

# FINAL BILL REPORT

## SHB 2180

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Synopsis as Enacted

**Brief Description:** Revising provisions relating to appointment of guardians ad litem.

By House Committee on Judiciary (originally sponsored by Representatives H. Myers, Ogden, Thibaudeau and J. Kohl).

House Committee on Judiciary  
Senate Committee on Health & Human Services

**Background:** The federal Child Abuse Prevention and Treatment Act requires the states to provide that guardians ad litem must be appointed in judicial proceedings to represent children who are allegedly abused or neglected. Washington's eligibility to receive federal funds under the Child Abuse and Neglect Basic State Grant Program and the Children's Justice Act Program is contingent upon the state's compliance with the guardian ad litem requirement. The requirement applies in dependency proceedings or in shelter care proceedings but does not apply in domestic relations actions or criminal actions in which allegations of child abuse or neglect are made.

Last year, a bill passed the Legislature that inadvertently jeopardized Washington's compliance with federal law by requiring courts to appoint guardians ad litem only in "contested" judicial proceedings in which allegations of child abuse and neglect are made. Prior to passage of that law, Washington statutes required courts to appoint guardians ad litem in every judicial proceeding in which allegations of child abuse and neglect were made.

After the bill was passed last year, the federal Department of Health and Human Services notified the state that the 1993 enactment violated the requirements under federal law. The secretary of Social and Health Services declared that the law is inoperative because of a clause in the bill that provided it would be inoperative if it conflicted with federal law. Nevertheless, some judges are apparently appointing guardians ad litem only in contested judicial proceedings.

Two statutes govern appointment of guardians ad litem. One of those statutes is contained in the chapter which governs the requirement of certain persons to report suspected

incidents of child abuse and neglect to authorities. The other statute specifically applies to dependency proceedings. One statute provides that the requirement of a guardian ad litem may be deemed satisfied if the child is represented by counsel. The other statute provides that the requirement of counsel shall be deemed satisfied if the child is represented by counsel.

**Summary:** In any judicial proceeding in which it is alleged that a child has been subjected to child abuse or neglect, the court must appoint a guardian ad litem for the child. In dependency actions that do not involve allegations of child abuse or neglect, the court must appoint a guardian ad litem unless the court finds for good cause that the appointment is unnecessary. The court may consider the requirement of appointment of a guardian ad litem to be satisfied if the child is represented by an attorney. "Judicial proceedings" are dependencies and hearings following reports of abuse and neglect and do not include domestic relations cases and criminal cases.

**Votes on Final Passage:**

House	98	0
Senate	47	0

**Effective:** June 9, 1994