
ENGROSSED SUBSTITUTE SENATE BILL 6305

State of Washington

56th Legislature

2000 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Franklin and Kohl-Welles)

Read first time 01/28/2000.

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

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

6 **Sec. 1.** RCW 11.88.090 and 1999 c 360 s 1 are each amended to read
7 as follows:

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

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

1 incapacitated person or incapacitated person's estate could benefit
2 from mediation and such mediation would likely result in overall
3 reduced costs to the estate, upon the motion of any interested person,
4 the court may:

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

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

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

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

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

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

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

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

10 (4)(a) The superior court of each county shall develop and maintain
11 a registry of persons who are willing and qualified to serve as
12 guardians ad litem in guardianship matters. The court shall choose as
13 guardian ad litem a person whose name appears on the registry in a
14 system of consistent rotation, except in extraordinary circumstances
15 such as the need for particular expertise. The court shall develop
16 procedures for periodic review of the persons on the registry and for
17 probation, suspension, or removal of persons on the registry for
18 failure to perform properly their duties as guardian ad litem. In the
19 event the court does not select the person next on the list, it shall
20 include in the order of appointment a written reason for its decision.

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

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

25 (A) Level of formal education;

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

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

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

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

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

36 The written statement of qualifications shall include (~~a statement~~
37 ~~of the number of times the guardian ad litem has been removed for~~
38 ~~failure to perform his or her duties as guardian ad litem~~) the names
39 of any counties in which the person was removed from a guardian ad

1 litem registry pursuant to a grievance action, and the name of the
2 court and the cause number of any case in which the court has removed
3 the person for cause; and

4 (ii) Complete the (~~model~~) training (~~program~~) as described in
5 (~~(d)~~) (e) of this subsection. The training is not applicable to
6 guardians ad litem appointed pursuant to special proceeding Rule
7 98.16W.

8 (c) Superior court shall remove any person from the guardian ad
9 litem registry who misrepresents his or her qualifications pursuant to
10 a grievance procedure established by the court.

11 (d) The background and qualification information shall be updated
12 annually.

13 (~~(d)~~) (e) The department of social and health services shall
14 convene an advisory group to develop a model guardian ad litem training
15 program and shall update the program biennially. The advisory group
16 shall consist of representatives from consumer, advocacy, and
17 professional groups knowledgeable in developmental disabilities,
18 neurological impairment, physical disabilities, mental illness, aging,
19 legal, court administration, the Washington state bar association, and
20 other interested parties.

21 (~~(e)~~) (f) The superior court shall require utilization of the
22 model program developed by the advisory group as described in (~~(d)~~)
23 (e) of this subsection, to assure that candidates applying for
24 registration as a qualified guardian ad litem shall have satisfactorily
25 completed training to attain these essential minimum qualifications to
26 act as guardian ad litem.

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

29 (a) To meet and consult with the alleged incapacitated person as
30 soon as practicable following appointment and explain, in language
31 which such person can reasonably be expected to understand, the
32 substance of the petition, the nature of the resultant proceedings, the
33 person's right to contest the petition, the identification of the
34 proposed guardian or limited guardian, the right to a jury trial on the
35 issue of his or her alleged incapacity, the right to independent legal
36 counsel as provided by RCW 11.88.045, and the right to be present in
37 court at the hearing on the petition;

38 (b) To obtain a written report according to RCW 11.88.045; and such
39 other written or oral reports from other qualified professionals as are

1 necessary to permit the guardian ad litem to complete the report
2 required by this section;

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

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

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

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

13 (e) To investigate alternate arrangements made, or which might be
14 created, by or on behalf of the alleged incapacitated person, such as
15 revocable or irrevocable trusts, ((~~or~~)) durable powers of attorney, or
16 blocked accounts; whether good cause exists for any such arrangements
17 to be discontinued; and why such arrangements should not be continued
18 or created in lieu of a guardianship;

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

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

23 (ii) A description of the needs of the incapacitated person for
24 care and treatment, the probable residential requirements of the
25 alleged incapacitated person and the basis upon which these findings
26 were made;

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

31 (iv) A description of any alternative arrangements previously made
32 by the alleged incapacitated person or which could be made, and whether
33 and to what extent such alternatives should be used in lieu of a
34 guardianship, and if the guardian ad litem is recommending
35 discontinuation of any such arrangements, specific findings as to why
36 such arrangements are contrary to the best interest of the alleged
37 incapacitated person;

38 (v) A description of the abilities of the alleged incapacitated
39 person and a recommendation as to whether a guardian or limited

1 guardian should be appointed. If appointment of a limited guardian is
2 recommended, the guardian ad litem shall recommend the specific areas
3 of authority the limited guardian should have and the limitations and
4 disabilities to be placed on the incapacitated person;

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

8 (vii) Any expression of approval or disapproval made by the alleged
9 incapacitated person concerning the proposed guardian or limited
10 guardian or guardianship or limited guardianship;

11 (viii) Identification of persons with significant interest in the
12 welfare of the alleged incapacitated person who should be advised of
13 their right to request special notice of proceedings pursuant to RCW
14 11.92.150; and

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

19 Within forty-five days after notice of commencement of the
20 guardianship proceeding has been served upon the guardian ad litem, and
21 at least fifteen days before the hearing on the petition, unless an
22 extension or reduction of time has been granted by the court for good
23 cause, the guardian ad litem shall file its report and send a copy to
24 the alleged incapacitated person and his or her counsel, spouse, all
25 children not residing with a notified person, those persons described
26 in (f)(viii) of this subsection, and persons who have filed a request
27 for special notice pursuant to RCW 11.92.150. If the guardian ad litem
28 needs additional time to finalize his or her report, then the guardian
29 ad litem shall petition the court for a postponement of the hearing or,
30 with the consent of all other parties, an extension or reduction of
31 time for filing the report. If the hearing does not occur within sixty
32 days of filing the petition, then upon the two-month anniversary of
33 filing the petition and on or before the same day of each following
34 month until the hearing, the guardian ad litem shall file interim
35 reports summarizing his or her activities on the proceeding during that
36 time period as well as fees and costs incurred;

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

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

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

14 (7) The parties to the proceeding may file responses to the
15 guardian ad litem report with the court and deliver such responses to
16 the other parties and the guardian ad litem at any time up to the
17 second day prior to the hearing. If a guardian ad litem fails to file
18 his or her report in a timely manner, the hearing shall be continued to
19 give the court and the parties at least fifteen days before the hearing
20 to review the report. At any time during the proceeding upon motion of
21 any party or on the court's own motion, the court may remove the
22 guardian ad litem for failure to perform his or her duties as specified
23 in this chapter, provided that the guardian ad litem shall have five
24 days' notice of any motion to remove before the court enters such
25 order. In addition, the court in its discretion may reduce a guardian
26 ad litem's fee for failure to carry out his or her duties.

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

33 (9) The court-appointed guardian ad litem shall have the authority
34 to move for temporary relief under chapter 7.40 RCW to protect the
35 alleged incapacitated person from abuse, neglect, abandonment, or
36 exploitation, as those terms are defined in RCW 74.34.020, or to
37 address any other emergency needs of the alleged incapacitated person.
38 Any alternative arrangement executed before filing the petition for
39 guardianship shall remain effective unless the court grants the relief

1 requested under chapter 7.40 RCW, or unless, following notice and a
2 hearing at which all parties directly affected by the arrangement are
3 present, the court finds that the alternative arrangement should not
4 remain effective.

5 (10) The guardian ad litem shall receive a fee determined by the
6 court. The fee shall be charged to the alleged incapacitated person
7 unless the court finds that such payment would result in substantial
8 hardship upon such person, in which case the county shall be
9 responsible for such costs: PROVIDED, That (~~if no guardian or limited~~
10 ~~guardian is appointed~~) the court may charge such fee to the petitioner
11 (~~or~~), the alleged incapacitated person, or (~~divide~~) any person who
12 has appeared in the action; or may allocate the fee, as it deems
13 just(~~and~~). If the petition is found to be frivolous or not brought
14 in good faith, the guardian ad litem fee shall be charged to the
15 petitioner. The court shall not be required to provide for the payment
16 of a fee to any salaried employee of a public agency.

17 (11) Upon the presentation of the guardian ad litem report and the
18 entry of an order either dismissing the petition for appointment of
19 guardian or limited guardian or appointing a guardian or limited
20 guardian, the guardian ad litem shall be dismissed and shall have no
21 further duties or obligations unless otherwise ordered by the court.
22 If the court orders the guardian ad litem to perform further duties or
23 obligations, they shall not be performed at county expense.

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

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

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

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

37 (2) If the court does not have available to it a guardian ad litem
38 program with a sufficient number of volunteers, the court may appoint

1 a suitable person to act as guardian ad litem for the child under this
2 chapter. Another party to the proceeding or the party's employee or
3 representative shall not be so appointed.

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

8 (a) Level of formal education;

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

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

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

13 (e) The names of any counties in which the person was removed from
14 a guardian ad litem registry pursuant to a grievance action, and the
15 name of the court and the cause number of any case in which the court
16 has removed the person for cause; and

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

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

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

37 (4) The appointment of the guardian ad litem shall remain in effect
38 until the court discharges the appointment or no longer has

1 jurisdiction, whichever comes first. The guardian ad litem may also be
2 discharged upon entry of an order of guardianship.

3 (5) A guardian ad litem through counsel, or as otherwise authorized
4 by the court, shall have the right to present evidence, examine and
5 cross-examine witnesses, and to be present at all hearings. A guardian
6 ad litem shall receive copies of all pleadings and other documents
7 filed or submitted to the court, and notice of all hearings according
8 to court rules. The guardian ad litem shall receive all notice
9 contemplated for a parent or other party in all proceedings under this
10 chapter.

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

15 (7) For the purposes of child abuse prevention and treatment act
16 (42 U.S.C. Secs. 5101 et seq.) grants to this state under P.L. 93-247,
17 or any related state or federal legislation, a person appointed
18 pursuant to RCW 13.34.100 shall be deemed a guardian ad litem to
19 represent the best interests of the minor in proceedings before the
20 court.

21 (8) 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 **Sec. 3.** RCW 13.34.102 and 1997 c 41 s 6 are each amended to read
35 as follows:

36 (1) All guardians ad litem(~~(, who have not previously served or~~
37 ~~been trained as a guardian ad litem in this state, who are appointed~~
38 ~~after January 1, 1998,)) must ((complete the curriculum developed by~~

1 ~~the office of the administrator for the courts))~~ comply with the
2 training requirements established under RCW 2.56.030(15), prior to
3 their appointment in cases under Title 13 RCW, except that volunteer
4 guardians ad litem or court-appointed special advocates (~~accepted into~~
5 ~~a volunteer program after January 1, 1998,~~) may ~~((complete an))~~ comply
6 with alternative ((curriculum)) training requirements approved by the
7 office of the administrator for the courts that meet(~~(s))~~) or
8 exceed(~~(s))~~) the state-wide ~~((curriculum))~~ requirements.

9 (2)(a) Each guardian ad litem program for compensated guardians ad
10 litem shall establish a rotational registry system for the appointment
11 of guardians ad litem. If a judicial district does not have a program
12 the court shall establish the rotational registry system. Guardians ad
13 litem shall be selected from the registry except in exceptional
14 circumstances as determined and documented by the court. The parties
15 may make a joint recommendation for the appointment of a guardian ad
16 litem from the registry.

17 (b) In judicial districts with a population over one hundred
18 thousand, a list of three names shall be selected from the registry and
19 given to the parties along with the background information as specified
20 in RCW 13.34.100(3), including their hourly rate for services. Each
21 party may, within three judicial days, strike one name from the list.
22 If more than one name remains on the list, the court shall make the
23 appointment from the names on the list. In the event all three names
24 are stricken the person whose name appears next on the registry shall
25 be appointed.

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

32 (d) The superior court shall remove any person from the guardian ad
33 litem registry who misrepresents his or her qualifications pursuant to
34 a grievance procedure established by the court.

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

37 **Sec. 4.** RCW 13.34.105 and 1999 c 390 s 2 are each amended to read
38 as follows:

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

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

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

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

10 (d) To be an advocate in all nonjudicial forums or proceedings to
11 intercede, interact, interpret, and make recommendations in the best
12 interests of the child or ward;

13 (e) To report to the court information on the legal status of a
14 child's membership in any Indian tribe or band; and

15 (f) Court-appointed special advocates and guardians ad litem may
16 make recommendations based upon an independent investigation regarding
17 the best interests of the child, which the court may consider and weigh
18 in conjunction with the recommendations of all of the parties.

19 (2) ~~((The))~~ A guardian ad litem shall be deemed an officer of the
20 court for the purpose of immunity from civil liability.

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

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

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

1 **Sec. 5.** RCW 26.12.175 and 1996 c 249 s 15 are each amended to read
2 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 factual information to the court concerning
14 parenting arrangements (~~((for the child, and to represent))~~) in the
15 child's best interests and to be an advocate in all nonjudicial forums
16 or proceedings to intercede, interact, interpret, and make
17 recommendations in the best interests of the child or ward. Guardians
18 ad litem and investigators under this title may make recommendations
19 based upon an independent investigation regarding the best interests of
20 the child, which the court may consider and weigh in conjunction with
21 the recommendations of all of the parties. If a child expresses a
22 preference regarding the parenting plan, the guardian ad litem shall
23 report the preferences to the court, together with the facts relative
24 to whether any preferences are being expressed voluntarily and the
25 degree of the child's understanding. The court may require the
26 guardian ad litem to provide periodic reports to the parties regarding
27 the status of his or her investigation. The guardian ad litem shall
28 file his or her report at least sixty days prior to trial.

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

38 (2)(a) If the guardian ad litem appointed is from the county court-
39 appointed special advocate program, the program shall supervise any

1 guardian ad litem assigned to the case. The court-appointed special
2 advocate program shall be entitled to notice of all proceedings in the
3 case.

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

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

12 (a) Level of formal education;

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

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

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

17 (e) The names of any counties in which the person was removed from
18 a guardian ad litem registry pursuant to a grievance action, and the
19 name of the court and the cause number of any case in which the court
20 has removed the person for cause; and

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

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

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

1 litem the court may allow the use of maiden names or pseudonyms as
2 necessary for their safety.

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

16 **Sec. 6.** RCW 26.12.177 and 1997 c 41 s 7 are each amended to read
17 as follows:

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

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

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

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

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

22 (e) The superior court shall remove any person from the guardian ad
23 litem registry who misrepresents his or her qualifications pursuant to
24 a grievance procedure established by the court.

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

27 NEW SECTION. Sec. 7. A new section is added to chapter 26.12 RCW
28 to read as follows:

29 All information, records, and reports obtained or created by a
30 guardian ad litem, court-appointed special advocate, or investigator
31 under this title shall be discoverable pursuant to statute and court
32 rule. The guardian ad litem, court-appointed special advocate, or
33 investigator shall not release private or confidential information to
34 any nonparty except pursuant to a court order signed by a judge. The
35 guardian ad litem, court-appointed special advocate, or investigator
36 may share private or confidential information with experts or staff he
37 or she has retained as necessary to perform the duties of guardian ad
38 litem, court-appointed special advocate, or investigator. Any expert

1 or staff retained are subject to the confidentiality rules governing
2 the guardian ad litem, court-appointed special advocate, or
3 investigator. Nothing in this section shall be interpreted to
4 authorize disclosure of guardian ad litem records in personal injury
5 actions.

6 NEW SECTION. **Sec. 8.** A new section is added to chapter 26.12 RCW
7 to read as follows:

8 A guardian ad litem, court-appointed special advocate, or
9 investigator under this title appointed under this chapter may release
10 confidential information, records, and reports to the office of the
11 family and children's ombudsman for the purposes of carrying out its
12 duties under chapter 43.06A RCW.

13 NEW SECTION. **Sec. 9.** A new section is added to chapter 11.88 RCW
14 to read as follows:

15 A guardian ad litem shall not engage in ex parte communications
16 with any judicial officer involved in the matter for which he or she is
17 appointed during the pendency of the proceeding, except as permitted by
18 court rule or statute for ex parte motions. Ex parte motions shall be
19 heard in open court on the record. The record may be preserved in a
20 manner deemed appropriate by the county where the matter is heard. The
21 court, upon its own motion, or upon the motion of a party, may consider
22 the removal of any guardian ad litem who violates this section from any
23 pending case or from any court-authorized registry, and if so removed
24 may require forfeiture of any fees for professional services on the
25 pending case.

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

28 A guardian ad litem or court-appointed special advocate shall not
29 engage in ex parte communications with any judicial officer involved in
30 the matter for which he or she is appointed during the pendency of the
31 proceeding, except as permitted by court rule or statute for ex parte
32 motions. Ex parte motions shall be heard in open court on the record.
33 The record may be preserved in a manner deemed appropriate by the
34 county where the matter is heard. The court, upon its own motion, or
35 upon the motion of a party, may consider the removal of any guardian ad
36 litem or court-appointed special advocate who violates this section

1 from any pending case or from any court-authorized registry, and if so
2 removed may require forfeiture of any fees for professional services on
3 the pending case.

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

6 A guardian ad litem, court-appointed special advocate, or
7 investigator shall not engage in ex parte communications with any
8 judicial officer involved in the matter for which he or she is
9 appointed during the pendency of the proceeding, except as permitted by
10 court rule or statute for ex parte motions. Ex parte motions shall be
11 heard in open court on the record. The record may be preserved in a
12 manner deemed appropriate by the county where the matter is heard. The
13 court, upon its own motion, or upon the motion of a party, may consider
14 the removal of any guardian ad litem, court-appointed special advocate,
15 or investigator who violates this section from any pending case or from
16 any court-authorized registry, and if so removed may require forfeiture
17 of any fees for professional services on the pending case.

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

20 The court shall specify the hourly rate the guardian ad litem may
21 charge for his or her services, and shall specify the maximum amount
22 the guardian ad litem may charge without additional court review and
23 approval. The court shall specify rates and fees in the order of
24 appointment or at the earliest date the court is able to determine the
25 appropriate rates and fees and prior to the guardian ad litem billing
26 for his or her services.

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

29 The court shall specify the hourly rate the guardian ad litem may
30 charge for his or her services, and shall specify the maximum amount
31 the guardian ad litem may charge without additional court review and
32 approval. The court shall specify rates and fees in the order of
33 appointment or at the earliest date the court is able to determine the
34 appropriate rates and fees and prior to the guardian ad litem billing
35 for his or her services.

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

3 The court shall specify the hourly rate the guardian ad litem or
4 investigator under this title may charge for his or her services, and
5 shall specify the maximum amount the guardian ad litem or investigator
6 under this title may charge without additional court review and
7 approval. The court shall specify rates and fees in the order of
8 appointment or at the earliest date the court is able to determine the
9 appropriate rates and fees and prior to the guardian ad litem billing
10 for his or her services.

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