

**SENATE BILL REPORT**

**SHB 2180**

**AS REPORTED BY COMMITTEE ON HEALTH & HUMAN SERVICES,  
FEBRUARY 23, 1994**

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

**SPONSORS:** 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**

**Majority Report:** Do pass.

Signed by Senators Talmadge, Chairman; Wojahn, Vice Chairman; Deccio, Erwin, Franklin, Fraser, Hargrove, McAuliffe, McDonald, Moyer, Niemi, Prentice, L. Smith and Winsley.

**Staff:** Richard Rodger (786-7461)

**Hearing Dates:** February 23, 1994

**BACKGROUND:**

The federal Child Abuse Prevention and Treatment Act requires the states to provide, in every case involving an abused or neglected child which results in a judicial proceeding, a guardian ad litem to represent the child during the proceedings. Washington's eligibility to receive federal funds is contingent upon the state's compliance with the guardian ad litem requirement. The requirement applies in dependency and 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 which provided that guardians ad litem only had to be appointed in "contested" judicial proceedings in which allegations of child abuse and neglect were made. Prior to passage of the law, Washington statutes provided that guardians ad litem must be appointed in every judicial proceeding in which allegations of child abuse and neglect was made.

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, apparently some judges are only appointing guardians ad litem in contested judicial proceedings according to the terms of the statute.

**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 those dependency actions which 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.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** requested January 27, 1994

**TESTIMONY FOR:**

This bill will not require any additional state funding, but will bring the state into compliance with federal law. Some judges in Clark County have not followed the declaration by the Secretary of DSHS that declared the violative provision inoperative.

**TESTIMONY AGAINST:** None

**TESTIFIED:** PRO: Sheila A. Homchick, Clark County CASA; Sharon A. Parapis, WA State Association of Court Appointed Special Advocates (WASACASA); Richard Winters, DSHS; Mike Curtis, OAC