
SENATE BILL 6217

State of Washington

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

Read first time 01/13/98. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to guardians ad litem; amending RCW 2.56.030,
2 11.88.090, 13.34.100, 13.34.102, 13.34.105, 26.12.175, and 26.12.177;
3 adding new sections to chapter 11.88 RCW; adding new sections to
4 chapter 13.34 RCW; adding new sections to chapter 26.12 RCW; and
5 providing effective dates.

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

7 **Sec. 1.** RCW 2.56.030 and 1997 c 41 s 2 are each amended to read as
8 follows:

9 The administrator for the courts shall, under the supervision and
10 direction of the chief justice:

11 (1) Examine the administrative methods and systems employed in the
12 offices of the judges, clerks, stenographers, and employees of the
13 courts and make recommendations, through the chief justice, for the
14 improvement of the same;

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

17 (3) Make recommendations to the chief justice relating to the
18 assignment of judges where courts are in need of assistance and carry

1 out the direction of the chief justice as to the assignments of judges
2 to counties and districts where the courts are in need of assistance;

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

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

10 (6) Collect statistical and other data and make reports relating to
11 the expenditure of public moneys, state and local, for the maintenance
12 and operation of the judicial system and the offices connected
13 therewith;

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

19 (8) Act as secretary of the judicial conference referred to in RCW
20 2.56.060;

21 (9) Submit annually, as of February 1st, to the chief justice, a
22 report of the activities of the administrator's office for the
23 preceding calendar year including activities related to courthouse
24 security;

25 (10) Administer programs and standards for the training and
26 education of judicial personnel;

27 (11) Examine the need for new superior court and district judge
28 positions under a weighted caseload analysis that takes into account
29 the time required to hear all the cases in a particular court and the
30 amount of time existing judges have available to hear cases in that
31 court. The results of the weighted caseload analysis shall be reviewed
32 by the board for judicial administration which shall make
33 recommendations to the legislature. It is the intent of the
34 legislature that weighted caseload analysis become the basis for
35 creating additional district court positions, and recommendations
36 should address that objective;

37 (12) Provide staff to the judicial retirement account plan under
38 chapter 2.14 RCW;

1 (13) Attend to such other matters as may be assigned by the supreme
2 court of this state;

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

12 (15) Develop, in consultation with the entities set forth in RCW
13 2.56.150(3), a comprehensive state-wide curriculum, training
14 requirements, and continuing education requirements for persons who act
15 as guardians ad litem under Title 13 or 26 RCW. The curriculum,
16 training requirements, and continuing education requirements shall (~~be~~
17 ~~made available July 1, 1997, and~~) include specialty sections on child
18 development, child sexual abuse, child physical abuse, child neglect,
19 clinical and forensic investigative and interviewing techniques, family
20 reconciliation and mediation services, and relevant statutory and legal
21 requirements. The curriculum, training requirements, and continuing
22 education requirements shall be made available to all superior court
23 judges, court personnel, and all persons who act as guardians ad litem
24 and be updated yearly to reflect changes in statutes, court rules, or
25 case law;

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

32 (17) Develop, in consultation with the criminal justice training
33 commission and the commissions established under chapters 43.113,
34 43.115, and 43.117 RCW, a curriculum for a general understanding of
35 ethnic and cultural diversity and its implications for working with
36 youth of color and their families. The curriculum shall be available
37 to all superior court judges and court commissioners assigned to
38 juvenile court, and other court personnel. Ethnic and cultural
39 diversity training shall be provided annually so as to incorporate

1 cultural sensitivity and awareness into the daily operation of juvenile
2 courts state-wide;

3 (18) Authorize the use of closed circuit television and other
4 electronic equipment in judicial proceedings. The administrator shall
5 promulgate necessary standards and procedures and shall provide
6 technical assistance to courts as required;

7 (19) Maintain a list of all guardians ad litem appointed pursuant
8 to Titles 11, 13, and 26 RCW, who, pursuant to a grievance action, have
9 been removed from the guardian ad litem registry in any superior court
10 within the state; and

11 (20) Develop a model grievance procedure for use by the superior
12 courts when dealing with complaints against: A guardian ad litem under
13 chapter 11.88, 13.34, or 26.12 RCW; a court-appointed special advocate
14 appointed under chapter 13.34 or 26.12 RCW; or a parenting investigator
15 appointed under chapter 26.12 RCW.

16 **Sec. 2.** RCW 11.88.090 and 1996 c 249 s 10 are each amended to read
17 as follows:

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

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

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

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

33 The guardian ad litem shall within five days of receipt of notice
34 of appointment file with the court and serve, either personally or by
35 certified mail with return receipt, each party with a statement
36 including: His or her training relating to the duties as a guardian ad
37 litem; his or her criminal history as defined in RCW 9.94A.030 for the
38 period covering ten years prior to the appointment; his or her hourly

1 rate, if compensated; whether the guardian ad litem has had any contact
2 with a party to the proceeding prior to his or her appointment; and
3 whether he or she has an apparent conflict of interest. Within three
4 days of the later of the actual service or filing of the guardian ad
5 litem's statement, any party may set a hearing and file and serve a
6 motion for an order to show cause why the guardian ad litem should not
7 be removed for one of the following three reasons: (i) Lack of
8 expertise necessary for the proceeding; (ii) an hourly rate higher than
9 what is reasonable for the particular proceeding; or (iii) a conflict
10 of interest. Notice of the hearing shall be provided to the guardian
11 ad litem and all parties. If, after a hearing, the court enters an
12 order replacing the guardian ad litem, findings shall be included,
13 expressly stating the reasons for the removal. If the guardian ad
14 litem is not removed, the court has the authority to assess to the
15 moving party, attorneys' fees and costs related to the motion. The
16 court shall assess attorneys' fees and costs for frivolous motions.

17 No guardian ad litem need be appointed when a parent is petitioning
18 for a guardian or a limited guardian to be appointed for his or her
19 minor child and the minority of the child, as defined by RCW 11.92.010,
20 is the sole basis of the petition. The order appointing the guardian
21 ad litem shall recite the duties set forth in subsection (4) of this
22 section. The appointment of a guardian ad litem shall have no effect
23 on the legal competency of the alleged incapacitated person and shall
24 not overcome the presumption of competency or full legal and civil
25 rights of the alleged incapacitated person.

26 (3)(a) The superior court of each county shall develop and maintain
27 a registry of persons who are willing and qualified to serve as
28 guardians ad litem in guardianship matters. The court shall choose as
29 guardian ad litem a person whose name appears on the registry in a
30 system of consistent rotation, except in extraordinary circumstances
31 such as the need for particular expertise. The court shall develop
32 procedures for periodic review of the persons on the registry and for
33 probation, suspension, or removal of persons on the registry for
34 failure to perform properly their duties as guardian ad litem. In the
35 event the court does not select the person next on the list, it shall
36 include in the order of appointment a written reason for its decision.

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

1 (i) Present a written statement outlining his or her background and
2 qualifications. The background statement shall include, but is not
3 limited to, the following information:

4 (A) Level of formal education;

5 (B) Training related to the guardian ad litem's duties;

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

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

9 (E) Criminal history, as defined in RCW 9.94A.030; and

10 (F) Evidence of the person's knowledge, training, and experience in
11 each of the following: Needs of impaired elderly people, physical
12 disabilities, mental illness, developmental disabilities, and other
13 areas relevant to the needs of incapacitated persons, legal procedure,
14 and the requirements of chapters 11.88 and 11.92 RCW.

15 The written statement of qualifications shall include ~~((a statement
16 of the number of times the guardian ad litem has been removed for
17 failure to perform his or her duties as guardian ad litem))~~ the names
18 of any counties in which the person, pursuant to a grievance, was
19 removed from a pending case or a guardian ad litem registry; and

20 (ii) Complete the ~~((model))~~ training ~~((program))~~ and continuing
21 educational requirements as described in (d) of this subsection.

22 (c) The background and qualification information shall be updated
23 annually.

24 (d) The department of social and health services shall convene an
25 advisory group to develop a model guardian ad litem training program
26 and establish training and continuing educational requirements. The
27 department, in consultation with the advisory group, shall update the
28 model training program biennially. The advisory group shall consist of
29 representatives from consumer, advocacy, and professional groups
30 knowledgeable in developmental disabilities, neurological impairment,
31 physical disabilities, mental illness, aging, legal, court
32 administration, the Washington state bar association, and other
33 interested parties.

34 (e) The superior court shall require ~~((utilization of the model
35 program developed by the advisory group as))~~ that any guardian ad litem
36 appointed pursuant to this chapter comply with the training and
37 continuing education requirements described in (d) of this
38 subsection~~((, to assure that candidates applying for registration as a
39 qualified guardian ad litem shall have satisfactorily completed~~

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

3 (4) The guardian ad litem appointed pursuant to this section shall
4 have the following duties:

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

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

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

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

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

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

28 (e) To investigate alternate arrangements made, or which might be
29 created, by or on behalf of the alleged incapacitated person, such as
30 revocable or irrevocable trusts, or durable powers of attorney; whether
31 good cause exists for any such arrangements to be discontinued; and why
32 such arrangements should not be continued or created in lieu of a
33 guardianship;

34 (f) 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 any alternative arrangements previously made
8 by the alleged incapacitated person or which could be made, and whether
9 and to what extent such alternatives should be used in lieu of a
10 guardianship, and if the guardian ad litem is recommending
11 discontinuation of any such arrangements, specific findings as to why
12 such arrangements are contrary to the best interest of the alleged
13 incapacitated person;

14 (v) A description of the abilities of the alleged incapacitated
15 person and a recommendation as to whether a guardian or limited
16 guardian should be appointed. If appointment of a limited guardian is
17 recommended, the guardian ad litem shall recommend the specific areas
18 of authority the limited guardian should have and the limitations and
19 disabilities to be placed on the incapacitated person;

20 (vi) An evaluation of the person's mental ability to rationally
21 exercise the right to vote and the basis upon which the evaluation is
22 made;

23 (vii) Any expression of approval or disapproval made by the alleged
24 incapacitated person concerning the proposed guardian or limited
25 guardian or guardianship or limited guardianship;

26 (viii) Identification of persons with significant interest in the
27 welfare of the alleged incapacitated person who should be advised of
28 their right to request special notice of proceedings pursuant to RCW
29 11.92.150; and

30 (ix) Unless independent counsel has appeared for the alleged
31 incapacitated person, an explanation of how the alleged incapacitated
32 person responded to the advice of the right to jury trial, to
33 independent counsel and to be present at the hearing on the petition.

34 Within forty-five days after notice of commencement of the
35 guardianship proceeding has been served upon the guardian ad litem, and
36 at least fifteen days before the hearing on the petition, unless an
37 extension or reduction of time has been granted by the court for good
38 cause, the guardian ad litem shall file its report and send a copy to
39 the alleged incapacitated person and his or her counsel, spouse, all

1 children not residing with a notified person, those persons described
2 in (f)(viii) of this subsection, and persons who have filed a request
3 for special notice pursuant to RCW 11.92.150. If the guardian ad litem
4 needs additional time to finalize his or her report, then the guardian
5 ad litem shall petition the court for a postponement of the hearing or,
6 with the consent of all other parties, an extension or reduction of
7 time for filing the report. If the hearing does not occur within sixty
8 days of filing the petition, then upon the two-month anniversary of
9 filing the petition and on or before the same day of each following
10 month until the hearing, the guardian ad litem shall file interim
11 reports summarizing his or her activities on the proceeding during that
12 time period as well as fees and costs incurred;

13 (g) To advise the court of the need for appointment of counsel for
14 the alleged incapacitated person within five court days after the
15 meeting described in (a) of this subsection unless (i) counsel has
16 appeared, (ii) the alleged incapacitated person affirmatively
17 communicated a wish not to be represented by counsel after being
18 advised of the right to representation and of the conditions under
19 which court-provided counsel may be available, or (iii) the alleged
20 incapacitated person was unable to communicate at all on the subject,
21 and the guardian ad litem is satisfied that the alleged incapacitated
22 person does not affirmatively desire to be represented by counsel.

23 (5) If the petition is brought by an interested person or entity
24 requesting the appointment of some other qualified person or entity and
25 a prospective guardian or limited guardian cannot be found, the court
26 shall order the guardian ad litem to investigate the availability of a
27 possible guardian or limited guardian and to include the findings in a
28 report to the court pursuant to subsection (4)(f) of this section.

29 (6) The parties to the proceeding may file responses to the
30 guardian ad litem report with the court and deliver such responses to
31 the other parties and the guardian ad litem at any time up to the
32 second day prior to the hearing. If a guardian ad litem fails to file
33 his or her report in a timely manner, the hearing shall be continued to
34 give the court and the parties at least fifteen days before the hearing
35 to review the report. At any time during the proceeding upon motion of
36 any party or on the court's own motion, the court may remove the
37 guardian ad litem for failure to perform his or her duties as specified
38 in this chapter, provided that the guardian ad litem shall have five
39 days' notice of any motion to remove before the court enters such

1 order. In addition, the court in its discretion may reduce a guardian
2 ad litem's fee for failure to carry out his or her duties.

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

9 (8) The court-appointed guardian ad litem shall have the authority
10 to move for temporary relief under chapter 7.40 RCW to protect the
11 alleged incapacitated person from abuse, neglect, abandonment, or
12 exploitation, as those terms are defined in RCW 74.34.020, or to
13 address any other emergency needs of the alleged incapacitated person.
14 Any alternative arrangement executed before filing the petition for
15 guardianship shall remain effective unless the court grants the relief
16 requested under chapter 7.40 RCW, or unless, following notice and a
17 hearing at which all parties directly affected by the arrangement are
18 present, the court finds that the alternative arrangement should not
19 remain effective.

20 (9) The guardian ad litem shall receive a fee determined by the
21 court. The fee shall be charged to the alleged incapacitated person
22 unless the court finds that such payment would result in substantial
23 hardship upon such person, in which case the county shall be
24 responsible for such costs: PROVIDED, That if no guardian or limited
25 guardian is appointed the court may charge such fee to the petitioner
26 or the alleged incapacitated person, or divide the fee, as it deems
27 just; and if the petition is found to be frivolous or not brought in
28 good faith, the guardian ad litem fee shall be charged to the
29 petitioner. The court shall not be required to provide for the payment
30 of a fee to any salaried employee of a public agency.

31 (10) Upon the presentation of the guardian ad litem report and the
32 entry of an order either dismissing the petition for appointment of
33 guardian or limited guardian or appointing a guardian or limited
34 guardian, the guardian ad litem shall be dismissed and shall have no
35 further duties or obligations unless otherwise ordered by the court.
36 If the court orders the guardian ad litem to perform further duties or
37 obligations, they shall not be performed at county expense.

1 (11) The guardian ad litem shall appear in person at all hearings
2 on the petition unless all parties provide a written waiver of the
3 requirement to appear.

4 (12) At any hearing the court may consider whether any person who
5 makes decisions regarding the alleged incapacitated person or estate
6 has breached a statutory or fiduciary duty.

7 **Sec. 3.** RCW 13.34.100 and 1996 c 249 s 13 are each amended to read
8 as follows:

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

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

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

23 (a) Level of formal education;

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

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

26 (d) Number of appointments as a guardian ad litem and the county or
27 counties of appointment; (~~and~~)

28 (e) The name of any counties in which, pursuant to a grievance, the
29 person was removed from a pending case or a guardian ad litem registry;
30 and

31 (f) Criminal history, as defined in RCW 9.94A.030.

32 The background information report shall be updated annually. As a
33 condition of appointment, the guardian ad litem's background
34 information record shall be made available to the court. If the
35 appointed guardian ad litem is not a member of a guardian ad litem
36 program the person shall provide the background information to the
37 court.

1 Upon appointment, the guardian ad litem, or guardian ad litem
2 program, shall provide the parties or their attorneys with a statement
3 containing: His or her training relating to the duties as a guardian
4 ad litem; the name of any counties in which, pursuant to a grievance,
5 the person was removed from a pending case or a guardian ad litem
6 registry; and their criminal history as defined in RCW 9.94A.030 for
7 the period covering ten years prior to the appointment. The background
8 statement shall not include identifying information that may be used to
9 harm a guardian ad litem, such as home addresses and home telephone
10 numbers, and for volunteer guardians ad litem the court may allow the
11 use of maiden names or pseudonyms as necessary for their safety.

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

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

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

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

34 (8) When a court-appointed special advocate or volunteer guardian
35 ad litem is requested on a case, the program shall give the court the
36 name of the person it recommends and the appointment shall be effective
37 immediately. The court shall appoint the person recommended by the
38 program. If a party in a case reasonably believes the court-appointed
39 special advocate or volunteer is inappropriate or unqualified, the

1 party may request a review of the appointment by the program. The
2 program must complete the review within five judicial days and remove
3 any appointee for good cause. If the party seeking the review is not
4 satisfied with the outcome of the review, the party may file a motion
5 with the court for the removal of the court-appointed special advocate
6 on the grounds the advocate or volunteer is inappropriate or
7 unqualified.

8 **Sec. 4.** RCW 13.34.102 and 1997 c 41 s 6 are each amended to read
9 as follows:

10 (1)(a) All guardians ad litem(~~(, who have not previously served or~~
11 ~~been trained as a guardian ad litem in this state, who are appointed~~
12 ~~after January 1, 1998,)) must ((complete the curriculum developed by~~
13 ~~the office of the administrator for the courts)) comply with the
14 training requirements established under RCW 2.56.030(15), prior to
15 their appointment in cases under Title 13 RCW, except that volunteer
16 guardians ad litem or court-appointed special advocates ((accepted into
17 a volunteer program after January 1, 1998,)) may ((complete an
18 alternative curriculum)) comply with alternative training requirements
19 approved by the office of the administrator for the courts that
20 meet((s)) or exceed((s)) the state-wide ((curriculum)) requirements.~~

21 (b) All persons appointed as guardians ad litem or court-appointed
22 special advocates must comply with the continuing education
23 requirements established under RCW 2.56.030(15).

24 (2)(a) Each guardian ad litem program for compensated guardians ad
25 litem shall establish a rotational registry system for the appointment
26 of guardians ad litem. If a judicial district does not have a program
27 the court shall establish the rotational registry system. Guardians ad
28 litem shall be selected from the registry except in exceptional
29 circumstances as determined and documented by the court. The parties
30 may make a joint recommendation for the appointment of a guardian ad
31 litem from the registry.

32 (b) In judicial districts with a population over one hundred
33 thousand, a list of three names shall be selected from the registry and
34 given to the parties along with the background information as specified
35 in RCW 13.34.100(3), including their hourly rate for services. Each
36 party may, within three judicial days, strike one name from the list.
37 If more than one name remains on the list, the court shall make the
38 appointment from the names on the list. In the event all three names

1 are stricken the person whose name appears next on the registry shall
2 be appointed.

3 (c) If a party reasonably believes that the appointed guardian ad
4 litem lacks the necessary expertise for the proceeding, charges an
5 hourly rate higher than what is reasonable for the particular
6 proceeding, or has a conflict of interest, the party may, within three
7 judicial days from the appointment, move for substitution of the
8 appointed guardian ad litem by filing a motion with the court.

9 (d) Upon the motion of any party the court shall, if located in a
10 judicial district with a population over one hundred thousand, remove
11 a compensated guardian ad litem who was not selected from a rotational
12 registry system. This subsection (2)(d) does not apply when the
13 guardian ad litem was appointed: (i) Under exceptional circumstances
14 authorized under (a) of this subsection; or (ii) as a result of a joint
15 recommendation of the parties.

16 (3) The rotational registry system shall not apply to court-
17 appointed special advocate programs.

18 **Sec. 5.** RCW 13.34.105 and 1993 c 241 s 3 are each amended to read
19 as follows:

20 (1) Unless otherwise directed by the court, the duties of the
21 guardian ad litem include but are not limited to the following:

22 (a) To ~~((represent))~~ investigate and ~~((be an))~~ advocate for the
23 best interests of the child;

24 (b) To collect relevant information about the child's situation;

25 (c) To monitor all court orders for compliance and to bring to the
26 court's attention any change in circumstances that may require a
27 modification of the court's order; and

28 (d) To report to the court information on: (i) The legal status of
29 a child's membership in any Indian tribe or band; and (ii) the facts
30 relating to the child's best interests.

31 (2) ~~((The))~~ A guardian ad litem who is: (a) Selected from a
32 registry; (b) appointed under exceptional circumstances pursuant to RCW
33 13.34.102(2)(a); or (c) a court-appointed special advocate shall be
34 deemed an officer of the court for the purpose of immunity from civil
35 liability.

36 (3) Except for information or records specified in RCW
37 13.50.100(4), the guardian ad litem shall have access to all
38 information available to the state or agency on the case. Upon

1 presentation of the order of appointment by the guardian ad litem, any
2 agency, hospital, school organization, division or department of the
3 state, doctor, nurse, or other health care provider, psychologist,
4 psychiatrist, police department, or mental health clinic shall permit
5 the guardian ad litem to inspect and copy any records relating to the
6 child or children involved in the case, without the consent of the
7 parent or guardian of the child, or of the child if the child is under
8 the age of thirteen years, unless such access is otherwise specifically
9 prohibited by law.

10 (4) The guardian ad litem shall release case information in
11 accordance with the provisions of RCW 13.50.100.

12 **Sec. 6.** RCW 26.12.175 and 1996 c 249 s 15 are each amended to read
13 as follows:

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

23 (b) Unless otherwise ordered, the guardian ad litem's role is to:
24 (i) Investigate and report to the court concerning parenting
25 arrangements for the child((7)); (ii) report on the child's wishes when
26 the child is twelve years of age or older; and ((to represent)) (iii)
27 advocate for the child's best interests. The court may require the
28 guardian ad litem to provide periodic reports to the parties regarding
29 the status of his or her investigation. The guardian ad litem shall
30 file his or her report at least sixty days prior to trial.

31 (c) The court shall enter an order for costs, fees, and
32 disbursements to cover the costs of the guardian ad litem. The court
33 may order either or both parents to pay for the costs of the guardian
34 ad litem, according to their ability to pay. If both parents are
35 indigent, the county shall bear the cost of the guardian, subject to
36 appropriation for guardians' ad litem services by the county
37 legislative authority. Guardians ad litem who are not volunteers shall

1 provide the parties with an itemized accounting of their time and
2 billing for services each month.

3 (2)(a) If the guardian ad litem appointed is from the county court-
4 appointed special advocate program, the program shall supervise any
5 guardian ad litem assigned to the case. The court-appointed special
6 advocate program shall be entitled to notice of all proceedings in the
7 case.

8 (b) The legislative authority of each county may authorize creation
9 of a court-appointed special advocate program. The county legislative
10 authority may adopt rules of eligibility for court-appointed special
11 advocate program services.

12 (3) Each guardian ad litem program shall maintain a background
13 information record for each guardian ad litem in the program. The
14 background file shall include, but is not limited to, the following
15 information:

16 (a) Level of formal education;

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

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

19 (d) Number of appointments as a guardian ad litem and county or
20 counties of appointment; (~~and~~)

21 (e) The name of any counties in which, pursuant to a grievance, the
22 person was removed from a pending case or a guardian ad litem registry;
23 and

24 (f) Criminal history, as defined in RCW 9.94A.030.

25 The background information report shall be updated annually. As a
26 condition of appointment, the guardian ad litem's background
27 information record shall be made available to the court. If the
28 appointed guardian ad litem is not a member of a guardian ad litem
29 program the person shall provide the background information to the
30 court.

31 Upon appointment, the guardian ad litem, or guardian ad litem
32 program, shall provide the parties or their attorneys with a statement
33 containing: His or her training relating to the duties as a guardian
34 ad litem; the name of any counties in which, pursuant to a grievance,
35 the person was removed from a pending case or a guardian ad litem
36 registry; and their criminal history as defined in RCW 9.94A.030 for
37 the period covering ten years prior to the appointment. The background
38 statement shall not include identifying information that may be used to
39 harm a guardian ad litem, such as home addresses and home telephone

1 numbers, and for volunteer guardians ad litem the court may allow the
2 use of maiden names or pseudonyms as necessary for their safety.

3 (4) When a court-appointed special advocate or volunteer guardian
4 ad litem is requested on a case, the program shall give the court the
5 name of the person it recommends and the appointment shall be effective
6 immediately. The court shall appoint the person recommended by the
7 program. If a party in a case reasonably believes the court-appointed
8 special advocate or volunteer is inappropriate or unqualified, the
9 party may request a review of the appointment by the program. The
10 program must complete the review within five judicial days and remove
11 any appointee for good cause. If the party seeking the review is not
12 satisfied with the outcome of the review, the party may file a motion
13 with the court for the removal of the court-appointed special advocate
14 on the grounds the advocate or volunteer is inappropriate or
15 unqualified.

16 **Sec. 7.** RCW 26.12.177 and 1997 c 41 s 7 are each amended to read
17 as follows:

18 (1)(a) All guardians ad litem(~~(, who have not previously served or~~
19 ~~been trained as a guardian ad litem in this state, who are appointed~~
20 ~~after January 1, 1998,)) must ((complete the curriculum developed by~~
21 ~~the office of the administrator for the courts)) comply with the
22 training requirements established under RCW 2.56.030(15), prior to
23 their appointment in cases under Title 26 RCW, except that volunteer
24 guardians ad litem or court-appointed special advocates ((accepted into
25 a volunteer program after January 1, 1998,)) may ((complete an
26 alternative curriculum)) comply with alternative training requirements
27 approved by the office of the administrator for the courts that
28 meet((s)) or exceed((s)) the state-wide ((curriculum)) requirements.~~

29 (b) All persons appointed as guardians ad litem or court-appointed
30 special advocates must comply with the continuing education
31 requirements established under RCW 2.56.030(15).

32 (2)(a) Each guardian ad litem program for compensated guardians ad
33 litem shall establish a rotational registry system for the appointment
34 of guardians ad litem. If a judicial district does not have a program
35 the court shall establish the rotational registry system. Guardians ad
36 litem shall be selected from the registry except in exceptional
37 circumstances as determined and documented by the court. The parties

1 may make a joint recommendation for the appointment of a guardian ad
2 litem from the registry.

3 (b) In judicial districts with a population over one hundred
4 thousand, a list of three names shall be selected from the registry and
5 given to the parties along with the background information as specified
6 in RCW 26.12.175(3), including their hourly rate for services. Each
7 party may, within three judicial days, strike one name from the list.
8 If more than one name remains on the list, the court shall make the
9 appointment from the names on the list. In the event all three names
10 are stricken the person whose name appears next on the registry shall
11 be appointed.

12 (c) If a party reasonably believes that the appointed guardian ad
13 litem lacks the necessary expertise for the proceeding, charges an
14 hourly rate higher than what is reasonable for the particular
15 proceeding, or has a conflict of interest, the party may, within three
16 judicial days from the appointment, move for substitution of the
17 appointed guardian ad litem by filing a motion with the court.

18 (d) Upon the motion of any party the court shall, if located in a
19 judicial district with a population over one hundred thousand, remove
20 a compensated guardian ad litem who was not selected from a rotational
21 registry system. This subsection (2)(d) does not apply when the
22 guardian ad litem was appointed: (i) Under exceptional circumstances
23 authorized under (a) of this subsection; or (ii) as a result of a joint
24 recommendation of the parties.

25 (3) The rotational registry system shall not apply to court-
26 appointed special advocate programs.

27 NEW SECTION. Sec. 8. A new section is added to chapter 26.12 RCW
28 to read as follows:

29 A guardian ad litem who is: (1) Selected from a registry; (2)
30 appointed under exceptional circumstances pursuant to RCW
31 26.12.177(2)(a); or (3) a court-appointed special advocate shall be
32 deemed an officer of the court for the purpose of immunity from civil
33 liability.

34 NEW SECTION. Sec. 9. A new section is added to chapter 11.88 RCW
35 to read as follows:

36 The court shall, in each order of appointment, specify the hourly
37 rate the guardian ad litem may charge for his or her services, and

1 shall specify the maximum amount the guardian ad litem may charge
2 without additional court review and approval.

3 NEW SECTION. **Sec. 10.** A new section is added to chapter 13.34 RCW
4 to read as follows:

5 The court shall, in each order of appointment, specify the hourly
6 rate the guardian ad litem may charge for his or her services, and
7 shall specify the maximum amount the guardian ad litem may charge
8 without additional court review and approval.

9 NEW SECTION. **Sec. 11.** A new section is added to chapter 26.12 RCW
10 to read as follows:

11 The court shall, in each order of appointment, specify the hourly
12 rate the guardian ad litem may charge for his or her services, and
13 shall specify the maximum amount the guardian ad litem may charge
14 without additional court review and approval.

15 NEW SECTION. **Sec. 12.** A new section is added to chapter 11.88 RCW
16 to read as follows:

17 All guardians ad litem are prohibited from engaging in ex parte
18 communications with any judicial officer regarding the matter for which
19 he or she is appointed, except as approved pursuant to a hearing
20 conducted with adequate notice to all parties. Unauthorized
21 communication shall be immediately reported to all parties and their
22 attorneys. The court, upon its own motion, or upon the motion of a
23 party, may consider the removal of any guardian ad litem who violates
24 this section from any pending case or the guardian ad litem rotational
25 registry, and if so removed may require forfeiture of any fees for
26 professional services on any pending cases.

27 NEW SECTION. **Sec. 13.** A new section is added to chapter 13.34 RCW
28 to read as follows:

29 All guardians ad litem and court-appointed special advocates are
30 prohibited from engaging in ex parte communications with any judicial
31 officer regarding the matter for which he or she is appointed, except
32 as approved pursuant to a hearing conducted with adequate notice to all
33 parties. Unauthorized communication shall be immediately reported to
34 all parties and their attorneys. The court, upon its own motion, or
35 upon the motion of a party, may consider the removal of any guardian ad

1 litem or court-appointed special advocate who violates this section
2 from any pending case or from any court-authorized registry, and if so
3 removed may require forfeiture of any fees for professional services on
4 any pending cases.

5 NEW SECTION. **Sec. 14.** A new section is added to chapter 26.12 RCW
6 to read as follows:

7 All guardians ad litem, court-appointed special advocates, and
8 parenting investigators are prohibited from engaging in ex parte
9 communications with any judicial officer regarding the matter for which
10 he or she is appointed, except as approved pursuant to a hearing
11 conducted with adequate notice to all parties. Unauthorized
12 communication shall be immediately reported to all parties and their
13 attorneys. The court, upon its own motion, or upon the motion of a
14 party, may consider the removal of any guardian ad litem, court-
15 appointed special advocate, or parenting investigator who violates this
16 section from any pending case or from any court-authorized registry,
17 and if so removed may require forfeiture of any fees for professional
18 services on any pending cases.

19 NEW SECTION. **Sec. 15.** A new section is added to chapter 26.12 RCW
20 to read as follows:

21 All information, records, and reports obtained or created by a
22 guardian ad litem, court-appointed special advocate, or parenting
23 investigator shall be open to the parties and their attorneys. The
24 guardian ad litem, court-appointed special advocate, or parenting
25 investigator shall maintain the privacy of the parties and the
26 confidentiality of information obtained, pursuant to the investigation,
27 as to third parties.

28 NEW SECTION. **Sec. 16.** This act takes effect July 1, 1998, except
29 for sections 4 and 7 of this act, which take effect January 1, 2000.

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