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**SENATE BILL 6257**

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**State of Washington**

**54th Legislature**

**1996 Regular Session**

**By** Senators Franklin, Hargrove, Goings, Long, Sheldon, Fairley, Wojahn, Prentice, Thibaudeau, Fraser and Heavey

Read first time 01/09/96. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to guardians and guardians ad litem for minors and  
2 incapacitated persons; amending RCW 2.56.030, 4.08.060, 8.25.270,  
3 11.16.083, 11.52.014, 11.52.020, 11.76.080, 11.88.090, 11.92.190,  
4 11.96.180, 13.24.050, 13.34.100, 13.34.120, 26.12.175, 26.26.140,  
5 26.33.070, 26.44.053, 65.12.145, 90.03.150, and 91.08.230; adding a new  
6 section to chapter 2.56 RCW; adding new sections to chapter 11.88 RCW;  
7 adding new sections to chapter 13.34 RCW; adding new sections to  
8 chapter 26.12 RCW; and creating new sections.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

10 NEW SECTION. **Sec. 1.** It is the intent of this act to make  
11 improvements to the guardian and guardian ad litem systems currently in  
12 place for the protection of minors and incapacitated persons.

13 **Sec. 2.** RCW 2.56.030 and 1994 c 240 s 1 are each amended to read  
14 as follows:

15 The administrator for the courts shall, under the supervision and  
16 direction of the chief justice:

17 (1) Examine the administrative methods and systems employed in the  
18 offices of the judges, clerks, stenographers, and employees of the

1 courts and make recommendations, through the chief justice, for the  
2 improvement of the same;

3 (2) Examine the state of the dockets of the courts and determine  
4 the need for assistance by any court;

5 (3) Make recommendations to the chief justice relating to the  
6 assignment of judges where courts are in need of assistance and carry  
7 out the direction of the chief justice as to the assignments of judges  
8 to counties and districts where the courts are in need of assistance;

9 (4) Collect and compile statistical and other data and make reports  
10 of the business transacted by the courts and transmit the same to the  
11 chief justice to the end that proper action may be taken in respect  
12 thereto;

13 (5) Prepare and submit budget estimates of state appropriations  
14 necessary for the maintenance and operation of the judicial system and  
15 make recommendations in respect thereto;

16 (6) Collect statistical and other data and make reports relating to  
17 the expenditure of public moneys, state and local, for the maintenance  
18 and operation of the judicial system and the offices connected  
19 therewith;

20 (7) Obtain reports from clerks of courts in accordance with law or  
21 rules adopted by the supreme court of this state on cases and other  
22 judicial business in which action has been delayed beyond periods of  
23 time specified by law or rules of court and make report thereof to  
24 supreme court of this state;

25 (8) Act as secretary of the judicial conference referred to in RCW  
26 2.56.060;

27 (9) Formulate and submit to the judicial council of this state  
28 recommendations of policies for the improvement of the judicial system;

29 (10) Submit annually, as of February 1st, to the chief justice and  
30 the judicial council, a report of the activities of the administrator's  
31 office for the preceding calendar year;

32 (11) Administer programs and standards for the training and  
33 education of judicial personnel;

34 (12) Examine the need for new superior court and district judge  
35 positions under a weighted caseload analysis that takes into account  
36 the time required to hear all the cases in a particular court and the  
37 amount of time existing judges have available to hear cases in that  
38 court. The results of the weighted caseload analysis shall be reviewed  
39 by the board for judicial administration and the judicial council, both

1 of which shall make recommendations to the legislature (~~by January 1,~~  
2 ~~1989~~). It is the intent of the legislature that weighted caseload  
3 analysis become the basis for creating additional district court  
4 positions, and recommendations should address that objective;

5 (13) Provide staff to the judicial retirement account plan under  
6 chapter 2.14 RCW;

7 (14) Attend to such other matters as may be assigned by the supreme  
8 court of this state;

9 (15) Within available funds, develop a curriculum for a general  
10 understanding of child development, placement, and treatment resources,  
11 as well as specific legal skills and knowledge of relevant statutes  
12 including chapters 13.32A, 13.34, and 13.40 RCW, cases, court rules,  
13 interviewing skills, and special needs of the abused or neglected  
14 child. This curriculum shall be completed and made available to all  
15 juvenile court judges, court personnel, and service providers (~~by July~~  
16 ~~1, 1988. The curriculum shall~~) and be updated yearly to reflect  
17 changes in statutes, court rules, or case law;

18 (16) Develop, in consultation with all public benefit nonprofit  
19 corporations that are eligible to receive state funds under RCW  
20 43.330.135, a comprehensive state-wide curriculum for all persons who  
21 act as guardians ad litem under Title 13 or 26 RCW. The curriculum  
22 shall be made available January 1, 1997, and include specialty sections  
23 on child development, child sexual abuse, child physical abuse, child  
24 neglect, investigative and interviewing techniques, and relevant  
25 statutory and legal requirements. The curriculum shall be made  
26 available to all superior court judges, court personnel, and all  
27 persons who act as guardians ad litem;

28 (17) Develop a curriculum for a general understanding of crimes of  
29 malicious harassment, as well as specific legal skills and knowledge of  
30 RCW 9A.36.080, relevant cases, court rules, and the special needs of  
31 malicious harassment victims. This curriculum shall be (~~completed~~  
32 ~~and~~) made available to all superior court and court of appeals judges  
33 and to all justices of the supreme court (~~by July 1, 1989~~);

34 (~~(17)~~) (18) Develop, in consultation with the criminal justice  
35 training commission and the commissions established under chapters  
36 43.113, 43.115, and 43.117 RCW, a curriculum for a general  
37 understanding of ethnic and cultural diversity and its implications for  
38 working with youth of color and their families. The curriculum shall  
39 be (~~completed and made~~) available to all superior court judges and

1 court commissioners assigned to juvenile court, and other court  
2 personnel ((by October 1, 1993)). Ethnic and cultural diversity  
3 training shall be provided annually so as to incorporate cultural  
4 sensitivity and awareness into the daily operation of juvenile courts  
5 state-wide;

6 ((+18)) (19) Authorize the use of closed circuit television and  
7 other electronic equipment in judicial proceedings. The administrator  
8 shall promulgate necessary standards and procedures and shall provide  
9 technical assistance to courts as required.

10 NEW SECTION. **Sec. 3.** A new section is added to chapter 2.56 RCW  
11 to read as follows:

12 (1) The administrator for the courts shall develop a plan for the  
13 state-wide mandatory use of court-appointed special advocates as  
14 described in RCW 26.12.175 to act as guardians ad litem in all cases  
15 under Titles 13 and 26 RCW. The plan shall include recommendations  
16 regarding the increase of court fees or assessments as necessary to  
17 fully fund the implementation and continuation of the plan.

18 (2) The administrator shall also conduct a study on the feasibility  
19 and desirability of requiring all persons who act as guardians ad litem  
20 under Titles 11, 13, and 26 RCW to be certified as qualified guardians  
21 ad litem prior to their eligibility for appointment.

22 (3) In developing the plan and conducting the study the  
23 administrator shall consult with: (a) The presidents or directors of  
24 all public benefit nonprofit corporations that are eligible to receive  
25 state funds under RCW 43.330.135; (b) the attorney general, or a  
26 designee; (c) the secretary of the department of social and health  
27 services, or a designee; (d) the superior court judges association; (e)  
28 the Washington state bar association; (f) public defenders who  
29 represent children under Title 13 or 26 RCW; (g) private attorneys who  
30 represent parents under Title 13 or 26 RCW; (h) professionals who  
31 evaluate families for the purposes of determining the custody or  
32 placement decisions of children; (i) the office of financial  
33 management; (j) persons who act as volunteer guardians ad litem; and  
34 (k) parents who have dealt with guardians ad litem in court cases. For  
35 the purposes of studying the feasibility of a certification requirement  
36 for guardians ad litem acting under Title 11 RCW the administrator  
37 shall consult with the advisory group formed under RCW 11.88.090.

1        NEW SECTION.    **Sec. 4.** The plan and study required under section 3  
2 of this act shall be presented to the governor and to the appropriate  
3 committees of the legislature no later than December 1, 1996.

4        **Sec. 5.** RCW 4.08.060 and 1899 c 91 s 1 are each amended to read as  
5 follows:

6        When an ((insane)) incapacitated person, as defined in RCW  
7 11.88.010, is a party to an action in the superior courts he or she  
8 shall appear by guardian, or if he or she has no guardian, or in the  
9 opinion of the court the guardian is an improper person, the court  
10 shall appoint one to act as guardian ad litem. Said guardian shall be  
11 appointed as follows:

12        (1) When the ((insane)) incapacitated person is plaintiff, upon  
13 the application of a relative or friend of the ((insane)) incapacitated  
14 person.

15        (2) When the ((insane)) incapacitated person is defendant, upon the  
16 application of a relative or friend of such ((insane)) incapacitated  
17 person, such application shall be made within thirty days after the  
18 service of summons if served in the state of Washington, and if served  
19 out of the state or service is made by publication, then such  
20 application shall be made within sixty days after the first publication  
21 of summons or within sixty days after the service out of the state. If  
22 no such application be made within the time above limited, application  
23 may be made by any party to the action.

24        **Sec. 6.** RCW 8.25.270 and 1977 ex.s. c 80 s 12 are each amended to  
25 read as follows:

26        When it ((shall)) appears in any petition or otherwise at any time  
27 during the proceedings for condemnation brought pursuant to chapters  
28 8.04, 8.08, 8.12, 8.16, 8.20, and 8.24 RCW(~~(, each as now or hereafter~~  
29 ~~amended,)~~) that any ((infant)) minor, or ((~~allegedly incompetent or~~  
30 ~~disabled~~)) alleged incapacitated person, as defined in RCW 11.88.010,  
31 is interested in any property that is to be taken or damaged, the court  
32 shall appoint a guardian ad litem for ((~~such infant~~)) the minor or  
33 ((~~allegedly incompetent or disabled~~)) alleged incapacitated person to  
34 appear and assist in ((~~his, her or their~~)) the person's defense, unless  
35 a guardian or limited guardian has previously been appointed, in which  
36 case the duty to appear and assist shall be delegated to the properly  
37 qualified guardian or limited guardian. The court shall make such

1 orders or decrees as it shall deem necessary to protect and secure the  
2 interest of the ((infant)) minor or ((allegedly incompetent or  
3 disabled)) alleged incapacitated person ((in the property sought to be  
4 condemned or the compensation which shall be awarded therefore)).

5 **Sec. 7.** RCW 11.16.083 and 1977 ex.s. c 234 s 1 are each amended to  
6 read as follows:

7 Notwithstanding any other provision of this title, no notice of any  
8 hearing in probate or probate proceeding need be given to any legally  
9 competent person who is interested in any hearing in any probate as an  
10 heir, legatee, or devisee of the decedent who has in person or by  
11 attorney waived in writing notice of such hearing or proceeding. Such  
12 waiver of notice may apply to either a specific hearing or proceeding,  
13 or to any and all hearings and proceedings to be held during the  
14 administration of the estate in which event such waiver of notice shall  
15 be of continuing effect unless subsequently revoked by the filing of a  
16 written notice of revocation of the waiver and the mailing of a copy  
17 thereof to the personal representative and his or her attorney. Unless  
18 notice of a hearing is required to be given by publication, if all  
19 persons entitled to notice thereof shall have waived such notice, the  
20 court may hear the matter forthwith. A guardian of the estate or a  
21 guardian ad litem may make such waivers on behalf of ((his  
22 incompetent)) an incapacitated person, as defined in RCW 11.88.010, and  
23 a trustee may make such waivers on behalf of any competent or  
24 ((incompetent)) incapacitated beneficiary of his or her trust. A  
25 consul or other representative of a foreign government, whose  
26 appearance has been entered as provided by law on behalf of any person  
27 residing in a foreign country, may make such waiver of notice on behalf  
28 of such person. Any person who submits to the jurisdiction of the  
29 court in any hearing shall be deemed to have waived notice thereof.

30 **Sec. 8.** RCW 11.52.014 and 1965 c 145 s 11.52.014 are each amended  
31 to read as follows:

32 Notice of such hearing shall be given in the manner prescribed in  
33 RCW 11.76.040. If there be any ((incompetent)) heir who is an  
34 incapacitated person, as defined in RCW 11.88.010, of the decedent, the  
35 court shall appoint a guardian ad litem for such ((incompetent)) heir,  
36 who shall appear at the hearing and represent the interest of ((such  
37 incompetent)) the heir.

1       **Sec. 9.** RCW 11.52.020 and 1985 c 194 s 2 are each amended to read  
2 as follows:

3       In event a homestead has been, or shall be selected in the manner  
4 provided by law, whether the selection of such homestead results in  
5 vesting the complete or partial title in the survivor, it shall be the  
6 duty of the court, upon petition of any person interested, and upon  
7 being satisfied that the value thereof does not exceed at the time of  
8 the death the amount specified in RCW 11.52.010, exclusive of general  
9 taxes and special assessments which were liens at the time of the death  
10 of the deceased and exclusive of the unpaid balance of any contract to  
11 purchase, mortgage, or mechanic's, laborer's, or materialmen's liens  
12 thereon, and exclusive of funeral expenses, expenses of last sickness  
13 and of administration, which expenses may be deducted from the gross  
14 value in determining the value to be set off to the surviving spouse,  
15 to enter a decree, upon notice as provided in RCW 11.52.014 or upon  
16 longer notice if the court so orders, setting off and awarding such  
17 homestead to the survivor, thereby vesting the title thereto in fee  
18 simple in the survivor: PROVIDED, That if there be any (~~incompetent~~)  
19 heir(~~s~~) who is an incapacitated person, as defined in RCW 11.88.010,  
20 of the decedent, the court shall appoint a guardian ad litem for (~~such~~  
21 ~~incompetent~~) the heir who shall appear at the hearing and represent  
22 the interest of (~~such incompetent~~) the heir.

23       **Sec. 10.** RCW 11.76.080 and 1977 ex.s. c 80 s 15 are each amended  
24 to read as follows:

25       If there be any alleged (~~incompetent or disabled~~) incapacitated  
26 person as defined in RCW 11.88.010 interested in the estate who has no  
27 legally appointed guardian or limited guardian, the court:

28       (1) At any stage of the proceeding in its discretion and for such  
29 purpose or purposes as it shall indicate, may, and

30       (2) For hearings held pursuant to RCW 11.52.010, 11.52.020,  
31 11.68.040 and 11.76.050, (~~each as now or hereafter amended,~~) or for  
32 entry of an order adjudicating testacy or intestacy and heirship when  
33 no personal representative is appointed to administer the estate of the  
34 decedent, shall appoint some disinterested person as guardian ad litem  
35 to represent such(~~allegedly incompetent or disabled~~) alleged  
36 incapacitated person with reference to any petition, proceeding report,  
37 or adjudication of testacy or intestacy without the appointment of a  
38 personal representative to administer the estate of decedent in which

1 the alleged (~~(incompetent or disabled)~~) incapacitated person may have  
2 an interest, who, on behalf of the alleged (~~(incompetent or disabled)~~)  
3 incapacitated person, may contest the same as any other person  
4 interested might contest it, and who shall be allowed by the court  
5 reasonable compensation for his or her services: PROVIDED, HOWEVER,  
6 That where a surviving spouse is the sole beneficiary under the terms  
7 of a will, the court may grant a motion by the personal representative  
8 to waive the appointment of a guardian ad litem for a person who is the  
9 minor child of such surviving spouse and the decedent and who is  
10 incompetent solely for the reason of (~~(his)~~) being under eighteen years  
11 of age.

12 **Sec. 11.** RCW 11.88.090 and 1995 c 297 s 4 are each amended to read  
13 as follows:

14 (1) Nothing contained in RCW 11.88.080 through 11.88.120, 11.92.010  
15 through 11.92.040, 11.92.060 through 11.92.120, 11.92.170, and  
16 11.92.180(~~(, as now or hereafter amended,)~~) shall affect or impair the  
17 power of any court to appoint a guardian ad litem to defend the  
18 interests of any incapacitated person interested in any suit or matter  
19 pending therein, or to commence and prosecute any suit in his or her  
20 behalf.

21 (2) Upon receipt of a petition for appointment of guardian or  
22 limited guardian, except as provided herein, the court shall appoint a  
23 guardian ad litem to represent the best interests of the alleged  
24 incapacitated person, who shall be a person found or known by the court  
25 to:

26 (a) Be free of influence from anyone interested in the result of  
27 the proceeding; and

28 (b) Have the requisite knowledge, training, or expertise to perform  
29 the duties required by this section.

30 No guardian ad litem need be appointed when a parent is petitioning  
31 for a guardian or a limited guardian to be appointed for his or her  
32 minor child and the minority of the child, as defined by RCW 11.92.010,  
33 is the sole basis of the petition. The order appointing the guardian  
34 ad litem shall recite the duties set forth in subsection (5) of this  
35 section. The appointment of a guardian ad litem shall have no effect  
36 on the legal competency of the alleged incapacitated person and shall  
37 not overcome the presumption of competency or full legal and civil  
38 rights of the alleged incapacitated person. Health care directives



1 executed under chapter 70.122 RCW and all powers of attorney executed  
2 by an alleged incapacitated person prior to the appointment of a  
3 guardian ad litem shall remain in effect until the court specifically  
4 orders otherwise.

5 (3)(a) The superior court of each county shall ~~((develop by~~  
6 ~~September 1, 1991,))~~ maintain a registry of persons who are willing and  
7 qualified to serve as guardians ad litem in guardianship matters. The  
8 court shall ~~((choose))~~ only appoint as guardian~~((s))~~ ad litem ~~((only))~~  
9 the person~~((s))~~ whose name~~((s))~~ appears next on the registry~~((, except~~  
10 ~~in extraordinary circumstances))~~. If the person whose name appears  
11 next on the registry is: Unable to accept the appointment, unwilling  
12 to accept the appointment, or subject to an affidavit of prejudice, the  
13 person's name shall be placed at the bottom of the registry.

14 (b) To be eligible for the registry a person shall:

15 (i) Present a written statement ~~((of))~~ outlining his or her  
16 background and qualifications ~~((describing))~~. The background statement  
17 shall include, but is not limited to, the following information:

18 (A) Level of formal education;

19 (B) Training related to the guardian's duties;

20 (C) Number of years' experience as a guardian ad litem;

21 (D) Number of appointments as a guardian ad litem and the county or  
22 counties of appointment;

23 (E) Number of complaints against the guardian ad litem, filed with  
24 the guardian ad litem program, the Washington state bar association, or  
25 the superior court, including the nature of the complaint and its  
26 resolution;

27 (F) Number of affidavits of prejudice, if any, filed against the  
28 guardian ad litem, including the number per year and the county in  
29 which it was filed;

30 (G) Criminal history, as defined in RCW 9.94A.030; and

31 (H) Evidence of the person's knowledge, training, and experience in  
32 each of the following: Needs of impaired elderly people, physical  
33 disabilities, mental illness, developmental disabilities, and other  
34 areas relevant to the needs of incapacitated persons, legal procedure,  
35 and the requirements of chapters 11.88 and 11.92 RCW. The background  
36 statement shall not include identifying information that may be used to  
37 harm a guardian ad litem, such as home addresses and home telephone  
38 numbers, and for volunteer guardians ad litem the court may allow the  
39 use of maiden names or pseudonyms as necessary for their safety; and

1 (ii) Complete a training program adopted by the court, or, in the  
2 absence of a locally adopted program, a candidate for inclusion upon  
3 the registry shall have completed a model training program as described  
4 in (d) of this subsection.

5 (c) The background information report shall be updated annually.  
6 As a condition of appointment, the guardian ad litem's background  
7 information record shall be made available to the court, and  
8 immediately provided to the parties or their attorneys. If the  
9 appointed guardian ad litem is not a member of a guardian ad litem  
10 program the person shall immediately provide the required background  
11 information to the court, and to the parties or their attorneys. The  
12 guardian ad litem program shall immediately file the notice of  
13 appointment and background statement with the court and send copies to  
14 the parties.

15 (d) The superior court of each county shall approve training  
16 programs designed to:

17 (i) Train otherwise qualified human service professionals in those  
18 aspects of legal procedure and the requirements of chapters 11.88 and  
19 11.92 RCW with which a guardian ad litem should be familiar;

20 (ii) Train otherwise qualified legal professionals in those aspects  
21 of medicine, social welfare, and social service delivery systems with  
22 which a guardian ad litem should be familiar.

23 ~~((d) The superior court of each county may approve a guardian ad~~  
24 ~~litem training program on or before June 1, 1991.))~~ (e) The department  
25 of social and health services ~~((, aging and adult services~~  
26 ~~administration,))~~ shall convene an advisory group to develop a model  
27 guardian ad litem training program and shall update the program  
28 annually. The advisory group shall consist of representatives from  
29 consumer, advocacy, and professional groups knowledgeable in  
30 developmental disabilities, neurological impairment, physical  
31 disabilities, mental illness, aging, legal, court administration, the  
32 Washington state bar association, and other interested parties.

33 ~~((e) Any))~~ (f) The superior court ~~((that has not adopted a~~  
34 ~~guardian ad litem training program by September 1, 1991,))~~ shall  
35 require utilization of ~~((a))~~ the model program developed by the  
36 advisory group as described in ~~((d))~~ (e) of this subsection, to  
37 assure that candidates applying for registration as a qualified  
38 guardian ad litem shall have satisfactorily completed training to

1 attain these essential minimum qualifications to act as guardian ad  
2 litem.

3 (4) The guardian ad litem's written statement of background and  
4 qualifications required by ((RCW 11.88.090)) subsection (3)(b)(i) of  
5 this section shall be made part of the record in each matter in which  
6 the person is appointed guardian ad litem. As a condition of  
7 appointment, the guardian ad litem's background information shall be  
8 immediately provided to the parties or their attorneys.

9 (5) The guardian ad litem appointed pursuant to this section shall  
10 have the following duties:

11 (a) To meet and consult with the alleged incapacitated person as  
12 soon as practicable following appointment and explain, in language  
13 which such person can reasonably be expected to understand, the  
14 substance of the petition, the nature of the resultant proceedings, the  
15 person's right to contest the petition, the identification of the  
16 proposed guardian or limited guardian, the right to a jury trial on the  
17 issue of his or her alleged incapacity, the right to independent legal  
18 counsel as provided by RCW 11.88.045, and the right to be present in  
19 court at the hearing on the petition;

20 (b) To obtain a written report according to RCW 11.88.045; and such  
21 other written or oral reports from other qualified professionals as are  
22 necessary to permit the guardian ad litem to complete the report  
23 required by this section;

24 (c) To meet with the person whose appointment is sought as guardian  
25 or limited guardian and ascertain:

26 (i) The proposed guardian's knowledge of the duties, requirements,  
27 and limitations of a guardian; and

28 (ii) The steps the proposed guardian intends to take or has taken  
29 to identify and meet the needs of the alleged incapacitated person;

30 (d) To consult as necessary to complete the investigation and  
31 report required by this section with those known relatives, friends, or  
32 other persons the guardian ad litem determines have had a significant,  
33 continuing interest in the welfare of the alleged incapacitated person;

34 (e) To provide the court with a written report which shall include  
35 the following:

36 (i) A description of the nature, cause, and degree of incapacity,  
37 and the basis upon which this judgment was made;

38 (ii) A description of the needs of the incapacitated person for  
39 care and treatment, the probable residential requirements of the

1 alleged incapacitated person and the basis upon which these findings  
2 were made;

3 (iii) An evaluation of the appropriateness of the guardian or  
4 limited guardian whose appointment is sought and a description of the  
5 steps the proposed guardian has taken or intends to take to identify  
6 and meet current and emerging needs of the incapacitated person;

7 (iv) A description of the abilities of the alleged incapacitated  
8 person and a recommendation as to whether a guardian or limited  
9 guardian should be appointed. If appointment of a limited guardian is  
10 recommended, the guardian ad litem shall recommend the specific areas  
11 of authority the limited guardian should have and the limitations and  
12 disabilities to be placed on the incapacitated person;

13 (v) An evaluation of the person's mental ability to rationally  
14 exercise the right to vote and the basis upon which the evaluation is  
15 made;

16 (vi) Any expression of approval or disapproval made by the alleged  
17 incapacitated person concerning the proposed guardian or limited  
18 guardian or guardianship or limited guardianship;

19 (vii) Identification of persons with significant interest in the  
20 welfare of the alleged incapacitated person who should be advised of  
21 their right to request special notice of proceedings pursuant to RCW  
22 11.92.150; and

23 (viii) Unless independent counsel has appeared for the alleged  
24 incapacitated person, an explanation of how the alleged incapacitated  
25 person responded to the advice of the right to jury trial, to  
26 independent counsel and to be present at the hearing on the petition.

27 Within forty-five days after notice of commencement of the  
28 guardianship proceeding has been served upon the guardian ad litem, and  
29 at least ten days before the hearing on the petition, unless an  
30 extension or reduction of time has been granted by the court for good  
31 cause, the guardian ad litem shall file its report and send a copy to  
32 the alleged incapacitated person and his or her spouse, all children  
33 not residing with a notified person, those persons described in  
34 (e)(vii) of this subsection, and persons who have filed a request for  
35 special notice pursuant to RCW 11.92.150;

36 (f) To advise the court of the need for appointment of counsel for  
37 the alleged incapacitated person within five court days after the  
38 meeting described in (a) of this subsection unless (i) counsel has  
39 appeared, (ii) the alleged incapacitated person affirmatively

1 communicated a wish not to be represented by counsel after being  
2 advised of the right to representation and of the conditions under  
3 which court-provided counsel may be available, or (iii) the alleged  
4 incapacitated person was unable to communicate at all on the subject,  
5 and the guardian ad litem is satisfied that the alleged incapacitated  
6 person does not affirmatively desire to be represented by counsel;

7 (g) Provide periodic reports to the court and the parties regarding  
8 the status of their investigation and their periodic findings and  
9 recommendations. The report shall be provided at least every three  
10 months; and

11 (h) Provide to the parties monthly itemized accountings of their  
12 time and billings for services.

13 (6) If the petition is brought by an interested person or entity  
14 requesting the appointment of some other qualified person or entity and  
15 a prospective guardian or limited guardian cannot be found, the court  
16 shall order the guardian ad litem to investigate the availability of a  
17 possible guardian or limited guardian and to include the findings in a  
18 report to the court pursuant to RCW 11.88.090(5)(e) (~~as now or~~  
19 ~~hereafter amended~~)).

20 (7) The court appointed guardian ad litem shall have the authority,  
21 in the event that the alleged incapacitated person is in need of  
22 emergency life-saving medical services, and is unable to consent to  
23 such medical services due to incapacity pending the hearing on the  
24 petition to give consent for such emergency life-saving medical  
25 services on behalf of the alleged incapacitated person.

26 (8) The guardian ad litem shall receive a fee determined by the  
27 court. In entering the order the court shall utilize the fee schedule  
28 established pursuant to section 29 of this act. The fee shall be  
29 charged to the alleged incapacitated person unless the court finds that  
30 such payment would result in substantial hardship upon such person, in  
31 which case the county shall be responsible for such costs: PROVIDED,  
32 That if no guardian or limited guardian is appointed the court may  
33 charge such fee to the petitioner or the alleged incapacitated person,  
34 or divide the fee, as it deems just; and if the petition is found to be  
35 frivolous or not brought in good faith, the guardian ad litem fee shall  
36 be charged to the petitioner. The court shall not be required to  
37 provide for the payment of a fee to any salaried employee of a public  
38 agency.

1 (9) Upon the presentation of the guardian ad litem report and the  
2 entry of an order either dismissing the petition for appointment of  
3 guardian or limited guardian or appointing a guardian or limited  
4 guardian, the guardian ad litem shall be dismissed and shall have no  
5 further duties or obligations unless otherwise ordered by the court.  
6 If the court orders the guardian ad litem to perform further duties or  
7 obligations, they shall not be performed at county expense.

8 (10) The interim actions of a guardian ad litem are revisable by  
9 the court upon the motion of a party.

10 NEW SECTION. Sec. 12. A new section is added to chapter 11.88 RCW  
11 to read as follows:

12 (1) Any party or attorney to an action under this title may file a  
13 motion of prejudice regarding the appointment of a guardian ad litem.  
14 The motion shall be supported by an affidavit stating the guardian is  
15 prejudiced against the party or attorney and the party or attorney  
16 cannot, or believes they cannot, have a fair and impartial  
17 investigation by the guardian ad litem. The motion and affidavit shall  
18 be filed within five days of receipt of the notice of the appointment  
19 or receipt of the background information report required under RCW  
20 11.88.090, whichever is later. A party or attorney may not file more  
21 than one affidavit of prejudice against a guardian ad litem in any  
22 action. The first such motion filed by any party shall be  
23 automatically granted.

24 (2) The filing of a motion of prejudice shall not prevent the  
25 guardian ad litem from acting in an emergency, upon court approval,  
26 until a subsequent guardian ad litem has been appointed.

27 (3) No practicing attorney may be appointed to act as guardian ad  
28 litem under this title, if the attorney also acts as judge pro tempore  
29 or commissioner pro tempore in the superior court.

30 **Sec. 13.** RCW 11.92.190 and 1977 ex.s. c 309 s 14 are each amended  
31 to read as follows:

32 No residential treatment facility which provides nursing or other  
33 care may detain a person within such facility against their will. Any  
34 court order, other than an order issued in accordance with the  
35 involuntary treatment provisions of chapters 10.77, 71.05, and 72.23  
36 RCW, which purports to authorize such involuntary detention or purports  
37 to authorize a guardian or limited guardian to consent to such

1 involuntary detention on behalf of an (~~incompetent or disabled~~)  
2 incapacitated person shall be void and of no force or effect. This  
3 section does not apply to the detention of a minor upon the application  
4 of a parent under chapter 70.96A or 71.34 RCW.

5 Nothing in this section shall be construed to require a court order  
6 authorizing placement of an (~~incompetent or disabled~~) incapacitated  
7 person in a residential treatment facility if such order is not  
8 otherwise required by law: PROVIDED, That notice of any residential  
9 placement of an (~~incompetent or disabled~~) incapacitated person shall  
10 be served, either before or after placement, by the guardian or limited  
11 guardian on such person, the guardian ad litem of record, and any  
12 attorney of record.

13 **Sec. 14.** RCW 11.96.180 and 1994 c 221 s 64 are each amended to  
14 read as follows:

15 (1) The court, upon its own motion or on request of any one or more  
16 of the required parties to the dispute as that term is defined in RCW  
17 11.96.170(6)(c), at any stage of a judicial proceeding or at any time  
18 in a nonjudicial resolution procedure, may appoint a guardian ad litem  
19 to represent the interests of a minor, incapacitated, unborn, or  
20 unascertained person, or person whose identity or address is unknown,  
21 or a designated class of persons who are not ascertained or are not in  
22 being. When not precluded by a conflict of interest, a guardian ad  
23 litem may be appointed to represent several persons or interests. The  
24 guardian ad litem shall meet the requirements of, and be appointed in  
25 accordance with, RCW 11.88.090.

26 (2) The court-appointed guardian ad litem supersedes the special  
27 representative if so provided in the court order.

28 (3) The court may appoint the guardian ad litem at an ex parte  
29 hearing, or the court may order a hearing as provided in RCW 11.96.070  
30 with notice as provided in RCW 11.96.080, 11.96.100, and 11.96.110.

31 **Sec. 15.** RCW 13.24.050 and 1955 c 284 s 5 are each amended to read  
32 as follows:

33 Any judge of this state who appoints counsel or guardian ad litem  
34 pursuant to the provision of the compact may, in his or her discretion,  
35 fix a fee to be paid out of funds available for disposition by the  
36 court but no such fee shall exceed (~~twenty-five dollars~~) the rate as  
37 established pursuant to section 29 of this act.

1        NEW SECTION.    **Sec. 16.**    A new section is added to chapter 13.34 RCW  
2 to read as follows:

3        (1) Any party or attorney to an action under this title may file a  
4 motion of prejudice regarding the appointment of a guardian ad litem.  
5 The motion shall be supported by an affidavit stating the guardian is  
6 prejudiced against the party or attorney and the party or attorney  
7 cannot, or believes they cannot, have a fair and impartial  
8 investigation by the guardian ad litem. The motion and affidavit shall  
9 be filed within five days of receipt of the notice of the appointment  
10 or receipt of the background information report required under RCW  
11 13.34.100, whichever is later. A party or attorney may not file more  
12 than one affidavit of prejudice against a guardian ad litem in any  
13 action. The first such motion filed by any party shall be  
14 automatically granted.

15        (2) The filing of a motion of prejudice shall not prevent the  
16 guardian ad litem from acting in an emergency, upon court approval,  
17 until a subsequent guardian ad litem has been appointed.

18        (3) No practicing attorney may be appointed to act as guardian ad  
19 litem under this title, if the attorney also acts as judge pro tempore  
20 or commissioner pro tempore in the superior court.

21        NEW SECTION.    **Sec. 17.**    A new section is added to chapter 26.12 RCW  
22 to read as follows:

23        (1) Any party or attorney to an action under this title may file a  
24 motion of prejudice regarding the appointment of a guardian ad litem.  
25 The motion shall be supported by an affidavit stating the guardian is  
26 prejudiced against the party or attorney and the party or attorney  
27 cannot, or believes they cannot, have a fair and impartial  
28 investigation by the guardian ad litem. The motion and affidavit shall  
29 be filed within five days of receipt of the notice of the appointment  
30 or receipt of the background information report required under RCW  
31 26.12.175 or 26.44.053, whichever is later. A party or attorney may  
32 not file more than one affidavit of prejudice against a guardian ad  
33 litem in any action. The first such motion filed by any party shall be  
34 automatically granted.

35        (2) The filing of a motion of prejudice shall not prevent the  
36 guardian ad litem from acting in an emergency, upon court approval,  
37 until a subsequent guardian ad litem has been appointed.



1 (3) No practicing attorney may be appointed to act as guardian ad  
2 litem under this title, if the attorney also acts as judge pro tempore  
3 or commissioner pro tempore in the superior court.

4 **Sec. 18.** RCW 13.34.100 and 1994 c 110 s 2 are each amended to read  
5 as follows:

6 (1) The court shall appoint a guardian ad litem for a child who is  
7 the subject of an action under this chapter, unless a court for good  
8 cause finds the appointment unnecessary. The requirement of a guardian  
9 ad litem may be deemed satisfied if the child is represented by  
10 independent counsel in the proceedings.

11 (2) If the court does not have available to it a guardian ad litem  
12 program with a sufficient number of volunteers, the court may appoint  
13 a suitable person to act as guardian ad litem for the child under this  
14 chapter. Another party to the proceeding or the party's employee or  
15 representative shall not be so appointed.

16 (3) Each guardian ad litem program shall maintain a background  
17 information record for each guardian ad litem in the program. The  
18 background file shall include, but is not limited to, the following  
19 information:

20 (a) Level of formal education;

21 (b) Training related to the guardian's duties;

22 (c) Number of years' experience as a guardian ad litem;

23 (d) Number of appointments as a guardian ad litem and the county or  
24 counties of appointment; ((and))

25 (e) Number of complaints against the guardian ad litem, filed with  
26 the guardian ad litem program, the Washington state bar association, or  
27 the superior court, including the nature of the complaint and its  
28 resolution;

29 (f) Number of affidavits of prejudice, if any, filed against the  
30 guardian ad litem, including the number per year and the county in  
31 which it was filed; and

32 (g) Criminal history, as defined in RCW 9.94A.030. The background  
33 statement shall not include identifying information that may be used to  
34 harm a guardian ad litem, such as home addresses and home telephone  
35 numbers, and for volunteer guardians ad litem the court may allow the  
36 use of maiden names or pseudonyms as necessary for their safety.

37 The background information report shall be updated annually. As a  
38 condition of appointment, the guardian ad litem's background

1 information record shall be made available to the court, and  
2 immediately provided to the parties or their attorneys. If the  
3 appointed guardian ad litem is not a member of a guardian ad litem  
4 program the person shall immediately provide the required background  
5 information to the court, and to the parties or their attorneys. The  
6 guardian ad litem program shall immediately file the notice of  
7 appointment and background statement with the court and send copies to  
8 the parties.

9 (4) The appointment of the guardian ad litem shall remain in effect  
10 until the court discharges the appointment or no longer has  
11 jurisdiction, whichever comes first. The guardian ad litem may also be  
12 discharged upon entry of an order of guardianship.

13 (5) A guardian ad litem through counsel, or as otherwise authorized  
14 by the court, shall have the right to present evidence, examine and  
15 cross-examine witnesses, and to be present at all hearings. A guardian  
16 ad litem shall receive copies of all pleadings and other documents  
17 filed or submitted to the court, and notice of all hearings according  
18 to court rules. The guardian ad litem shall receive all notice  
19 contemplated for a parent or other party in all proceedings under this  
20 chapter.

21 (6) If the child requests legal counsel and is age twelve or older,  
22 or if the guardian ad litem or the court determines that the child  
23 needs to be independently represented by counsel, the court may appoint  
24 an attorney to represent the child's position.

25 (7) For the purposes of child abuse prevention and treatment act  
26 (42 U.S.C. Secs. 5101 et seq.) grants to this state under P.L. 93-247,  
27 or any related state or federal legislation, a person appointed  
28 pursuant to RCW 13.34.100 shall be deemed a guardian ad litem to  
29 represent the best interests of the minor in proceedings before the  
30 court.

31 **Sec. 19.** RCW 13.34.120 and 1994 c 288 s 2 are each amended to read  
32 as follows:

33 (1) To aid the court in its decision on disposition, a social  
34 study, consisting of a written evaluation of matters relevant to the  
35 disposition of the case, shall be made by the person or agency filing  
36 the petition. The study shall include all social records and may also  
37 include facts relating to the child's cultural heritage, and shall be  
38 made available to the court. The court shall consider the social file,

1 social study, guardian ad litem report, the court-appointed special  
2 advocate's report, if any, and any reports filed by a party at the  
3 disposition hearing in addition to evidence produced at the fact-  
4 finding hearing. At least ten working days before the disposition  
5 hearing, the department shall mail to the parent and his or her  
6 attorney a copy of the agency's social study and proposed service plan,  
7 which shall be in writing or in a form understandable to the parents or  
8 custodians. In addition, the department shall provide an opportunity  
9 for parents to review and comment on the plan at the community service  
10 office. If the parents disagree with the agency's plan or any part  
11 thereof, the parents shall submit to the court at least twenty-four  
12 hours before the hearing, in writing, or signed oral statement, an  
13 alternative plan to correct the problems which led to the finding of  
14 dependency. This section shall not interfere with the right of the  
15 parents or custodians to submit oral arguments regarding the  
16 disposition plan at the hearing.

17 (2) In addition to the requirements set forth in subsection (1) of  
18 this section, a predisposition study to the court in cases of  
19 dependency alleged pursuant to RCW (~~(13.34.030(2))~~) 13.34.030(4) (b) or  
20 (c) shall contain the following information:

21 (a) A statement of the specific harm or harms to the child that  
22 intervention is designed to alleviate;

23 (b) A description of the specific programs, for both the parents  
24 and child, that are needed in order to prevent serious harm to the  
25 child; the reasons why such programs are likely to be useful; the  
26 availability of any proposed services; and the agency's overall plan  
27 for ensuring that the services will be delivered;

28 (c) If removal is recommended, a full description of the reasons  
29 why the child cannot be protected adequately in the home, including a  
30 description of any previous efforts to work with the parents and the  
31 child in the home; the in-home treatment programs which have been  
32 considered and rejected; the preventive services that have been offered  
33 or provided and have failed to prevent the need for out-of-home  
34 placement, unless the health, safety, and welfare of the child cannot  
35 be protected adequately in the home; and the parents' attitude toward  
36 placement of the child;

37 (d) A statement of the likely harms the child will suffer as a  
38 result of removal. This section should include an exploration of the

1 nature of the parent-child attachment and the meaning of separation and  
2 loss to both the parents and the child;

3 (e) A description of the steps that will be taken to minimize harm  
4 to the child that may result if separation occurs; and

5 (f) Behavior that will be expected before determination that  
6 supervision of the family or placement is no longer necessary.

7 **Sec. 20.** RCW 26.12.175 and 1993 c 289 s 4 are each amended to read  
8 as follows:

9 (1)(a) The court may appoint a guardian ad litem to represent the  
10 interests of a minor or dependent child when the court believes the  
11 appointment of a guardian ad litem is necessary to protect the best  
12 interests of the child in any proceeding under this chapter. The  
13 family court services professionals may also make a recommendation to  
14 the court regarding whether a guardian ad litem should be appointed for  
15 the child. The court may appoint a guardian ad litem from the court-  
16 appointed special advocate program, if that program exists in the  
17 county.

18 (b) Unless otherwise ordered, the guardian ad litem's role is to  
19 investigate and report to the court concerning parenting arrangements  
20 for the child, and to represent the child's best interests. The  
21 guardian ad litem shall provide periodic reports to the court and the  
22 parties regarding the status of their investigation and their periodic  
23 findings and recommendations. The report shall be provided at least  
24 every three months. The interim actions of a guardian ad litem are  
25 revisable by the court upon the motion of a party.

26 (c) The court shall enter an order for costs, fees, and  
27 disbursements to cover the costs of the guardian ad litem in accordance  
28 with the fee schedule established pursuant to section 29 of this act.  
29 The court may order either or both parents to pay for the costs of the  
30 guardian ad litem, according to their ability to pay. If both parents  
31 are indigent, the county shall bear the cost of the guardian, subject  
32 to appropriation for guardians' ad litem services by the county  
33 legislative authority. Guardians ad litem who are not volunteers shall  
34 provide the parties with monthly itemized accountings of their time and  
35 billings for services.

36 (2)(a) If the guardian ad litem appointed is from the county court-  
37 appointed special advocate program, the program shall supervise any  
38 guardian ad litem assigned to the case. The court-appointed special

1 advocate program shall be entitled to notice of all proceedings in the  
2 case.

3 (b) The legislative authority of each county may authorize creation  
4 of a court-appointed special advocate program. The county legislative  
5 authority may adopt rules of eligibility for court-appointed special  
6 advocate program services.

7 (3) Each guardian ad litem program shall maintain a background  
8 information record for each guardian ad litem in the program. The  
9 background file shall include, but is not limited to, the following  
10 information:

11 (a) Level of formal education;

12 (b) Training related to the guardian's duties;

13 (c) Number of years' experience as a guardian ad litem;

14 (d) Number of appointments as a guardian ad litem and county or  
15 counties of appointment; ((and))

16 (e) Number of complaints against the guardian ad litem, filed with  
17 the guardian ad litem program, the Washington state bar association, or  
18 the superior court, and including the nature of the complaint and its  
19 resolution;

20 (f) Number of affidavits of prejudice, if any, filed against the  
21 guardian ad litem, including the number per year and the county in  
22 which it was filed; and

23 (g) Criminal history, as defined in RCW 9.94A.030. The background  
24 statement shall not include identifying information that may be used to  
25 harm a guardian ad litem, such as home addresses and home telephone  
26 numbers, and for volunteer guardians ad litem the court may allow the  
27 use of maiden names or pseudonyms as necessary for their safety.

28 The background information report shall be updated annually. As a  
29 condition of appointment, the guardian ad litem's background  
30 information record shall be made available to the court, and  
31 immediately provided to the parties or their attorneys. If the  
32 appointed guardian ad litem is not a member of a guardian ad litem  
33 program the person shall immediately provide the required background  
34 information to the court, and to the parties or their attorneys. The  
35 guardian ad litem program shall immediately file the notice of  
36 appointment and background statement with the court and send copies to  
37 the parties.

1       **Sec. 21.** RCW 26.26.140 and 1994 c 146 s 4 are each amended to read  
2 as follows:

3       The court may order reasonable fees of experts and the child's  
4 guardian ad litem, and other costs of the action, including blood or  
5 genetic test costs, to be paid by the parties in proportions and at  
6 times determined by the court. The guardian ad litem fees shall be set  
7 in accordance to the fee schedule established pursuant to section 29 of  
8 this act. The court may order that all or a portion of a party's  
9 reasonable attorney's fees be paid by another party, except that an  
10 award of attorney's fees assessed against the state or any of its  
11 agencies or representatives shall be under RCW 4.84.185.

12       **Sec. 22.** RCW 26.33.070 and 1984 c 155 s 7 are each amended to read  
13 as follows:

14       (1) The court shall appoint a guardian ad litem for any parent or  
15 alleged father under eighteen years of age in any proceeding under this  
16 chapter. The court may appoint a guardian ad litem for a child adoptee  
17 or any incompetent party in any proceeding under this chapter. The  
18 guardian ad litem for a parent or alleged father, in addition to  
19 determining what is in the best interest of the party, shall make an  
20 investigation and report to the court concerning whether any written  
21 consent to adoption or petition for relinquishment signed by the parent  
22 or alleged father was signed voluntarily and with an understanding of  
23 the consequences of the action.

24       (2) The county in which a petition is filed shall pay the fees of  
25 a guardian ad litem or attorney appointed under this chapter. The  
26 guardian ad litem fees shall be set in accordance to the fee schedule  
27 established pursuant to section 29 of this act.

28       **Sec. 23.** RCW 26.44.053 and 1994 c 110 s 1 are each amended to read  
29 as follows:

30       (1) In any judicial proceeding under this chapter or chapter 13.34  
31 RCW in which it is alleged that a child has been subjected to child  
32 abuse or neglect, the court shall appoint a guardian ad litem for the  
33 child. The requirement of a guardian ad litem may be deemed satisfied  
34 if the child is represented by counsel in the proceedings.

35       (2) Each guardian ad litem program shall maintain a background  
36 information record for each guardian ad litem in the program. The

1 background file shall include, but is not limited to, the following  
2 information:

3 (a) Level of formal education;

4 (b) Training related to the guardian's duties;

5 (c) Number of years' experience as a guardian ad litem;

6 (d) Number of appointments as a guardian ad litem;

7 (e) Number of complaints against the guardian ad litem, filed with  
8 the guardian ad litem program, the Washington state bar association, or  
9 the superior court, including the nature of the complaint and its  
10 resolution;

11 (f) Number of affidavits of prejudice, if any, filed against the  
12 guardian ad litem, including the number per year and the county in  
13 which it was filed; and

14 (g) Criminal history, as defined in RCW 9.94A.030.

15 The background information report shall be updated annually. As a  
16 condition of appointment, the guardian ad litem's background  
17 information record shall be made available to the court, and  
18 immediately provided to the parties or their attorneys. If the  
19 appointed guardian ad litem is not a member of a guardian ad litem  
20 program the person shall immediately provide the required background  
21 information to the court, and to the parties or their attorneys. The  
22 background statement shall not include identifying information that may  
23 be used to harm a guardian ad litem, such as home addresses and home  
24 telephone numbers, and for volunteer guardians ad litem the court may  
25 allow the use of maiden names or pseudonyms as necessary for their  
26 safety.

27 (3) At any time prior to or during a hearing in such a case, the  
28 court may, on its own motion, or the motion of the guardian ad litem,  
29 or other parties, order the examination by a physician, psychologist,  
30 or psychiatrist, of any parent or child or other person having custody  
31 of the child at the time of the alleged child abuse or neglect, if the  
32 court finds such an examination is necessary to the proper  
33 determination of the case. The hearing may be continued pending the  
34 completion of such examination. The physician, psychologist, or  
35 psychiatrist conducting such an examination may be required to testify  
36 concerning the results of such examination and may be asked to give his  
37 or her opinion as to whether the protection of the child requires that  
38 he or she not be returned to the custody of his or her parents or other  
39 persons having custody of him or her at the time of the alleged child

1 abuse or neglect. Persons so testifying shall be subject to cross-  
2 examination as are other witnesses. No information given at any such  
3 examination of the parent or any other person having custody of the  
4 child may be used against such person in any subsequent criminal  
5 proceedings against such person or custodian concerning the abuse or  
6 neglect of the child.

7 ~~((3))~~ (4) A parent or other person having legal custody of a  
8 child alleged to be abused or neglected shall be a party to any  
9 proceeding that may impair or impede such person's interest in and  
10 custody or control of the child.

11 NEW SECTION. **Sec. 24.** A new section is added to chapter 13.34 RCW  
12 to read as follows:

13 (1) All guardians ad litem appointed under this title, after  
14 January 1, 1998, shall have completed the comprehensive state-wide  
15 curriculum developed by the office of the administrator for the courts,  
16 under RCW 2.56.030(16), prior to their appointment.

17 (2) The superior court of each county shall maintain a registry of  
18 persons who are willing and qualified to serve as guardians ad litem  
19 under this title. The court shall only appoint as guardian ad litem,  
20 the person whose name appears next on the registry. If the person  
21 whose name appears next on the registry is: Unable to accept the  
22 appointment, unwilling to accept the appointment, or subject to an  
23 affidavit of prejudice, the person's name shall be placed at the bottom  
24 of the registry. The rotational registry system shall not apply to  
25 court-appointed special advocate programs.

26 (3) The interim actions of a guardian ad litem are revisable by the  
27 court upon the motion of a party.

28 NEW SECTION. **Sec. 25.** A new section is added to chapter 26.12 RCW  
29 to read as follows:

30 (1) All guardians ad litem appointed under this title, after  
31 January 1, 1998, shall have completed the comprehensive state-wide  
32 curriculum developed by the office of the administrator for the courts,  
33 under RCW 2.56.030(16), prior to their appointment.

34 (2) The superior court of each county shall maintain a registry of  
35 persons who are willing and qualified to serve as guardians ad litem  
36 under this title. The court shall only appoint as guardian ad litem  
37 the person whose name appears next on the registry. If the person



1 whose name appears next on the registry is: Unable to accept the  
2 appointment, unwilling to accept the appointment, or subject to an  
3 affidavit of prejudice, the person's name shall be placed at the bottom  
4 of the registry. The rotational registry system shall not apply to  
5 court-appointed special advocate programs.

6 (3) The interim actions of a guardian ad litem are revisable by the  
7 court upon the motion of a party.

8 **Sec. 26.** RCW 65.12.145 and 1907 c 250 s 21 are each amended to  
9 read as follows:

10 The court shall appoint a disinterested person to act as guardian  
11 ad litem for minors and other incapacitated persons (~~under~~  
12 ~~disability~~), as defined in chapter 11.88 RCW, and for all other  
13 persons not in being who may appear to have an interest in the land.  
14 The (~~compensation of the said~~) guardian's compensation shall be  
15 determined by the court, and paid as a part of the expense of the  
16 proceeding. The guardian ad litem fees shall be set in accordance to  
17 the fee schedule established pursuant to section 29 of this act.

18 **Sec. 27.** RCW 90.03.150 and 1977 ex.s. c 80 s 75 are each amended  
19 to read as follows:

20 Whenever any defendant in any proceeding instituted under this  
21 chapter is (~~an infant~~) a minor, or an alleged (~~incompetent or~~  
22 ~~disabled~~) incapacitated person, as defined in chapter 11.88 RCW, for  
23 whom the court has not yet appointed either a guardian or a limited  
24 guardian, the court shall appoint a guardian ad litem for such (~~minor~~  
25 ~~or alleged incompetent or disabled~~) defendant.

26 **Sec. 28.** RCW 91.08.230 and 1911 c 23 s 21 are each amended to read  
27 as follows:

28 (~~When it shall appear from said petition or otherwise, at any time~~  
29 ~~during the proceedings upon such petition, that any infant, insane or~~  
30 ~~distracted~~) Whenever a minor or incapacitated person, as defined in  
31 chapter 11.88 RCW, is interested in any property that is to be taken or  
32 damaged under this chapter, the court shall appoint a guardian ad litem  
33 for such (~~infant or insane or distracted~~) person to appear and defend  
34 for (~~him, her or them; and~~) the person. The court shall make such  
35 order or decree as it shall deem proper to protect and secure the  
36 interest of (~~such infant or insane or distracted~~) the minor or

1 ~~incapacitated person ((in such property, or the compensation which~~  
2 ~~shall be awarded therefor))~~.

3 NEW SECTION. **Sec. 29.** A new section is added to chapter 13.34 RCW  
4 to read as follows:

5 The maximum hourly fee allowed for the services a person acting as  
6 a guardian ad litem appointed under Titles 4, 8, 11, 13, 26, 43, 65,  
7 70, 71, 74, 90, and 91 RCW as shall be fixed, after recommendation by  
8 the judges of the judicial district involved, by the legislative  
9 authority of the county comprising the judicial district, or by the  
10 legislative authorities acting jointly where the judicial district is  
11 comprised of more than one county. The legislative authority may set  
12 differing fee schedules for appointments under separate titles, or for  
13 the funding of court-appointed special advocate programs, and may  
14 establish a sliding fee scale for the indigent.

15 The judges of the superior court shall use the fee schedule as  
16 fixed by the county legislative authority when setting, awarding, or  
17 approving fees for guardians ad litem.

18 NEW SECTION. **Sec. 30.** A new section is added to chapter 11.88 RCW  
19 to read as follows:

20 A guardian ad litem, appointed under this title, may not select or  
21 designate the health care providers or evaluators for the incapacitated  
22 person, in opposition to their wishes, absent a court order.

23 NEW SECTION. **Sec. 31.** A new section is added to chapter 13.34 RCW  
24 to read as follows:

25 A guardian ad litem, appointed under this title, may not select or  
26 designate the health care providers or evaluators for the parents or  
27 minor, in opposition to their wishes, absent a court order.

28 NEW SECTION. **Sec. 32.** A new section is added to chapter 26.12 RCW  
29 to read as follows:

30 A guardian ad litem, appointed under this title, may not select or  
31 designate the health care providers or evaluators for the parents or  
32 minor, in opposition to their wishes, absent a court order.

--- END ---