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HOUSE BILL 2962

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State of Washington                      56th Legislature                      2000 Regular Session

By Representative Lambert

Read first time 01/25/2000. Referred to Committee on Judiciary.

1            AN ACT Relating to guardians ad litem; amending RCW 2.56.030,  
2 11.88.090, 13.34.100, 13.34.105, 13.34.120, 26.09.220, 26.10.130, and  
3 26.12.175; and adding a new chapter to Title 26 RCW.

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

5            NEW SECTION.    **Sec. 1.** The provisions of this chapter establish a  
6 minimum set of standards applicable to all superior court cases where  
7 the court appoints a guardian ad litem or any person to represent the  
8 best interest of a child, an alleged incapacitated person, or an  
9 adjudicated incapacitated person pursuant to Title 11, 13, or 26 RCW.  
10 In addition to the rights, responsibilities, and duties of a guardian  
11 ad litem under this chapter, a guardian ad litem shall comply with the  
12 applicable provisions of Titles 11, 13, and 26 RCW.

13            NEW SECTION.    **Sec. 2.** The definitions in this section apply  
14 throughout this chapter unless the context clearly requires otherwise.

15            (1) "Court" means any superior court in the state of Washington and  
16 all divisions thereof.

17            (2) "Guardian ad litem" means any person or program appointed in an  
18 action under Title 11, 13, or 26 RCW to represent or assist the court

1 in determining the best interest of a child, an alleged incapacitated  
2 person, or an adjudicated incapacitated person. "Guardian ad litem"  
3 shall not include an attorney appointed to represent a party.

4 (3) "Judge" means a judicial officer of the superior court,  
5 including commissioners and judges pro tempore.

6 (4) "Registry" means the list of people authorized by the court to  
7 serve as guardians ad litem or court-appointed special advocate  
8 programs authorized by RCW 26.12.175.

9 NEW SECTION. **Sec. 3.** Consistent with the responsibilities set  
10 forth in Titles 11, 13, and 26 RCW and other applicable statutes and  
11 rules of court, in every case in which a guardian ad litem is  
12 appointed, the guardian ad litem shall perform the responsibilities set  
13 forth in this section.

14 (1) A guardian ad litem shall represent the best interests of the  
15 person for whom he or she is appointed. Representation of best  
16 interests may be inconsistent with the wishes of the person whose  
17 interest the guardian ad litem represents. The guardian ad litem shall  
18 not advocate on behalf of or advise any party so as to create in the  
19 mind of a reasonable person the appearance of representing that party.

20 (2) A guardian ad litem shall maintain independence, objectivity,  
21 and the appearance of fairness in dealings with parties and  
22 professionals, both in and out of the courtroom.

23 (3) A guardian ad litem shall maintain the ethical principles of  
24 the rules of conduct set forth in these rules and is subject to  
25 discipline under local rules established pursuant to section 7 of this  
26 act for any violation.

27 (4) Unless excepted by statute or court rule, a guardian ad litem  
28 shall satisfy all training requirements and continuing education  
29 requirements set by the administrator for the courts under RCW 2.56.030  
30 and maintain qualifications to serve as guardian ad litem in every  
31 county where the guardian ad litem is listed on the registry for that  
32 county and in which the guardian ad litem serves and shall promptly  
33 advise each such court of any grounds for disqualification or  
34 unavailability to serve.

35 (5) A guardian ad litem shall avoid any actual or apparent conflict  
36 of interest or impropriety in the performance of guardian ad litem  
37 responsibilities. A guardian ad litem shall avoid self-dealing or  
38 association from which a guardian ad litem might directly or indirectly

1 benefit, other than for compensation as guardian ad litem. A guardian  
2 ad litem shall take action immediately to resolve any potential  
3 conflict or impropriety. A guardian ad litem shall advise the court  
4 and the parties of action taken, resign from the matter, or seek court  
5 direction as may be necessary to resolve the conflict or impropriety.  
6 A guardian ad litem shall not accept or maintain appointment if the  
7 performance of the duties of guardian ad litem may be materially  
8 limited by the guardian ad litem's responsibilities to another client  
9 or a third person, or by the guardian ad litem's own interests.

10 (6) A guardian ad litem is an officer of the court and as such  
11 shall at all times treat the parties with respect, courtesy, fairness,  
12 and good faith.

13 (7) A guardian ad litem shall make reasonable efforts to become  
14 informed about the facts of the case and to contact all parties. A  
15 guardian ad litem shall examine material information and sources of  
16 information, taking into account the positions of the parties.

17 (8) A guardian ad litem shall not require any evaluations or tests  
18 of the parties except as authorized by statute or court order issued  
19 following notice and opportunity to be heard.

20 (9) A guardian ad litem shall file a written report with the court  
21 and the parties as required by law or court order or in any event not  
22 later than ten days prior to a hearing for which a report is required.  
23 The report shall be accompanied by a written list of persons  
24 interviewed and documents considered or called to the attention of the  
25 guardian ad litem during the course of the investigation.

26 (10) A guardian ad litem shall comply with the court's instructions  
27 as set out in the order appointing a guardian ad litem, and shall not  
28 provide or require services beyond the scope of the court's instruction  
29 unless by motion and on adequate notice to the parties, a guardian ad  
30 litem obtains additional instruction, clarification, or expansion of  
31 the scope of such appointment.

32 (11) A guardian ad litem shall identify himself or herself as a  
33 guardian ad litem when contacting individuals in the course of a  
34 particular case and inform individuals contacted in a particular case  
35 about the role of a guardian ad litem in the case at the earliest  
36 practicable time. A guardian ad litem shall advise information sources  
37 that the documents and information obtained may become part of court  
38 proceedings.

1 (12) The guardian ad litem shall be given notice of all hearings  
2 and proceedings. A guardian ad litem shall appear in person or by  
3 videoconferencing at any hearing for which the duties of a guardian ad  
4 litem or any issues substantially within a guardian ad litem's duties  
5 and scope of appointment are to be addressed.

6 (13) A guardian ad litem shall not have ex parte communications  
7 concerning the case with the judge or judges involved in the matter  
8 except as permitted by statute or by court rule.

9 (14) A guardian ad litem shall make no disclosures about the case  
10 or the investigation except in reports to the court or as necessary to  
11 perform the duties of a guardian ad litem. A guardian ad litem shall  
12 maintain the confidential nature of identifiers or addresses where  
13 there are allegations of domestic violence or risk to a party's or  
14 child's safety. The guardian ad litem may recommend that the court  
15 seal the report or a portion of the report of the guardian ad litem to  
16 preserve the privacy, confidentiality, or safety of the parties or the  
17 person for whom the guardian ad litem was appointed.

18 (15) A guardian ad litem shall perform responsibilities in a prompt  
19 and timely manner, and, if necessary, request timely court reviews and  
20 judicial intervention in writing with notice to parties or affected  
21 agencies.

22 (16) A guardian ad litem shall throughout the case maintain  
23 documentation to substantiate recommendations and conclusions and shall  
24 keep records of actions taken by the guardian ad litem. Except as  
25 prohibited or protected by law, and consistent with subsection (14) of  
26 this section, this information shall be made available for review on  
27 written request of a party or request of the court.

28 (17) A guardian ad litem shall keep accurate records of the time  
29 spent, services rendered, and expenses incurred in each case and file  
30 an itemized statement and accounting with the court and provide a copy  
31 to each party or other entity responsible for payment. The court may  
32 make any provision for fees and expenses in the order appointing  
33 guardian ad litem or in any subsequent order.

34 NEW SECTION. **Sec. 4.** As an officer of the court, a guardian ad  
35 litem has only such authority conferred by the order of appointment.  
36 Consistent with the roles and responsibilities set forth in section 3  
37 of this act, a guardian ad litem has the following authority:

1 (1) Unless circumstances warrant otherwise, a guardian ad litem  
2 shall have access to the persons for whom a guardian ad litem is  
3 appointed and to all information relevant to the issues for which a  
4 guardian ad litem was appointed. The access of a guardian ad litem to  
5 the child or alleged incapacitated person and all relevant information  
6 shall not be unduly restricted by any person or agency.

7 (2) A guardian ad litem shall be timely furnished copies of all  
8 pleadings, documents, and reports by the party that served or submitted  
9 them.

10 (3) A guardian ad litem shall be timely notified of all court  
11 hearings, administrative reviews, staffings, investigations,  
12 dispositions, and other proceedings concerning the case by the person  
13 or agency scheduling the proceeding.

14 (4) A guardian ad litem shall be given notice of, and an  
15 opportunity to review, approve, or make recommendations regarding any  
16 proposed agreed order of the parties governing issues substantially  
17 related to the duties of a guardian ad litem.

18 (5) Consistent with section 3(12) of this act, a guardian ad litem  
19 shall participate in court hearings through submission of written and  
20 supplemental oral reports and as otherwise authorized by statute and  
21 court rule.

22 (6) Except as limited by law or unless good cause is shown to the  
23 court, upon receiving a copy of the order appointing a guardian ad  
24 litem, any person or agency, including but not limited to any hospital,  
25 school, child care provider, organization, department of social and  
26 health services, doctor, health care provider, mental health provider,  
27 chemical health program, psychologist, psychiatrist, or law enforcement  
28 agency, shall permit a guardian ad litem to inspect and copy any and  
29 all records and interview personnel relating to the proceeding for  
30 which a guardian ad litem is appointed.

31 (7) Within the scope of appointment, a guardian ad litem shall have  
32 access to all superior court and all juvenile court files. Access to  
33 sealed or confidential files shall be by separate order. A guardian ad  
34 litem's report shall inform the court and parties if the report  
35 contains information from sealed or confidential files. The clerk of  
36 the court shall provide certified copies of the order of appointment to  
37 a guardian ad litem upon request and without charge.

38 (8) In every case in which a guardian ad litem is a party to the  
39 case pursuant to chapter 13.34 or 26.26 RCW, a guardian ad litem has

1 the rights and powers set forth below. These rights and powers are  
2 subject to all applicable statutes and court rules.

3 (a) A guardian ad litem has the right to file pleadings, motions,  
4 notices, memoranda, briefs, and other documents, and conduct and  
5 respond to discovery, on behalf of the person for whom the guardian ad  
6 litem was appointed. A guardian ad litem may exercise these rights on  
7 his or her own or may seek the appointment of an attorney to act on his  
8 or her behalf.

9 (b) A guardian ad litem has the right to note motions and request  
10 hearings before the court as appropriate to the best interests of the  
11 person for whom the guardian ad litem was appointed.

12 (c) A guardian ad litem has the right to introduce exhibits,  
13 subpoena witnesses, conduct direct and cross-examination of witnesses,  
14 and appeal the decision of the court.

15 (d) A guardian ad litem has the right to fully participate in the  
16 proceedings through oral arguments and submission of written reports.

17 (9) For good cause shown, a guardian ad litem may petition the  
18 court for additional authority as specified in section 3(10) of this  
19 act.

20 NEW SECTION. **Sec. 5.** Each court shall develop a system of  
21 appointing and reasonably compensating guardians ad litem which ensures  
22 an equitable distribution of the work load among the guardians ad litem  
23 on the registry. The rules shall provide a procedure to timely address  
24 complaints made by any guardian ad litem regarding registry or  
25 appointment matters.

26 NEW SECTION. **Sec. 6.** This section applies to situations where the  
27 court wishes to appoint a person in addition to, or instead of, a  
28 guardian ad litem to fulfill very limited roles. A person appointed  
29 pursuant to this section is strictly limited to the duties of the  
30 specified role for which he or she is appointed. If the order of  
31 appointment does not specifically designate a limited appointment as  
32 listed below, the person appointed is presumed to be a guardian ad  
33 litem, subject to the provisions of this chapter. The court may make  
34 the following limited appointments:

35 (1) Mediator. The court may either appoint or refer to a person or  
36 agency whose role is to assist the parties in reaching an agreement  
37 about any or all contested issues in the case.

1 (2) Evaluator. The court may appoint or refer to a person or  
2 agency for evaluation and findings regarding a specific issue or issues  
3 including but not limited to mental health, substance abuse, issues of  
4 abuse or neglect, cultural factors, and sexual deviancy.

5 (3) Visitation supervisor. The court may appoint or refer to a  
6 person or agency to supervise visits and report findings to the court.

7 (4) Parent appointed for minor parent. The court may appoint a  
8 parent to serve as a guardian ad litem for a minor parent in a  
9 parentage action.

10 (5) Settlement of minors' claims. The court may appoint a person  
11 for the limited purpose of evaluating a proposed settlement of a  
12 minor's or incapacitated person's claim as provided in court rule.

13 (6) Other. Under exceptional circumstances, upon good cause shown,  
14 the court may make other limited appointments as it deems necessary.

15 NEW SECTION. **Sec. 7.** Each court shall adopt rules establishing  
16 and governing procedures for filing, investigating, and adjudicating  
17 grievances made by or against guardians ad litem under Titles 11, 13,  
18 and 26 RCW. The rules shall, at a minimum, comply with and address the  
19 following:

20 (1) The rules shall be clear, concise, and easily understood by  
21 both attorneys and nonattorneys.

22 (2) The rules shall establish separate procedures addressing  
23 grievances or complaints filed during the pendency of a case, and  
24 grievances or complaints filed subsequent to the conclusion of a case.

25 (3) The rules shall establish procedures providing for fair  
26 treatment of grievances including appearance-of-fairness and conflict  
27 issues.

28 (4) Where applicable, local rules shall accommodate the grievance  
29 procedures of court-appointed special advocate or other volunteer  
30 programs.

31 (5) The rules shall provide for confidentiality of complaints until  
32 merit has been found.

33 (6) The rules shall provide a procedure for any guardian ad litem  
34 who is the subject of a complaint to respond to the complaint.

35 (7) The rules shall include a time limit during which a complaint  
36 must be resolved. The limit shall not be longer than twenty-five days  
37 for complaints filed while a case is pending or sixty days for  
38 complaints filed subsequent to the conclusion of a case.

1 (8) For its own reference purposes, the court shall maintain a  
2 record of grievances filed and of any sanctions issued pursuant to  
3 local court grievance procedure.

4 (9) When a guardian ad litem is removed from a county's registry  
5 pursuant to the disposition of a grievance, the court of that county  
6 shall send notice of such removal to the office of the administrator  
7 for the courts, who shall on a regular basis, but not less than  
8 biannually, forward the information to the superior courts of each  
9 county in the state of Washington.

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

12 The administrator for the courts shall, under the supervision and  
13 direction of the chief justice:

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

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

20 (3) Make recommendations to the chief justice relating to the  
21 assignment of judges where courts are in need of assistance and carry  
22 out the direction of the chief justice as to the assignments of judges  
23 to counties and districts where the courts are in need of assistance;

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

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

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

35 (7) Obtain reports from clerks of courts in accordance with law or  
36 rules adopted by the supreme court of this state on cases and other  
37 judicial business in which action has been delayed beyond periods of

1 time specified by law or rules of court and make report thereof to  
2 supreme court of this state;

3 (8) Act as secretary of the judicial conference referred to in RCW  
4 2.56.060;

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

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

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

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

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

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

34 (15) Develop, in consultation with the entities set forth in RCW  
35 2.56.150(3), a comprehensive state-wide curriculum for persons who act  
36 as guardians ad litem under Title 13 or 26 RCW. The curriculum shall  
37 be made available July 1, 1997, and include specialty sections on child  
38 development, child sexual abuse, child physical abuse, child neglect,  
39 clinical and forensic investigative and interviewing techniques, family

1 reconciliation and mediation services, and relevant statutory and legal  
2 requirements. The curriculum shall be made available to all superior  
3 court judges, court personnel, and all persons who act as guardians ad  
4 litem;

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

11 (17) Develop, in consultation with the criminal justice training  
12 commission and the commissions established under chapters 43.113,  
13 43.115, and 43.117 RCW, a curriculum for a general understanding of  
14 ethnic and cultural diversity and its implications for working with  
15 youth of color and their families. The curriculum shall be available  
16 to all superior court judges and court commissioners assigned to  
17 juvenile court, and other court personnel. Ethnic and cultural  
18 diversity training shall be provided annually so as to incorporate  
19 cultural sensitivity and awareness into the daily operation of juvenile  
20 courts state-wide;

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

25 (19)(a) Maintain a list of guardians ad litem, and investigators  
26 under RCW 26.09.220, appointed pursuant to Titles 11, 13, and 26 RCW  
27 who have been removed from a case for failure to perform his or her  
28 duties. The list shall include the county and cause number of the case  
29 from which the guardian ad litem or investigator was removed. Superior  
30 courts shall report to the administrator for the courts any order  
31 removing a guardian ad litem from a case;

32 (b) Maintain a list of guardians ad litem, and investigators under  
33 RCW 26.09.220, appointed pursuant to Title 11, 13, or 26 RCW who have  
34 been ordered removed from a guardian ad litem registry. Superior  
35 courts shall report to the administrator for the courts any order  
36 removing a guardian ad litem or investigator from a registry.

37 **Sec. 9.** RCW 11.88.090 and 1999 c 360 s 1 are each amended to read  
38 as follows:

1 (1) Nothing contained in RCW 11.88.080 through 11.88.120, 11.92.010  
2 through 11.92.040, 11.92.060 through 11.92.120, 11.92.170, and  
3 11.92.180 shall affect or impair the power of any court to appoint a  
4 guardian ad litem to defend the interests of any incapacitated person  
5 interested in any suit or matter pending therein, or to commence and  
6 prosecute any suit in his or her behalf. Unless inconsistent with a  
7 provision of this section, a guardian ad litem appointed under this  
8 section is subject to the standards applicable to guardians ad litem in  
9 general under sections 1 through 7 of this act.

10 (2) Prior to the appointment of a guardian or a limited guardian,  
11 whenever it appears that the incapacitated person or incapacitated  
12 person's estate could benefit from mediation and such mediation would  
13 likely result in overall reduced costs to the estate, upon the motion  
14 of the alleged incapacitated person or the guardian ad litem, or  
15 subsequent to such appointment, whenever it appears that the  
16 incapacitated person or incapacitated person's estate could benefit  
17 from mediation and such mediation would likely result in overall  
18 reduced costs to the estate, upon the motion of any interested person,  
19 the court may:

20 (a) Require any party or other person subject to the jurisdiction  
21 of the court to participate in mediation;

22 (b) Establish the terms of the mediation; and

23 (c) Allocate the cost of the mediation pursuant to RCW 11.96.140.

24 (3) 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  
39 rate, if compensated; whether the guardian ad litem has had any contact

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

16 No guardian ad litem need be appointed when a parent is petitioning  
17 for a guardian or a limited guardian to be appointed for his or her  
18 minor child and the minority of the child, as defined by RCW 11.92.010,  
19 is the sole basis of the petition. The order appointing the guardian  
20 ad litem shall recite the duties set forth in subsection (5) of this  
21 section. The appointment of a guardian ad litem shall have no effect  
22 on the legal competency of the alleged incapacitated person and shall  
23 not overcome the presumption of competency or full legal and civil  
24 rights of the alleged incapacitated person.

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

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

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

1 (A) Level of formal education;  
2 (B) Training related to the guardian ad litem's duties;  
3 (C) Number of years' experience as a guardian ad litem;  
4 (D) Number of appointments as a guardian ad litem and the county or  
5 counties of appointment;

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

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

12 ~~The written statement of qualifications shall include a statement~~  
13 ~~of the)); and~~

14 (G) Number of times and counties where the guardian ad litem has  
15 been removed from a case for failure to perform his or her duties as  
16 guardian ad litem and the number of times and counties where the  
17 guardian ad litem has been ordered removed from a guardian ad litem  
18 registry; and

19 (ii) Complete the model training program as described in (d) of  
20 this subsection.

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

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

31 (e) The superior court shall require utilization of the model  
32 program developed by the advisory group as described in (d) of this  
33 subsection, to assure that candidates applying for registration as a  
34 qualified guardian ad litem shall have satisfactorily completed  
35 training to attain these essential minimum qualifications to act as  
36 guardian ad litem.

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

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

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

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

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

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

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

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

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

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

34 (ii) A description of the needs of the incapacitated person for  
35 care and treatment, the probable residential requirements of the  
36 alleged incapacitated person and the basis upon which these findings  
37 were made;

38 (iii) An evaluation of the appropriateness of the guardian or  
39 limited guardian whose appointment is sought and a description of the

1 steps the proposed guardian has taken or intends to take to identify  
2 and meet current and emerging needs of the incapacitated person;

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

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

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

19 (vii) Any expression of approval or disapproval made by the alleged  
20 incapacitated person concerning the proposed guardian or limited  
21 guardian or guardianship or limited guardianship;

22 (viii) Identification of persons with significant interest in the  
23 welfare of the alleged incapacitated person who should be advised of  
24 their right to request special notice of proceedings pursuant to RCW  
25 11.92.150; and

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

30 Within forty-five days after notice of commencement of the  
31 guardianship proceeding has been served upon the guardian ad litem, and  
32 at least fifteen days before the hearing on the petition, unless an  
33 extension or reduction of time has been granted by the court for good  
34 cause, the guardian ad litem shall file its report and send a copy to  
35 the alleged incapacitated person and his or her counsel, spouse, all  
36 children not residing with a notified person, those persons described  
37 in (f)(viii) of this subsection, and persons who have filed a request  
38 for special notice pursuant to RCW 11.92.150. The report shall include  
39 a written list of all persons interviewed and all reports or

1 documentation considered. If the guardian ad litem needs additional  
2 time to finalize his or her report, then the guardian ad litem shall  
3 petition the court for a postponement of the hearing or, with the  
4 consent of all other parties, an extension or reduction of time for  
5 filing the report. If the hearing does not occur within sixty days of  
6 filing the petition, then upon the two-month anniversary of filing the  
7 petition and on or before the same day of each following month until  
8 the hearing, the guardian ad litem shall file interim reports  
9 summarizing his or her activities on the proceeding during that time  
10 period as well as fees and costs incurred;

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

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

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

1 from a previous case for failure to perform his or her duties, the  
2 court shall order the guardian ad litem to be removed from the guardian  
3 ad litem registry until the guardian ad litem has completed the  
4 training program as described in subsection (4)(d) of this section.  
5 The court shall report to the administrator for the courts any order  
6 removing a guardian ad litem from a case or from a registry. In  
7 addition, the court in its discretion may reduce a guardian ad litem's  
8 fee for failure to carry out his or her duties.

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

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

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

37 (11) Upon the presentation of the guardian ad litem report and the  
38 entry of an order either dismissing the petition for appointment of  
39 guardian or limited guardian or appointing a guardian or limited

1 guardian, the guardian ad litem shall be dismissed and shall have no  
2 further duties or obligations unless otherwise ordered by the court.  
3 If the court orders the guardian ad litem to perform further duties or  
4 obligations, they shall not be performed at county expense.

5 (12) The guardian ad litem shall appear in person or by  
6 videoconferencing at all hearings on the petition unless all parties  
7 provide a written waiver of the requirement to appear.

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

11 **Sec. 10.** RCW 13.34.100 and 1996 c 249 s 13 are each amended to  
12 read as follows:

13 (1) The court shall appoint a guardian ad litem for a child who is  
14 the subject of an action under this chapter, unless a court for good  
15 cause finds the appointment unnecessary. The requirement of a guardian  
16 ad litem may be deemed satisfied if the child is represented by  
17 independent counsel in the proceedings. Unless inconsistent with an  
18 applicable provision of this chapter, a guardian ad litem appointed  
19 under this chapter is subject to the standards applicable to guardians  
20 ad litem in general under sections 1 through 7 of this act.

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

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

30 (a) Level of formal education;

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

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

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

35 (e) Number of times and counties where the guardian ad litem has  
36 been removed from a case for failure to perform his or her duties and  
37 the number of times and counties where the guardian ad litem has been  
38 ordered removed from a guardian ad litem registry; and

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

2 The background information report shall be updated annually. As a  
3 condition of appointment, the guardian ad litem's background  
4 information record shall be made available to the court. If the  
5 appointed guardian ad litem is not a member of a guardian ad litem  
6 program the person shall provide the background information to the  
7 court.

8 Upon appointment, the guardian ad litem, or guardian ad litem  
9 program, shall provide the parties or their attorneys with a statement  
10 containing his or her training relating to the duties as a guardian ad  
11 litem and criminal history as defined in RCW 9.94A.030 for the period  
12 covering ten years prior to the appointment. The background statement  
13 shall not include identifying information that may be used to harm a  
14 guardian ad litem, such as home addresses and home telephone numbers,  
15 and for volunteer guardians ad litem the court may allow the use of  
16 maiden names or pseudonyms as necessary for their safety.

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

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

29 A guardian ad litem shall be present in person or by  
30 videoconferencing at all hearings at which the duties or  
31 responsibilities of the guardian ad litem are to be addressed or at  
32 which any issues within the scope of the guardian ad litem's duties are  
33 to be addressed.

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

38 (7) For the purposes of child abuse prevention and treatment act  
39 (42 U.S.C. Secs. 5101 et seq.) grants to this state under P.L. 93-247,

1 or any related state or federal legislation, a person appointed  
2 pursuant to RCW 13.34.100 shall be deemed a guardian ad litem to  
3 represent the best interests of the minor in proceedings before the  
4 court.

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

18 **Sec. 11.** RCW 13.34.105 and 1999 c 390 s 2 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 and be an advocate for the best interests of the  
23 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 the legal status of a  
29 child's membership in any Indian tribe or band.

30 (2) The guardian ad litem shall be deemed an officer of the court  
31 for the purpose of immunity from civil liability.

32 (3)(a) At any time during a proceeding upon motion of any party or  
33 on the court's own motion, the court may remove a guardian ad litem or  
34 court-appointed special advocate for failure to perform his or her  
35 duties, provided that the guardian ad litem or court-appointed special  
36 advocate shall have five days' notice of any motion to remove before  
37 entering such an order.

1       (b) If a guardian ad litem is removed from a case for failure to  
2 perform his or her duties, and the guardian ad litem has been removed  
3 from a previous case for failure to perform his or her duties, the  
4 court shall order the guardian ad litem to be removed from the guardian  
5 ad litem registry until the guardian ad litem has completed the  
6 training program as provided in RCW 13.34.102. If a court-appointed  
7 special advocate or volunteer guardian ad litem is removed from a case  
8 for failure to perform his or her duties, and the court-appointed  
9 special advocate or volunteer guardian ad litem has been removed from  
10 a previous case for failure to perform his or her duties, the court-  
11 appointed special advocate program or volunteer guardian ad litem  
12 program shall not recommend the person for appointment to a new case  
13 until he or she has completed the training program approved by the  
14 administrator for the courts for court-appointed special advocates or  
15 volunteer guardians ad litem.

16       (c) The court shall report to the administrator for the courts any  
17 order removing a guardian ad litem, court-appointed special advocate,  
18 or volunteer guardian ad litem from a case or any order removing a  
19 guardian ad litem from a registry.

20       (4) Except for information or records specified in RCW  
21 13.50.100(5), the guardian ad litem shall have access to all  
22 information available to the state or agency on the case. Upon  
23 presentation of the order of appointment by the guardian ad litem, any  
24 agency, hospital, school organization, division or department of the  
25 state, doctor, nurse, or other health care provider, psychologist,  
26 psychiatrist, police department, or mental health clinic shall permit  
27 the guardian ad litem to inspect and copy any records relating to the  
28 child or children involved in the case, without the consent of the  
29 parent or guardian of the child, or of the child if the child is under  
30 the age of thirteen years, unless such access is otherwise specifically  
31 prohibited by law.

32       ~~((4))~~ (5) A guardian ad litem may release confidential  
33 information, records, and reports to the office of the family and  
34 children's ombudsman for the purposes of carrying out its duties under  
35 chapter 43.06A RCW.

36       ~~((5))~~ (6) The guardian ad litem shall release case information in  
37 accordance with the provisions of RCW 13.50.100.

1       **Sec. 12.** RCW 13.34.120 and 1998 c 328 s 4 are each amended to read  
2 as follows:

3       (1) To aid the court in its decision on disposition, a social  
4 study, consisting of a written evaluation of matters relevant to the  
5 disposition of the case, shall be made by the person or agency filing  
6 the petition. A parent may submit a counselor's or health care  
7 provider's evaluation of the parent, which shall either be included in  
8 the social study or considered in conjunction with the social study.  
9 The study shall include all social records and may also include facts  
10 relating to the child's cultural heritage, and shall be made available  
11 to the court. The court shall consider the social file, social study,  
12 guardian ad litem report, the court-appointed special advocate's  
13 report, if any, and any reports filed by a party at the disposition  
14 hearing in addition to evidence produced at the fact-finding hearing.  
15 At least ten working days before the disposition hearing, the  
16 department shall mail to the parent and his or her attorney a copy of  
17 the agency's social study and proposed service plan, which shall be in  
18 writing or in a form understandable to the parents or custodians. In  
19 addition, the department shall provide an opportunity for parents to  
20 review and comment on the plan at the community service office. If the  
21 parents disagree with the agency's plan or any part thereof, the  
22 parents shall submit to the court at least twenty-four hours before the  
23 hearing, in writing, or signed oral statement, an alternative plan to  
24 correct the problems which led to the finding of dependency. This  
25 section shall not interfere with the right of the parents or custodians  
26 to submit oral arguments regarding the disposition plan at the hearing.

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

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

33       (b) A description of the specific programs, for both the parents  
34 and child, that are needed in order to prevent serious harm to the  
35 child; the reasons why such programs are likely to be useful; the  
36 availability of any proposed services; and the agency's overall plan  
37 for ensuring that the services will be delivered. The description  
38 shall identify services chosen and approved by the parent;

1 (c) If removal is recommended, a full description of the reasons  
2 why the child cannot be protected adequately in the home, including a  
3 description of any previous efforts to work with the parents and the  
4 child in the home; the in-home treatment programs which have been  
5 considered and rejected; the preventive services that have been offered  
6 or provided and have failed to prevent the need for out-of-home  
7 placement, unless the health, safety, and welfare of the child cannot  
8 be protected adequately in the home; and the parents' attitude toward  
9 placement of the child;

10 (d) A statement of the likely harms the child will suffer as a  
11 result of removal. This section should include an exploration of the  
12 nature of the parent-child attachment and the meaning of separation and  
13 loss to both the parents and the child;

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

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

18 (3)(a) The guardian ad litem or court-appointed special advocate  
19 shall file his or her report with the court and with the parties in the  
20 case at least fifteen days before the disposition hearing, unless the  
21 court for good cause grants an extension or reduction. The report  
22 shall include a written list of persons interviewed and reports or  
23 documentation considered. If the report makes particular  
24 recommendations, the report shall include specific information on which  
25 the guardian ad litem or court-appointed special advocate relied in  
26 making each particular recommendation.

27 (b) The parties to the proceeding may file written responses to the  
28 guardian ad litem's or court-appointed special advocate's report with  
29 the court and deliver such responses to the other parties at any time  
30 before the disposition hearing.

31 **Sec. 13.** RCW 26.09.220 and 1993 c 289 s 1 are each amended to read  
32 as follows:

33 (1) The court may order an investigation and report concerning  
34 parenting arrangements for the child, or may appoint a guardian ad  
35 litem pursuant to RCW 26.12.175, or both. The investigation and report  
36 may be made by the guardian ad litem, the staff of the juvenile court,  
37 or other professional social service organization experienced in  
38 counseling children and families.

1 (2) In preparing the report concerning a child, the investigator  
2 may consult any person who may have information about the child and the  
3 potential parenting or custodian arrangements. Upon order of the  
4 court, the investigator may refer the child to professional personnel  
5 for diagnosis. The investigator may consult with and obtain  
6 information from medical, psychiatric, or other expert persons who have  
7 served the child in the past without obtaining the consent of the  
8 parent or the child's custodian; but the child's consent must be  
9 obtained if the child has reached the age of twelve, unless the court  
10 finds that the child lacks mental capacity to consent. If the  
11 requirements of subsection (3) of this section are fulfilled, the  
12 investigator's report may be received in evidence at the hearing.

13 (3) The investigator shall mail the investigator's report to  
14 counsel and to any party not represented by counsel at least ten days  
15 prior to the hearing unless a shorter time is ordered by the court for  
16 good cause shown. The investigator shall make available to counsel and  
17 to any party not represented by counsel the investigator's file of  
18 underlying data and reports, complete texts of diagnostic reports made  
19 to the investigator pursuant to the provisions of subsection (2) of  
20 this section, and the names and addresses of all persons whom the  
21 investigator has consulted. Any party to the proceeding may file  
22 written responses to the investigator's report with the court and  
23 deliver such responses to the other parties at any time prior to the  
24 hearing. Any party to the proceeding may call the investigator and any  
25 person whom the investigator has consulted for cross-examination. A  
26 party may not waive the right of cross-examination prior to the  
27 hearing.

28 **Sec. 14.** RCW 26.10.130 and 1993 c 289 s 2 are each amended to read  
29 as follows:

30 (1) In contested custody proceedings, and in other custody  
31 proceedings if a parent or the child's custodian so requests, the court  
32 may order an investigation and report concerning custodian arrangements  
33 for the child, or may appoint a guardian ad litem pursuant to RCW  
34 26.12.175, or both. The investigation and report may be made by the  
35 guardian ad litem, the staff of the juvenile court, or other  
36 professional social service organization experienced in counseling  
37 children and families.

1 (2) In preparing the report concerning a child, the investigator  
2 may consult any person who may have information about the child and  
3 potential custodian arrangements. Upon order of the court, the  
4 investigator may refer the child to professional personnel for  
5 diagnosis. The investigator may consult with and obtain information  
6 from medical, psychiatric, or other expert persons who have served the  
7 child in the past without obtaining the consent of the parent or the  
8 child's custodian; but the child's consent must be obtained if the  
9 child has reached the age of twelve, unless the court finds that the  
10 child lacks mental capacity to consent. If the requirements of  
11 subsection (3) of this section are fulfilled, the investigator's report  
12 may be received in evidence at the hearing.

13 (3) The investigator shall mail the investigator's report to  
14 counsel and to any party not represented by counsel at least ten days  
15 prior to the hearing unless a shorter time is ordered by the court for  
16 good cause shown. The investigator shall make available to counsel and  
17 to any party not represented by counsel the investigator's file of  
18 underlying data and reports, complete texts of diagnostic reports made  
19 to the investigator pursuant to the provisions of subsection (2) of  
20 this section, and the names and addresses of all persons whom the  
21 investigator has consulted. Any party to the proceeding may file  
22 written responses to the investigator's report with the court and  
23 deliver such responses to the other parties at any time prior to the  
24 hearing. Any party to the proceeding may call the investigator and any  
25 person whom the investigator has consulted for cross-examination. A  
26 party may not waive the right of cross-examination prior to the  
27 hearing.

28 **Sec. 15.** RCW 26.12.175 and 1996 c 249 s 15 are each amended to  
29 read as follows:

30 (1)(a) The court may appoint a guardian ad litem to represent the  
31 interests of a minor or dependent child when the court believes the  
32 appointment of a guardian ad litem is necessary to protect the best  
33 interests of the child in any proceeding under this chapter. The  
34 family court services professionals may also make a recommendation to  
35 the court regarding whether a guardian ad litem should be appointed for  
36 the child. The court may appoint a guardian ad litem from the court-  
37 appointed special advocate program, if that program exists in the  
38 county. Unless inconsistent with an applicable provision of this

1 title, a guardian ad litem appointed under this section is subject to  
2 the standards applicable to guardians ad litem in general under  
3 sections 1 through 7 of this act.

4 (b) Unless otherwise ordered, the guardian ad litem's role is to  
5 investigate and report to the court concerning parenting arrangements  
6 for the child, and to represent the child's best interests. The court  
7 may require the guardian ad litem to provide periodic reports to the  
8 parties regarding the status of his or her investigation. The guardian  
9 ad litem shall file his or her report at least sixty days prior to  
10 trial. Any party to the proceeding may file written responses to the  
11 guardian ad litem's report with the court and deliver such responses to  
12 the other parties at any time prior to trial.

13 (c) The court shall enter an order for costs, fees, and  
14 disbursements to cover the costs of the guardian ad litem. The court  
15 may order either or both parents to pay for the costs of the guardian  
16 ad litem, according to their ability to pay. If both parents are  
17 indigent, the county shall bear the cost of the guardian, subject to  
18 appropriation for guardians' ad litem services by the county  
19 legislative authority. Guardians ad litem who are not volunteers shall  
20 provide the parties with an itemized accounting of their time and  
21 billing for services each month.

22 (2)(a) If the guardian ad litem appointed is from the county court-  
23 appointed special advocate program, the program shall supervise any  
24 guardian ad litem assigned to the case. The court-appointed special  
25 advocate program shall be entitled to notice of all proceedings in the  
26 case.

27 (b) The legislative authority of each county may authorize creation  
28 of a court-appointed special advocate program. The county legislative  
29 authority may adopt rules of eligibility for court-appointed special  
30 advocate program services.

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

35 (a) Level of formal education;

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

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

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

1       (e) Number of times and counties where the guardian ad litem has  
2 been removed from a case for failure to perform his or her duties and  
3 the number of times and counties where the guardian ad litem has been  
4 ordered removed from a guardian ad litem registry; and

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

6       The background information report shall be updated annually. As a  
7 condition of appointment, the guardian ad litem's background  
8 information record shall be made available to the court. If the  
9 appointed guardian ad litem is not a member of a guardian ad litem  
10 program the person shall provide the background information to the  
11 court.

12       Upon appointment, the guardian ad litem, or guardian ad litem  
13 program, shall provide the parties or their attorneys with a statement  
14 containing his or her training relating to the duties as a guardian ad  
15 litem and criminal history as defined in RCW 9.94A.030 for the period  
16 covering ten years prior to the appointment. The background statement  
17 shall not include identifying information that may be used to harm a  
18 guardian ad litem, such as home addresses and home telephone numbers,  
19 and for volunteer guardians ad litem the court may allow the use of  
20 maiden names or pseudonyms as necessary for their safety.

21       (4) When a court-appointed special advocate or volunteer guardian  
22 ad litem is requested on a case, the program shall give the court the  
23 name of the person it recommends and the appointment shall be effective  
24 immediately. The court shall appoint the person recommended by the  
25 program. If a party in a case reasonably believes the court-appointed  
26 special advocate or volunteer is inappropriate or unqualified, the  
27 party may request a review of the appointment by the program. The  
28 program must complete the review within five judicial days and remove  
29 any appointee for good cause. If the party seeking the review is not  
30 satisfied with the outcome of the review, the party may file a motion  
31 with the court for the removal of the court-appointed special advocate  
32 on the grounds the advocate or volunteer is inappropriate or  
33 unqualified.

34       (5)(a) At any time during a proceeding upon motion of any party or  
35 on the court's own motion, the court may remove a guardian ad litem or  
36 court-appointed special advocate for failure to perform his or her  
37 duties, provided that the guardian ad litem or court-appointed special  
38 advocate shall have five days' notice of any motion to remove before  
39 entering such an order.

1       (b) If a guardian ad litem is removed from a case for failure to  
2 perform his or her duties, and the guardian ad litem has been removed  
3 from a previous case for failure to perform his or her duties, the  
4 court shall order the guardian ad litem to be removed from the guardian  
5 ad litem registry until the guardian ad litem has completed the  
6 training program as provided in RCW 26.12.177. If a court-appointed  
7 special advocate or volunteer guardian ad litem is removed from a case  
8 for failure to perform his or her duties, and the court-appointed  
9 special advocate or volunteer guardian ad litem has been removed from  
10 a previous case for failure to perform his or her duties, the court-  
11 appointed special advocate program or volunteer guardian ad litem  
12 program shall not recommend the person for appointment to a new case  
13 until he or she has completed the training program approved by the  
14 administrator for the courts for court-appointed special advocates or  
15 volunteer guardians ad litem.

16       (c) The court shall report to the administrator for the courts any  
17 order removing a guardian ad litem, court-appointed special advocate,  
18 or volunteer guardian ad litem from a case or any order removing a  
19 guardian ad litem from a registry.

20       NEW SECTION. Sec. 16. Sections 1 through 7 of this act constitute  
21 a new chapter in Title 26 RCW.

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