

SENATE BILL REPORT

SB 6217

As Reported By Senate Committee On:
Human Services & Corrections, February 4, 1998

Title: An act relating to guardians ad litem.

Brief Description: Changing provisions relating to guardians ad litem.

Sponsors: Senators Franklin, Long, Hargrove, Goings, Rasmussen, B. Sheldon, Fraser, Schow and Winsley.

Brief History:

Committee Activity: Human Services & Corrections: 1/21/98, 2/4/98 [DPS].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 6217 be substituted therefor, and the substitute bill do pass.

Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Staff: Joan Mell (786-7447)

Background: In 1996, legislation passed making improvements to guardian ad litem programs currently in place (ESSB 6257). A statewide curriculum was established for guardians and other language was included that was designed to improve guardian accountability.

Summary of Substitute Bill: Changes are made to the guardian ad litem laws that are intended to improve competence and accountability:

For dependency and child custody guardian ad litem (GAL), the Office of the Administrator for the Courts (OAC) must develop training and continuing education requirements. These GAL programs must keep lists of GALs removed through a grievance action. There is a removal provision for compensated GALs not selected from a rotational registry system; however, the removal provision is not applicable to volunteer GALs, court-appointed special advocates (CASA), exceptional circumstance guardians, or guardians agreed to by the parties. In addition, the removal provision only applies to counties with populations greater than 100,000. Civil immunity is granted for registry, CASA, volunteer, and exceptional circumstances GALs. Courts have the authority to set hourly rates and cap fees for dependency and child custody GALs.

For probate, dependency and child custody guardians, the OAC must keep a list of GALs removed from any superior court registry through a grievance action. The OAC must also develop a model grievance procedure to handle complaints for all types of GALs. A GAL must disclose his or her removal from a case or registry. Courts must appoint GALs who

meet training and continuing education requirements. The grandfather clause is removed. No GAL ex parte contact with judicial officers is permissible without a court order and adequate notice to all parties.

The Department of Social and Health Services must establish training and continuing legal education requirements for probate GALs.

Dependency guardians ad litem must investigate in addition to advocate for the child, and report to the court the facts relating to the child's best interests.—

Child custody GALs must report a child's wishes when the child is 12 years of age or older, and advocate for the child. Child custody GAL records are open, but the GAL must maintain the privacy of the parties and information obtained with respect to third parties.

Settlement regarding ad litem in personal injury cases and prosecutor and Attorney General guardian ad litem in paternity cases where there are no disputes as to custody are exempt from the training and education requirements that are established for guardian ad litem in custody and probate cases. Grievances must be founded.

Civil immunity does not extend to guardian ad litem who have been removed from a case based upon a founded grievance.

Substitute Bill Compared to Original Bill: The substitute bill incorporates proposed amendments exempting personal injury settlement, guardian ad litem and prosecutor/Attorney General guardian ad litem in paternity cases from education and training requirements established for guardian ad litem in custody and probate cases.

Appropriation: None.

Fiscal Note: Available.

Effective Date: July 1, 1998, except sections 4 and 7 which take effect January 1, 2000.

Testimony For: Efforts that are improving guardian ad litem provisions were applauded. Proponents suggested even further substantive changes that would redefine the guardian ad litem role to fact finder.

Testimony Against: None.

Testified: PRO: Ralph Munro, Secretary of State; Bill Harrington, American Fathers Alliance; Joe Kearney; Seth Dawson, WA State CASA/GAL; Mike Courtney, AARP Senior Lobby; Leota Peters, ARCH; Kathy Leitch, DSHS; Tom McBride, WA Association of Prosecuting Attorneys; Douglas Schafer.