

2 SSB 5447 - S AMD - 045
3 By Senator Franklin

4 ADOPTED 3/10/99

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 2.56.030 and 1997 c 41 s 2 are each amended to read
8 as 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
19 out the direction of the chief justice as to the assignments of judges
20 to counties and districts where the courts are in need of assistance;

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

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

28 (6) Collect statistical and other data and make reports relating to
29 the expenditure of public moneys, state and local, for the maintenance
30 and operation of the judicial system and the offices connected
31 therewith;

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

1 (8) Act as secretary of the judicial conference referred to in RCW
2 2.56.060;

3 (9) Submit annually, as of February 1st, to the chief justice, a
4 report of the activities of the administrator's office for the
5 preceding calendar year including activities related to courthouse
6 security;

7 (10) Administer programs and standards for the training and
8 education of judicial personnel;

9 (11) Examine the need for new superior court and district judge
10 positions under a weighted caseload analysis that takes into account
11 the time required to hear all the cases in a particular court and the
12 amount of time existing judges have available to hear cases in that
13 court. The results of the weighted caseload analysis shall be reviewed
14 by the board for judicial administration which shall make
15 recommendations to the legislature. It is the intent of the
16 legislature that weighted caseload analysis become the basis for
17 creating additional district court positions, and recommendations
18 should address that objective;

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

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

23 (14) Within available funds, develop a curriculum for a general
24 understanding of child development, placement, and treatment resources,
25 as well as specific legal skills and knowledge of relevant statutes
26 including chapters 13.32A, 13.34, and 13.40 RCW, cases, court rules,
27 interviewing skills, and special needs of the abused or neglected
28 child. This curriculum shall be completed and made available to all
29 juvenile court judges, court personnel, and service providers and be
30 updated yearly to reflect changes in statutes, court rules, or case
31 law;

32 (15) Develop, in consultation with the entities set forth in RCW
33 2.56.150(3), a comprehensive state-wide curriculum, training
34 requirements, and continuing education requirements for persons who act
35 as guardians ad litem under Title 13 or 26 RCW except these
36 requirements do not apply to the attorney general or any prosecuting
37 attorney functioning as the guardian ad litem pursuant to RCW
38 74.20.310. The curriculum, training requirements, and continuing
39 education requirements shall (~~be made available July 1, 1997, and~~)

1 include specialty sections on child development, child sexual abuse,
2 child physical abuse, child neglect, clinical and forensic
3 investigative and interviewing techniques, family reconciliation and
4 mediation services, and relevant statutory and legal requirements. The
5 curriculum, training requirements, and continuing education
6 requirements shall be made available to all superior court judges,
7 court personnel, and all persons who act as guardians ad litem and be
8 updated yearly to reflect changes in statutes, court rules, or case
9 law;

10 (16) Develop a curriculum for a general understanding of crimes of
11 malicious harassment, as well as specific legal skills and knowledge of
12 RCW 9A.36.080, relevant cases, court rules, and the special needs of
13 malicious harassment victims. This curriculum shall be made available
14 to all superior court and court of appeals judges and to all justices
15 of the supreme court;

16 (17) Develop, in consultation with the criminal justice training
17 commission and the commissions established under chapters 43.113,
18 43.115, and 43.117 RCW, a curriculum for a general understanding of
19 ethnic and cultural diversity and its implications for working with
20 youth of color and their families. The curriculum shall be available
21 to all superior court judges and court commissioners assigned to
22 juvenile court, and other court personnel. Ethnic and cultural
23 diversity training shall be provided annually so as to incorporate
24 cultural sensitivity and awareness into the daily operation of juvenile
25 courts state-wide;

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

30 (19) Maintain a list of all guardians ad litem or investigators
31 under RCW 26.09.220 appointed pursuant to Titles 11, 13, and 26 RCW,
32 who have been removed from the guardian ad litem registry in any
33 superior court within the state pursuant to a grievance action that
34 orders removal from the registry. Superior courts shall report to the
35 administrator for the courts any order removing a guardian ad litem,
36 investigator under RCW 26.09.220 from the registry; and

37 (20) Develop a model grievance procedure for use by the superior
38 courts when dealing with complaints against: A guardian ad litem under
39 chapter 11.88, 13.34, or 26.12 RCW; a court-appointed special advocate

1 appointed under chapter 13.34 or 26.12 RCW; or an investigator
2 appointed under RCW 26.09.220.

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

5 (1) Nothing contained in RCW 11.88.080 through 11.88.120, 11.92.010
6 through 11.92.040, 11.92.060 through 11.92.120, 11.92.170, and
7 11.92.180 shall affect or impair the power of any court to appoint a
8 guardian ad litem to defend the interests of any incapacitated person
9 interested in any suit or matter pending therein, or to commence and
10 prosecute any suit in his or her behalf.

11 (2) Upon receipt of a petition for appointment of guardian or
12 limited guardian, except as provided herein, the court shall appoint a
13 guardian ad litem to represent the best interests of the alleged
14 incapacitated person, who shall be a person found or known by the court
15 to:

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

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

20 The guardian ad litem shall within five days of receipt of notice
21 of appointment file with the court and serve, either personally or by
22 certified mail with return receipt, each party with a statement
23 including: His or her training relating to the duties as a guardian ad
24 litem; his or her criminal history as defined in RCW 9.94A.030 for the
25 period covering ten years prior to the appointment; his or her hourly
26 rate, if compensated; whether the guardian ad litem has had any contact
27 with a party to the proceeding prior to his or her appointment; and
28 whether he or she has an apparent conflict of interest. Within three
29 days of the later of the actual service or filing of the guardian ad
30 litem's statement, any party may set a hearing and file and serve a
31 motion for an order to show cause why the guardian ad litem should not
32 be removed for one of the following three reasons: (i) Lack of
33 expertise necessary for the proceeding; (ii) an hourly rate higher than
34 what is reasonable for the particular proceeding; or (iii) a conflict
35 of interest. Notice of the hearing shall be provided to the guardian
36 ad litem and all parties. If, after a hearing, the court enters an
37 order replacing the guardian ad litem, findings shall be included,
38 expressly stating the reasons for the removal. If the guardian ad

1 litem is not removed, the court has the authority to assess to the
2 moving party, attorneys' fees and costs related to the motion. The
3 court shall assess attorneys' fees and costs for frivolous motions.

4 No guardian ad litem need be appointed when a parent is petitioning
5 for a guardian or a limited guardian to be appointed for his or her
6 minor child and the minority of the child, as defined by RCW 11.92.010,
7 is the sole basis of the petition. The order appointing the guardian
8 ad litem shall recite the duties set forth in subsection (4) of this
9 section. The appointment of a guardian ad litem shall have no effect
10 on the legal competency of the alleged incapacitated person and shall
11 not overcome the presumption of competency or full legal and civil
12 rights of the alleged incapacitated person.

13 (3)(a) The superior court of each county shall develop and maintain
14 a registry of persons who are willing and qualified to serve as
15 guardians ad litem in guardianship matters. The court shall choose as
16 guardian ad litem a person whose name appears on the registry in a
17 system of consistent rotation, except in extraordinary circumstances
18 such as the need for particular expertise. A person appointed under
19 exceptional circumstances because of a particular expertise may be
20 exempt from the training and continuing education requirements by the
21 court if the court limits the scope of the person's appointment and
22 finds the training and continuing education requirements are unrelated
23 to the tasks the court has assigned to the person. The court shall
24 develop procedures for periodic review of the persons on the registry
25 and for probation, suspension, or removal of persons on the registry
26 for failure to perform properly their duties as guardian ad litem. In
27 the event the court does not select the person next on the list, it
28 shall include in the order of appointment a written reason for its
29 decision.

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

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

34 (A) Level of formal education;

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

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

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

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

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

6 The written statement of qualifications shall include ~~((a statement
7 of the number of times the guardian ad litem has been removed for
8 failure to perform his or her duties as guardian ad litem))~~ the names
9 of any counties in which the person was removed from a guardian ad
10 litem registry pursuant to a grievance action that orders removal from
11 the registry, and the cause number of any case in which the court
12 orders removal of the person because the person fails to perform his or
13 her duties as guardian ad litem; and

14 (ii) Complete the ~~((model))~~ training ~~((program))~~ and continuing
15 educational requirements as described in ~~((d))~~ (e) of this
16 subsection. The training and continuing education requirements are not
17 applicable to guardians ad litem appointed pursuant to court rule
18 solely for the limited purpose of assessing a personal injury
19 settlement.

20 (c) Superior court shall remove any person from the guardian ad
21 litem registry who misrepresents his or her qualifications.

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

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

34 ~~((e))~~ (f) The superior court shall require ~~((utilization of the
35 model program developed by the advisory group as))~~ that any guardian ad
36 litem appointed pursuant to this chapter comply with the training and
37 continuing education requirements described in ~~((d))~~ (e) 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)), unless the guardian ad litem is appointed solely~~
3 ~~for the limited purposes of assessing a personal injury settlement.~~

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

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

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

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

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

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

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

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

36 (f) To provide the court with a written report which shall include
37 the following:

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

1 (ii) A description of the needs of the incapacitated person for
2 care and treatment, the probable residential requirements of the
3 alleged incapacitated person and the basis upon which these findings
4 were made;

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

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

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

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

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

28 (viii) Identification of persons with significant interest in the
29 welfare of the alleged incapacitated person who should be advised of
30 their right to request special notice of proceedings pursuant to RCW
31 11.92.150; (~~and~~)

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

37 (x) In cases of personal injury settlements, information relevant
38 to the court's analysis of the offered settlement. The information
39 relevant to the court's analysis may be specified by local court rule,

1 and need not include information specified in subsection (4)(f)(i)
2 through (ix) of this section.

3 Within forty-five days after notice of commencement of the
4 guardianship proceeding has been served upon the guardian ad litem, and
5 at least fifteen days before the hearing on the petition, unless an
6 extension or reduction of time has been granted by the court for good
7 cause, the guardian ad litem shall file its report and send a copy to
8 the alleged incapacitated person and his or her counsel, spouse, all
9 children not residing with a notified person, those persons described
10 in (f)(viii) of this subsection, and persons who have filed a request
11 for special notice pursuant to RCW 11.92.150. If the guardian ad litem
12 needs additional time to finalize his or her report, then the guardian
13 ad litem shall petition the court for a postponement of the hearing or,
14 with the consent of all other parties, an extension or reduction of
15 time for filing the report. If the hearing does not occur within sixty
16 days of filing the petition, then upon the two-month anniversary of
17 filing the petition and on or before the same day of each following
18 month until the hearing, the guardian ad litem shall file interim
19 reports summarizing his or her activities on the proceeding during that
20 time period as well as fees and costs incurred;

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

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

37 (6) The parties to the proceeding may file responses to the
38 guardian ad litem report with the court and deliver such responses to
39 the other parties and the guardian ad litem at any time up to the

1 second day prior to the hearing. If a guardian ad litem fails to file
2 his or her report in a timely manner, the hearing shall be continued to
3 give the court and the parties at least fifteen days before the hearing
4 to review the report. At any time during the proceeding upon motion of
5 any party or on the court's own motion, the court may remove the
6 guardian ad litem for failure to perform his or her duties as specified
7 in this chapter, provided that the guardian ad litem shall have five
8 days' notice of any motion to remove before the court enters such
9 order. In addition, the court in its discretion may reduce a guardian
10 ad litem's fee for failure to carry out his or her duties.

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

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

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

1 personal injury settlements, guardian ad litem fees shall be negotiated
2 among the parties, and approved by the court.

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

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

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

16 NEW SECTION. Sec. 3. A new section is added to chapter 11.88 RCW
17 to read as follows:

18 The court shall, in each order of appointment, specify the hourly
19 rate the guardian ad litem may charge for his or her services, and
20 shall specify the maximum amount the guardian ad litem may charge
21 without additional court review and approval.

22 NEW SECTION. Sec. 4. A new section is added to chapter 11.88 RCW
23 to read as follows:

24 All guardians ad litem are prohibited from engaging in ex parte
25 communications with any judicial officer regarding the matter for which
26 he or she is appointed, except as approved pursuant to a hearing
27 conducted with appropriate notice to all parties. All guardians ad
28 litem may petition the court to shorten time to hear any emergency
29 motions pursuant to court rules. Unauthorized communication shall be
30 immediately reported to all parties and their attorneys. The court,
31 upon its own motion, or upon the motion of a party, may consider the
32 removal of any guardian ad litem who violates this section from any
33 pending case or the guardian ad litem rotational registry, and if so
34 removed may require forfeiture of any fees for professional services on
35 any pending cases.

1 **Sec. 5.** RCW 13.34.100 and 1996 c 249 s 13 are each amended to read
2 as follows:

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

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

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

17 (a) Level of formal education;

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

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

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

22 (e) The name of any counties in which the person was removed from
23 a guardian ad litem registry pursuant to a grievance action that orders
24 removal from the registry, and the cause number of any case in which
25 the court orders removal of the person because the person fails to
26 perform his or her duties as guardian ad litem; and

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

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. If the
31 appointed guardian ad litem is not a member of a guardian ad litem
32 program the person shall provide the background information to the
33 court.

34 Upon appointment, the guardian ad litem, or guardian ad litem
35 program, shall provide the parties or their attorneys with a statement
36 containing: His or her training relating to the duties as a guardian
37 ad litem; the name of any counties in which the person was removed from
38 a guardian ad litem registry pursuant to a grievance action that orders
39 removal from the registry, and the cause number of any case in which

1 the court orders removal of the person because the person fails to
2 perform his or her duties as guardian ad litem; and his or her criminal
3 history as defined in RCW 9.94A.030 for the period covering ten years
4 prior to the appointment. The background statement shall not include
5 identifying information that may be used to harm a guardian ad litem,
6 such as home addresses and home telephone numbers, and for volunteer
7 guardians ad litem the court may allow the use of maiden names or
8 pseudonyms as necessary for their safety.

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 (8) When a court-appointed special advocate or volunteer guardian
32 ad litem is requested on a case, the program shall give the court the
33 name of the person it recommends and the appointment shall be effective
34 immediately. The court shall appoint the person recommended by the
35 program. If a party in a case reasonably believes the court-appointed
36 special advocate or volunteer is inappropriate or unqualified, the
37 party may request a review of the appointment by the program. The
38 program must complete the review within five judicial days and remove
39 any appointee for good cause. If the party seeking the review is not

1 satisfied with the outcome of the review, the party may file a motion
2 with the court for the removal of the court-appointed special advocate
3 on the grounds the advocate or volunteer is inappropriate or
4 unqualified.

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

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

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

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

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

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

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

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

16 **Sec. 7.** RCW 13.34.105 and 1993 c 241 s 3 are each amended to read
17 as follows:

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

20 (a) To ~~((represent))~~ investigate and ~~((be an advocate for))~~ report
21 to the court factual information regarding the best interests of the
22 child;

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

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

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

30 (e) Court-appointed special advocates may make recommendations
31 based upon an independent investigation in the best interests of the
32 child, which the court may consider and weigh in conjunction with the
33 recommendations of all of the parties.

34 (2) ~~((The))~~ A guardian ad litem shall be deemed an officer of the
35 court for the purpose of immunity from civil 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) A guardian ad litem may release confidential information,
11 records, and reports to the office of the family and children's
12 ombudsman for the purposes of carrying out its duties under chapter
13 43.06A RCW.

14 (5) The guardian ad litem shall release case information in
15 accordance with the provisions of RCW 13.50.100.

16 NEW SECTION. Sec. 8. A new section is added to chapter 13.34 RCW
17 to read as follows:

18 The court shall, in each order of appointment, specify the hourly
19 rate the guardian ad litem may charge for his or her services, and
20 shall specify the maximum amount the guardian ad litem may charge
21 without additional court review and approval.

22 NEW SECTION. Sec. 9. A new section is added to chapter 13.34 RCW
23 to read as follows:

24 All guardians ad litem and court-appointed special advocates are
25 prohibited from engaging in ex parte communications with any judicial
26 officer regarding the matter for which he or she is appointed, except
27 as approved pursuant to a hearing conducted with appropriate notice to
28 all parties. All guardians ad litem may petition the court to shorten
29 time to hear any emergency motions pursuant to court rules.
30 Unauthorized communication shall be immediately reported to all parties
31 and their attorneys. The court, upon its own motion, or upon the
32 motion of a party, may consider the removal of any guardian ad litem or
33 court-appointed special advocate who violates this section from any
34 pending case or from any court-authorized registry, and if so removed
35 may require forfeiture of any fees for professional services on any
36 pending cases.

1 **Sec. 10.** RCW 26.12.175 and 1996 c 249 s 15 are each amended to
2 read as follows:

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

12 (b) Unless otherwise ordered, the guardian ad litem's role is to
13 investigate and report to the court concerning parenting arrangements
14 for the child(~~(, and to represent the child's best interests)~~). This
15 should include factual information regarding the best interests of the
16 child. Additionally, if a minor expresses his or her custody wishes,
17 the guardian ad litem must report the wishes to the court. The child's
18 wishes do not determine placement. The court may require the guardian
19 ad litem to provide periodic reports to the parties regarding the
20 status of his or her investigation. The guardian ad litem shall file
21 his or her report at least sixty days prior to trial.

22 (c) The court shall enter an order for costs, fees, and
23 disbursements to cover the costs of the guardian ad litem. The court
24 may order either or both parents to pay for the costs of the guardian
25 ad litem, according to their ability to pay. If both parents are
26 indigent, the county shall bear the cost of the guardian, subject to
27 appropriation for guardians' ad litem services by the county
28 legislative authority. Guardians ad litem who are not volunteers shall
29 provide the parties with an itemized accounting of their time and
30 billing for services each month.

31 (2)(a) If the guardian ad litem appointed is from the county court-
32 appointed special advocate program, the program shall supervise any
33 guardian ad litem assigned to the case. The court-appointed special
34 advocate program shall be entitled to notice of all proceedings in the
35 case.

36 (b) The legislative authority of each county may authorize creation
37 of a court-appointed special advocate program. The county legislative
38 authority may adopt rules of eligibility for court-appointed special
39 advocate program services.

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

5 (a) Level of formal education;

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

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

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

10 (e) The name of any counties in which the person was removed from
11 a guardian ad litem registry pursuant to a grievance action that orders
12 removal from the registry, and the cause number of any case in which
13 the court orders removal of the person because the person fails to
14 perform his or her duties as guardian ad litem; and

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

16 The background information report shall be updated annually. As a
17 condition of appointment, the guardian ad litem's background
18 information record shall be made available to the court. If the
19 appointed guardian ad litem is not a member of a guardian ad litem
20 program the person shall provide the background information to the
21 court.

22 Upon appointment, the guardian ad litem, or guardian ad litem
23 program, shall provide the parties or their attorneys with a statement
24 containing: His or her training relating to the duties as a guardian
25 ad litem; the name of any counties in which the person was removed from
26 a guardian ad litem registry pursuant to a grievance action that orders
27 removal from the registry, and the cause number of any case in which
28 the court orders removal of the person because the person fails to
29 perform his or her duties as guardian ad litem; and his or her criminal
30 history as defined in RCW 9.94A.030 for the period covering ten years
31 prior to the appointment. The background statement shall not include
32 identifying information that may be used to harm a guardian ad litem,
33 such as home addresses and home telephone numbers, and for volunteer
34 guardians ad litem the court may allow the use of maiden names or
35 pseudonyms as necessary for their safety.

36 (4) When a court-appointed special advocate or volunteer guardian
37 ad litem is requested on a case, the program shall give the court the
38 name of the person it recommends and the appointment shall be effective
39 immediately. The court shall appoint the person recommended by the

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

10 **Sec. 11.** RCW 26.12.177 and 1997 c 41 s 7 are each amended to read
11 as follows:

12 (1)(a) All guardians ad litem(~~(, who have not previously served or~~
13 ~~been trained as a guardian ad litem in this state, who are appointed~~
14 ~~after January 1, 1998,)) and investigators appointed under RCW
15 26.09.220 must (~~(complete the curriculum developed by the office of the~~
16 ~~administrator for the courts)) comply with the training requirements
17 established under RCW 2.56.030(15), prior to their appointment in cases
18 under Title 26 RCW, except that volunteer guardians ad litem or court-
19 appointed special advocates (~~(accepted into a volunteer program after~~
20 ~~January 1, 1998,)) may (~~(complete an alternative curriculum)) comply~~
21 ~~with alternative training requirements~~ approved by the office of the
22 administrator for the courts that meet(~~(s))~~) or exceed(~~(s))~~) the state-
23 wide (~~(curriculum))~~ requirements.~~~~~~

24 (b) All persons appointed as guardians ad litem, investigators
25 under RCW 26.09.220, or court-appointed special advocates must comply
26 with the continuing education requirements established under RCW
27 2.56.030(15).

28 (2)(a) Each guardian ad litem program for compensated guardians ad
29 litem shall establish a rotational registry system for the appointment
30 of guardians ad litem and investigators under RCW 26.09.220. If a
31 judicial district does not have a program the court shall establish the
32 rotational registry system. Guardians ad litem and investigators under
33 RCW 26.09.220 shall be selected from the registry except in exceptional
34 circumstances as determined and documented by the court. The parties
35 may make a joint recommendation for the appointment of a guardian ad
36 litem from the registry.

37 (b) In judicial districts with a population over one hundred
38 thousand, a list of three names shall be selected from the registry and

1 given to the parties along with the background information as specified
2 in RCW 26.12.175(3), including their hourly rate for services. Each
3 party may, within three judicial days, strike one name from the list.
4 If more than one name remains on the list, the court shall make the
5 appointment from the names on the list. In the event all three names
6 are stricken the person whose name appears next on the registry shall
7 be appointed.

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

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

21 (e) Under this section, within either registry referred to in (a)
22 of this subsection, a subregistry may be created that consists of
23 guardians ad litem under contract with the department of social and
24 health services' division of child support. Guardians ad litem on such
25 a subregistry shall be selected and appointed in state-initiated
26 paternity cases only.

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

29 NEW SECTION. Sec. 12. A new section is added to chapter 26.12 RCW
30 to read as follows:

31 The court shall, in each order of appointment, specify the hourly
32 rate the guardian ad litem or investigator under RCW 26.09.220 may
33 charge for his or her services, and shall specify the maximum amount
34 the guardian ad litem or investigator under RCW 26.09.220 may charge
35 without additional court review and approval.

36 NEW SECTION. Sec. 13. A new section is added to chapter 26.12 RCW
37 to read as follows:

1 All guardians ad litem, court-appointed special advocates, and
2 investigators under RCW 26.09.220 are prohibited from engaging in ex
3 parte communications with any judicial officer regarding the matter for
4 which he or she is appointed, except as approved pursuant to a hearing
5 conducted with appropriate notice to all parties. All guardians ad
6 litem or investigators under RCW 26.09.220 may petition the court to
7 shorten time to hear any emergency motions pursuant to court rules.
8 Unauthorized communication shall be immediately reported to all parties
9 and their attorneys. The court, upon its own motion, or upon the
10 motion of a party, may consider the removal of any guardian ad litem,
11 court-appointed special advocate, or investigator who violates this
12 section from any pending case or from any court-authorized registry,
13 and if so removed may require forfeiture of any fees for professional
14 services on any pending cases.

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

17 All information, records, and reports obtained or created by a
18 guardian ad litem, court-appointed special advocate, or investigator
19 under RCW 26.09.220, shall be discoverable pursuant to court rule to
20 the parties and their attorneys. The guardian ad litem, court-
21 appointed special advocate, or investigator shall maintain the privacy
22 of the parties and the confidentiality of information obtained,
23 pursuant to the investigation, as to third parties. Any guardian ad
24 litem or investigator under RCW 26.09.220 can move the court to seal
25 the court file to protect information obtained by the guardian ad litem
26 from disclosure to third persons, particularly in cases where no
27 evidentiary rulings have been made on information introduced by
28 affidavit, declaration, or other means. Nothing in this section shall
29 be interpreted to authorize disclosure of guardian ad litem or
30 investigator records in personal injury actions.

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

33 Any guardian ad litem or investigator under RCW 26.09.220 appointed
34 under this chapter may release confidential information, records, and
35 reports to the office of the family and children's ombudsman for the
36 purposes of carrying out its duties under chapter 43.06A RCW.

