

HOUSE BILL REPORT

HB 1072

As Reported By House Committee On:
Judiciary

Title: An act relating to guardians ad litem.

Brief Description: Changing provisions relating to guardians ad litem.

Sponsors: Representatives Appelwick, Ludwig, Johanson and Ogden.

Brief History:

Reported by House Committee on:
Judiciary, February 16, 1993, DPS.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Campbell; Chappell; Forner; Johanson; Locke; Long; Mastin; H. Myers; Riley; Schmidt; Scott; Tate; and Wineberry.

Staff: Patricia Shelledy (786-7149).

Background: A general statute governing family courts provides that courts may appoint guardians ad litem for children in family law matters. Courts must appoint a guardian or guardian ad litem in paternity actions. Provisions governing divorce actions and nonparental actions for child custody do not expressly authorize courts to appoint guardians ad litem. Those statutes provide that the court may order an investigation and report to be prepared by juvenile court staff or other professional social service organizations.

King County has created a court appointed special advocate (CASA) program for family court. The CASA program has a professional staff that supervises volunteers that act as guardians ad litem in family law cases. The CASA program, rather than a particular guardian ad litem, is generally assigned to the case. The CASA program's guardians ad litem may or may not have the same authority and responsibilities assigned to private guardians ad litem in other cases. No

existing statutory provision defines the CASA program's role and responsibilities.

Parents pay for the guardian ad litem costs based upon the parents' ability to pay. If the parents are indigent, the county pays the cost of the guardian ad litem, subject to appropriation by the county legislative authority.

Summary of Substitute Bill: Courts are expressly authorized to appoint guardians ad litem to represent the best interests of children in marriage dissolution actions, nonparental actions for child custody, and other family court matters. If the court appoints a guardian ad litem, the guardian ad litem may conduct a court ordered investigation and prepare a report to the court.

If a county has a court appointed special advocate program (CASA), the court may appoint a guardian ad litem from the CASA program. The program will supervise any guardian ad litem assigned to the case. Unless otherwise ordered, the CASA guardian ad litem's role is to investigate and report to the court concerning parenting arrangements for the child, and to represent the child's best interests. The CASA program is entitled to notice of all proceedings in the case.

The county legislative authority may authorize creation of a CASA program. Counties will continue to bear the cost of guardians ad litem.

Substitute Bill Compared to Original Bill: The provisions providing that the CASA program is a party to the proceedings are stricken. The CASA program must supervise its guardians ad litem and is entitled to notice of all proceedings. The role of the CASA guardian ad litem is to investigate and report to the court concerning the parenting arrangements for the child, and to represent the child's best interests, unless otherwise ordered by the court.

Fiscal Note: Not requested.

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

Testimony For: The CASA program in King County is a highly successful, well supervised volunteer program that serves as an arm of the court and lowers the cost of domestic relations cases. The CASA program would like its role, rights, and responsibilities defined in statute to clarify its role and avoid liability issues for its volunteers and the program.

Testimony Against: The role of guardians ad litem in general as well as CASA guardians ad litem is unclear. Due to the lack of clarity, some guardians ad litem interfere with the proceedings when they are not qualified to do so. However, courts frequently treat the guardians ad litem decisions with a rubber stamp. CASA should not be designated as a party to the proceedings. The role of guardians ad litem in general should be clarified prior to granting the CASA program party status and other rights.

Witnesses: Nancy Bradburn-Johnson, attorney for the King County CASA program (pro); Joan Allison, family law counselor (pro); Pat Dixon, King County CASA program (pro); Raven Lidman, law professor and former family law practitioner (con); Michele Delo, Washington Families for Noncustodial Rights (opposed in part); and Douglas Becker, Seattle King County Bar Association (pro).