

SENATE BILL REPORT

SB 5823

As Reported by Senate Committee On:
Law & Justice, February 19, 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, 2/19/15 [DPS].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5823 be substituted therefor, and the substitute bill do pass.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pedersen, Ranking Minority Member; Darneille, Kohl-Welles and Roach.

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 (Recommended Substitute): Guardians ad litem must notify each party and court of any conflicts of interest prior to accepting appointment.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (Recommended Substitute): Guardians ad litem must notify each party and court of any conflicts of interest prior to accepting appointment.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill: 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.