 days after the GAL's report is filed and that may not be good for the child's best interest. Many of the GAL's recommendations are based on emergent situations needing an immediate response. Disclosure of a potential conflict of interest is not defined and will be difficult to implement.

Persons Testifying: PRO: Senator Rivers, prime sponsor; Taryn Loun, Tina Toth, citizens.

CON: Steve Warning, Judge.