
SUBSTITUTE SENATE BILL 5285

State of Washington

61st Legislature

2009 Regular Session

By Senate Human Services & Corrections (originally sponsored by Senators Regala, Hargrove, Kauffman, and Stevens)

READ FIRST TIME 02/25/09.

1 AN ACT Relating to guardians ad litem; and amending RCW 26.44.030,
2 13.34.100, 26.12.175, and 26.12.177.

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

4 **Sec. 1.** RCW 26.44.030 and 2008 c 211 s 5 are each amended to read
5 as follows:

6 (1)(a) When any practitioner, county coroner or medical examiner,
7 law enforcement officer, professional school personnel, registered or
8 licensed nurse, social service counselor, psychologist, pharmacist,
9 employee of the department of early learning, licensed or certified
10 child care providers or their employees, employee of the department,
11 juvenile probation officer, placement and liaison specialist,
12 responsible living skills program staff, HOPE center staff, or state
13 family and children's ombudsman or any volunteer in the ombudsman's
14 office has reasonable cause to believe that a child has suffered abuse
15 or neglect, he or she shall report such incident, or cause a report to
16 be made, to the proper law enforcement agency or to the department as
17 provided in RCW 26.44.040.

18 (b) When any person, in his or her official supervisory capacity
19 with a nonprofit or for-profit organization, has reasonable cause to

1 believe that a child has suffered abuse or neglect caused by a person
2 over whom he or she regularly exercises supervisory authority, he or
3 she shall report such incident, or cause a report to be made, to the
4 proper law enforcement agency, provided that the person alleged to have
5 caused the abuse or neglect is employed by, contracted by, or
6 volunteers with the organization and coaches, trains, educates, or
7 counsels a child or children or regularly has unsupervised access to a
8 child or children as part of the employment, contract, or voluntary
9 service. No one shall be required to report under this section when he
10 or she obtains the information solely as a result of a privileged
11 communication as provided in RCW 5.60.060.

12 Nothing in this subsection (1)(b) shall limit a person's duty to
13 report under (a) of this subsection.

14 For the purposes of this subsection, the following definitions
15 apply:

16 (i) "Official supervisory capacity" means a position, status, or
17 role created, recognized, or designated by any nonprofit or for-profit
18 organization, either for financial gain or without financial gain,
19 whose scope includes, but is not limited to, overseeing, directing, or
20 managing another person who is employed by, contracted by, or
21 volunteers with the nonprofit or for-profit organization.

22 (ii) "Regularly exercises supervisory authority" means to act in
23 his or her official supervisory capacity on an ongoing or continuing
24 basis with regards to a particular person.

25 (c) The reporting requirement also applies to department of
26 corrections personnel who, in the course of their employment, observe
27 offenders or the children with whom the offenders are in contact. If,
28 as a result of observations or information received in the course of
29 his or her employment, any department of corrections personnel has
30 reasonable cause to believe that a child has suffered abuse or neglect,
31 he or she shall report the incident, or cause a report to be made, to
32 the proper law enforcement agency or to the department as provided in
33 RCW 26.44.040.

34 (d) The reporting requirement shall also apply to any adult who has
35 reasonable cause to believe that a child who resides with them, has
36 suffered severe abuse, and is able or capable of making a report. For
37 the purposes of this subsection, "severe abuse" means any of the
38 following: Any single act of abuse that causes physical trauma of

1 sufficient severity that, if left untreated, could cause death; any
2 single act of sexual abuse that causes significant bleeding, deep
3 bruising, or significant external or internal swelling; or more than
4 one act of physical abuse, each of which causes bleeding, deep
5 bruising, significant external or internal swelling, bone fracture, or
6 unconsciousness.

7 (e) The reporting requirement also applies to guardians ad litem
8 appointed under Titles 11, 13, and 26 RCW, who in the course of their
9 representation of children in these actions have reasonable cause to
10 believe a child has been abused or neglected.

11 (f) The report must be made at the first opportunity, but in no
12 case longer than forty-eight hours after there is reasonable cause to
13 believe that the child has suffered abuse or neglect. The report must
14 include the identity of the accused if known.

15 (2) The reporting requirement of subsection (1) of this section
16 does not apply to the discovery of abuse or neglect that occurred
17 during childhood if it is discovered after the child has become an
18 adult. However, if there is reasonable cause to believe other children
19 are or may be at risk of abuse or neglect by the accused, the reporting
20 requirement of subsection (1) of this section does apply.

21 (3) Any other person who has reasonable cause to believe that a
22 child has suffered abuse or neglect may report such incident to the
23 proper law enforcement agency or to the department of social and health
24 services as provided in RCW 26.44.040.

25 (4) The department, upon receiving a report of an incident of
26 alleged abuse or neglect pursuant to this chapter, involving a child
27 who has died or has had physical injury or injuries inflicted upon him
28 or her other than by accidental means or who has been subjected to
29 alleged sexual abuse, shall report such incident to the proper law
30 enforcement agency. In emergency cases, where the child's welfare is
31 endangered, the department shall notify the proper law enforcement
32 agency within twenty-four hours after a report is received by the
33 department. In all other cases, the department shall notify the law
34 enforcement agency within seventy-two hours after a report is received
35 by the department. If the department makes an oral report, a written
36 report must also be made to the proper law enforcement agency within
37 five days thereafter.

1 (5) Any law enforcement agency receiving a report of an incident of
2 alleged abuse or neglect pursuant to this chapter, involving a child
3 who has died or has had physical injury or injuries inflicted upon him
4 or her other than by accidental means, or who has been subjected to
5 alleged sexual abuse, shall report such incident in writing as provided
6 in RCW 26.44.040 to the proper county prosecutor or city attorney for
7 appropriate action whenever the law enforcement agency's investigation
8 reveals that a crime may have been committed. The law enforcement
9 agency shall also notify the department of all reports received and the
10 law enforcement agency's disposition of them. In emergency cases,
11 where the child's welfare is endangered, the law enforcement agency
12 shall notify the department within twenty-four hours. In all other
13 cases, the law enforcement agency shall notify the department within
14 seventy-two hours after a report is received by the law enforcement
15 agency.

16 (6) Any county prosecutor or city attorney receiving a report under
17 subsection (5) of this section shall notify the victim, any persons the
18 victim requests, and the local office of the department, of the
19 decision to charge or decline to charge a crime, within five days of
20 making the decision.

21 (7) The department may conduct ongoing case planning and
22 consultation with those persons or agencies required to report under
23 this section, with consultants designated by the department, and with
24 designated representatives of Washington Indian tribes if the client
25 information exchanged is pertinent to cases currently receiving child
26 protective services. Upon request, the department shall conduct such
27 planning and consultation with those persons required to report under
28 this section if the department determines it is in the best interests
29 of the child. Information considered privileged by statute and not
30 directly related to reports required by this section must not be
31 divulged without a valid written waiver of the privilege.

32 (8) Any case referred to the department by a physician licensed
33 under chapter 18.57 or 18.71 RCW on the basis of an expert medical
34 opinion that child abuse, neglect, or sexual assault has occurred and
35 that the child's safety will be seriously endangered if returned home,
36 the department shall file a dependency petition unless a second
37 licensed physician of the parents' choice believes that such expert
38 medical opinion is incorrect. If the parents fail to designate a

1 second physician, the department may make the selection. If a
2 physician finds that a child has suffered abuse or neglect but that
3 such abuse or neglect does not constitute imminent danger to the
4 child's health or safety, and the department agrees with the
5 physician's assessment, the child may be left in the parents' home
6 while the department proceeds with reasonable efforts to remedy
7 parenting deficiencies.

8 (9) Persons or agencies exchanging information under subsection (7)
9 of this section shall not further disseminate or release the
10 information except as authorized by state or federal statute.
11 Violation of this subsection is a misdemeanor.

12 (10) Upon receiving a report of alleged abuse or neglect, the
13 department shall make reasonable efforts to learn the name, address,
14 and telephone number of each person making a report of abuse or neglect
15 under this section. The department shall provide assurances of
16 appropriate confidentiality of the identification of persons reporting
17 under this section. If the department is unable to learn the
18 information required under this subsection, the department shall only
19 investigate cases in which:

20 (a) The department believes there is a serious threat of
21 substantial harm to the child;

22 (b) The report indicates conduct involving a criminal offense that
23 has, or is about to occur, in which the child is the victim; or

24 (c) The department has a prior founded report of abuse or neglect
25 with regard to a member of the household that is within three years of
26 receipt of the referral.

27 (11)(a) For reports of alleged abuse or neglect that are accepted
28 for investigation by the department, the investigation shall be
29 conducted within time frames established by the department in rule. In
30 no case shall the investigation extend longer than ninety days from the
31 date the report is received, unless the investigation is being
32 conducted under a written protocol pursuant to RCW 26.44.180 and a law
33 enforcement agency or prosecuting attorney has determined that a longer
34 investigation period is necessary. At the completion of the
35 investigation, the department shall make a finding that the report of
36 child abuse or neglect is founded or unfounded.

37 (b) If a court in a civil or criminal proceeding, considering the
38 same facts or circumstances as are contained in the report being

1 investigated by the department, makes a judicial finding by a
2 preponderance of the evidence or higher that the subject of the pending
3 investigation has abused or neglected the child, the department shall
4 adopt the finding in its investigation.

5 (12) In conducting an investigation of alleged abuse or neglect,
6 the department or law enforcement agency:

7 (a) May interview children. The interviews may be conducted on
8 school premises, at day-care facilities, at the child's home, or at
9 other suitable locations outside of the presence of parents. Parental
10 notification of the interview must occur at the earliest possible point
11 in the investigation that will not jeopardize the safety or protection
12 of the child or the course of the investigation. Prior to commencing
13 the interview the department or law enforcement agency shall determine
14 whether the child wishes a third party to be present for the interview
15 and, if so, shall make reasonable efforts to accommodate the child's
16 wishes. Unless the child objects, the department or law enforcement
17 agency shall make reasonable efforts to include a third party in any
18 interview so long as the presence of the third party will not
19 jeopardize the course of the investigation; and

20 (b) Shall have access to all relevant records of the child in the
21 possession of mandated reporters and their employees.

22 (13) If a report of alleged abuse or neglect is founded and
23 constitutes the third founded report received by the department within
24 the last twelve months involving the same child or family, the
25 department shall promptly notify the office of the family and
26 children's ombudsman of the contents of the report. The department
27 shall also notify the ombudsman of the disposition of the report.

28 (14) In investigating and responding to allegations of child abuse
29 and neglect, the department may conduct background checks as authorized
30 by state and federal law.

31 (15) The department shall maintain investigation records and
32 conduct timely and periodic reviews of all founded cases of abuse and
33 neglect. The department shall maintain a log of screened-out
34 nonabusive cases.

35 (16) The department shall use a risk assessment process when
36 investigating alleged child abuse and neglect referrals. The
37 department shall present the risk factors at all hearings in which the
38 placement of a dependent child is an issue. Substance abuse must be a

1 risk factor. The department shall, within funds appropriated for this
2 purpose, offer enhanced community-based services to persons who are
3 determined not to require further state intervention.

4 (17) Upon receipt of a report of alleged abuse or neglect the law
5 enforcement agency may arrange to interview the person making the
6 report and any collateral sources to determine if any malice is
7 involved in the reporting.

8 (18) Upon receiving a report of alleged abuse or neglect involving
9 a child under the court's jurisdiction under chapter 13.34 RCW, the
10 department shall promptly notify the child's guardian ad litem of the
11 report's contents. The department shall also notify the guardian ad
12 litem of the disposition of the report. For purposes of this
13 subsection, "guardian ad litem" has the meaning provided in RCW
14 13.34.030.

15 **Sec. 2.** RCW 13.34.100 and 2000 c 124 s 2 are each amended to read
16 as follows:

17 (1) The court shall appoint a guardian ad litem for a child who is
18 the subject of an action under this chapter, unless a court for good
19 cause finds the appointment unnecessary. The requirement of a guardian
20 ad litem may be deemed satisfied if the child is represented by
21 independent counsel in the proceedings. The court shall attempt to
22 match the child with a guardian ad litem who has specific training or
23 education related to the child's individual needs.

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

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

33 (a) Level of formal education;

34 (b) General training related to the guardian((~~s~~)) ad litem's
35 duties;

36 (c) Specific training related to issues potentially faced by
37 children in the dependency system;

1 (d) Specific training or education related to child disability or
2 developmental issues;

3 (e) Number of years' experience as a guardian ad litem;

4 ~~((d))~~ (f) Number of appointments as a guardian ad litem and the
5 county or counties of appointment;

6 ~~((e))~~ (g) The names of any counties in which the person was
7 removed from a guardian ad litem registry pursuant to a grievance
8 action, and the name of the court and the cause number of any case in
9 which the court has removed the person for cause; ~~(and~~

10 ~~(f))~~ (h) Founded allegations of abuse or neglect as defined in RCW
11 26.44.020;

12 (i) The results of an examination of state and national criminal
13 identification data. The examination shall consist of a background
14 check as allowed through the Washington state criminal records privacy
15 act under RCW 10.97.050, the Washington state patrol criminal
16 identification system under RCW 43.43.832 through 43.43.834, and the
17 federal bureau of investigation. This background check shall be done
18 through the Washington state patrol criminal identification section and
19 may include a national check from the federal bureau of investigation,
20 which shall be through the submission of fingerprints; and

21 (j) Criminal history, as defined in RCW 9.94A.030, for the period
22 covering ten years prior to the appointment.

23 The background information ~~((report))~~ record shall be updated
24 annually. As a condition of appointment, the guardian ad litem's
25 background information record shall be made available to the court. If
26 the appointed guardian ad litem is not a member of a guardian ad litem
27 program ~~((the))~~ a suitable person appointed by the court to act as
28 guardian ad litem shall provide the background information record to
29 the court.

30 Upon appointment, the guardian ad litem, or guardian ad litem
31 program, shall provide the parties or their attorneys with a
32 ~~((statement containing: His or her training relating to the duties as~~
33 ~~a guardian ad litem; the name of any counties in which the person was~~
34 ~~removed from a guardian ad litem registry pursuant to a grievance~~
35 ~~action, and the name of the court and the cause number of any case in~~
36 ~~which the court has removed the person for cause; and his or her~~
37 ~~criminal history as defined in RCW 9.94A.030 for the period covering~~
38 ~~ten years prior to the appointment))~~ copy of the background information

1 record. The portion of the background information record containing
2 the results of the criminal background check and the criminal history
3 shall not be disclosed to the parties or their attorneys. The
4 background ((statement)) information record shall not include
5 identifying information that may be used to harm a guardian ad litem,
6 such as home addresses and home telephone numbers, and for volunteer
7 guardians ad litem the court may allow the use of maiden names or
8 pseudonyms as necessary for their safety.

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

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

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

25 (7) For the purposes of child abuse prevention and treatment act
26 (42 U.S.C. Secs. 5101 et seq.) grants to this state under P.L. 93-247,
27 or any related state or federal legislation, a person appointed
28 pursuant to RCW 13.34.100 shall be deemed a guardian ad litem to
29 represent the best interests of the minor in proceedings before the
30 court.

31 (8) When a court-appointed special advocate or volunteer guardian
32 ad litem is requested on a case, the program shall give the court the
33 name of the person it recommends (~~and the appointment shall be~~
34 ~~effective immediately~~). The program shall attempt to match the child
35 with a guardian ad litem who has specific training or education related
36 to the child's individual needs. The court shall immediately appoint
37 the person recommended by the program, unless the court believes the

1 court-appointed special advocate or volunteer is inappropriate or
2 unqualified.

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

12 (10) If a party in a case reasonably believes the person appointed
13 under subsection (2) of this section is inappropriate or unqualified,
14 the party may request that the court review the appointment.

15 **Sec. 3.** RCW 26.12.175 and 2000 c 124 s 6 are each amended to read
16 as follows:

17 (1)(a) The court may appoint a guardian ad litem to represent the
18 interests of a minor or dependent child when the court believes the
19 appointment of a guardian ad litem is necessary to protect the best
20 interests of the child in any proceeding under this chapter. The court
21 shall attempt to match the child with a guardian ad litem who has
22 specific training or education related to the child's individual needs.
23 The family court services professionals may also make a recommendation
24 to the court regarding whether a guardian ad litem should be appointed
25 for the child. The court may appoint a guardian ad litem from the
26 court-appointed special advocate program, if that program exists in the
27 county.

28 Either party may request, within five judicial days of appointment,
29 that the guardian ad litem appointed by the court be removed. The
30 court shall grant the first request unless, because of the limited pool
31 of available guardians ad litem, to do so would cause substantial harm
32 to the children involved. Subsequent requests to remove a guardian ad
33 litem shall follow the procedures in subsection (5) of this section.
34 In the event a party requests that a guardian ad litem be removed
35 within the first five days of appointment, the court shall determine
36 whether fees should be paid to the guardian ad litem for work completed

1 during that five-day period, or if fees have already been paid, how
2 much, if any, should be refunded to the parties.

3 (b) (~~Unless otherwise ordered,~~) The guardian ad litem's role is
4 to investigate and report factual information regarding the issues
5 ordered to be reported or investigated to the court (~~concerning~~
6 ~~parenting arrangements for the child, and to represent the child's best~~
7 ~~interests~~). The guardian ad litem shall always represent the best
8 interests of the child. Guardians ad litem (~~and investigators~~) under
9 this title may make recommendations based upon (~~an independent~~
10 ~~investigation regarding the best interests of the child~~) his or her
11 investigation, which the court may consider and weigh in conjunction
12 with the recommendations of all of the parties. If a child expresses
13 a preference regarding the parenting plan, the guardian ad litem shall
14 report the preferences to the court, together with the facts relative
15 to whether any preferences are being expressed voluntarily and the
16 degree of the child's understanding. The court may require the
17 guardian ad litem to provide periodic reports to the parties regarding
18 the status of his or her investigation. The guardian ad litem shall
19 file his or her report at least sixty days prior to trial.

20 (c) The parties to the proceeding may file with the court written
21 responses to any report filed by the guardian ad litem (~~or~~
22 ~~investigator~~). The court shall consider any written responses to a
23 report filed by the guardian ad litem (~~or investigator~~), including
24 any factual information or recommendations provided in the report.

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

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

1 (b) The legislative authority of each county may authorize creation
2 of a court-appointed special advocate program. The county legislative
3 authority may adopt rules of eligibility for court-appointed special
4 advocate program services that are not inconsistent with this section.

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

9 (a) Level of formal education;

10 (b) General training related to the guardian~~((+s))~~ ad litem's
11 duties;

12 (c) Specific training related to issues potentially faced by
13 children in dissolution proceedings;

14 (d) Specific training or education related to child disability or
15 developmental issues;

16 (e) Number of years' experience as a guardian ad litem;

17 ~~((+d))~~ (f) Number of appointments as a guardian ad litem and
18 county or counties of appointment;

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

23 ~~((+f))~~ (h) Founded allegations of abuse or neglect as defined in RCW
24 26.44.020;

25 (i) The results of an examination of state and national criminal
26 identification data. The examination shall consist of a background
27 check as allowed through the Washington state criminal records privacy
28 act under RCW 10.97.050, the Washington state patrol criminal
29 identification system under RCW 43.43.832 through 43.43.834, and the
30 federal bureau of investigation. This background check shall be done
31 through the Washington state patrol criminal identification section and
32 may include a national check from the federal bureau of investigation,
33 which shall be through the submission of fingerprints; and

34 (j) Criminal history, as defined in RCW 9.94A.030, for the period
35 covering ten years prior to the appointment.

36 The background information ~~((report))~~ record shall be updated
37 annually. As a condition of appointment, the guardian ad litem's
38 background information record shall be made available to the court. If

1 the appointed guardian ad litem is not a member of a guardian ad litem
2 program the person appointed as guardian ad litem shall provide the
3 background information record to the court.

4 Upon appointment, the guardian ad litem, or guardian ad litem
5 program, shall provide the parties or their attorneys with a
6 ~~((statement containing: His or her training relating to the duties as
7 a guardian ad litem; the name of any counties in which the person was
8 removed from a guardian ad litem registry pursuant to a grievance
9 action, and the name of the court and the cause number of any case in
10 which the court has removed the person for cause; and his or her
11 criminal history as defined in RCW 9.94A.030 for the period covering
12 ten years prior to the appointment))~~ copy of the background information
13 record. The portion of the background information record containing
14 the results of the criminal background check and the criminal history
15 shall not be disclosed to the parties or their attorneys. The
16 background ((statement)) information record shall not include
17 identifying information that may be used to harm a guardian ad litem,
18 such as home addresses and home telephone numbers, and for volunteer
19 guardians ad litem the court may allow the use of maiden names or
20 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
24 effective immediately))~~. The court shall immediately appoint the
25 person recommended by the program, unless the court believes the court-
26 appointed special advocate or volunteer guardian ad litem is
27 inappropriate or unqualified. Either party may request, within five
28 judicial days of appointment, that the guardian ad litem appointed by
29 the court be removed. The court shall grant the first request unless,
30 because of the limited pool of available guardians ad litem, to do so
31 would cause substantial harm to the children involved. Subsequent
32 requests to remove a guardian ad litem shall follow the procedures in
33 subsection (5) of this section. In the event a party requests that a
34 guardian ad litem be removed within the first five days of appointment,
35 the court shall determine whether fees should be paid to the guardian
36 ad litem for work completed during that five-day period, or if fees
37 have already been paid, how much, if any, should be refunded to the
38 parties.

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

10 **Sec. 4.** RCW 26.12.177 and 2007 c 496 s 305 are each amended to
11 read as follows:

12 (1) All guardians ad litem and investigators appointed under this
13 title must comply with the training requirements established under RCW
14 2.56.030(15), prior to their appointment in cases under Title 26 RCW,
15 except that volunteer guardians ad litem or court-appointed special
16 advocates may comply with alternative training requirements approved by
17 the administrative office of the courts that meet or exceed the
18 statewide requirements. In cases involving allegations of limiting
19 factors under RCW 26.09.191, the guardians ad litem and investigators
20 appointed under this title must have additional relevant training under
21 RCW 2.56.030(15) and as recommended under RCW 2.53.040, when it is
22 available.

23 (2) Each guardian ad litem program for compensated guardians ad
24 litem shall maintain a background information record for each guardian
25 ad litem in the program. The background information record shall
26 include, but is not limited to, the following information:

27 (a) Level of formal education;

28 (b) General training related to the guardian ad litem's duties;

29 (c) Specific training related to issues potentially faced by
30 children in dissolution, residential placement and parenting plan
31 proceedings;

32 (d) Specific training or education related to child disability or
33 developmental issues;

34 (e) Number of years' experience as a guardian ad litem;

35 (f) Number of appointments as a guardian ad litem and county or
36 counties of appointment;

1 (g) The names of any counties in which the person was removed from
2 a guardian ad litem registry pursuant to a grievance action, and the
3 name of the court and the cause number of any case in which the court
4 has removed the person for cause;

5 (h) Founded allegations of abuse or neglect as defined in RCW
6 26.44.020; and

7 (i) Criminal history, as defined in RCW 9.94A.030, for the period
8 covering ten years prior to the appointment.

9 The background information record shall be updated annually. As a
10 condition of appointment, the guardian ad litem's background
11 information record shall be made available to the court. If the
12 appointed guardian ad litem is not a member of a guardian ad litem
13 program for compensated guardians ad litem, the person appointed as
14 guardian ad litem shall provide the background information record to
15 the court.

16 Upon appointment, the guardian ad litem, or guardian ad litem
17 program, shall provide the parties or their attorneys with a copy of
18 the background information record. The portion of the background
19 information record containing the results of the criminal background
20 check and the criminal history shall not be disclosed to the parties or
21 their attorneys. The background information record shall not include
22 identifying information, such as home addresses and home telephone
23 numbers.

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

33 (b) In judicial districts with a population over one hundred
34 thousand, a list of three names shall be selected from the registry and
35 given to the parties along with the background information record as
36 specified in RCW 26.12.175(3), including their hourly rate for
37 services. Each party may, within three judicial days, strike one name
38 from the list. If more than one name remains on the list, the court

1 shall make the appointment from the names on the list. In the event
2 all three names are stricken the person whose name appears next on the
3 registry shall be appointed.

4 (c)(i) Either party may request, within five judicial days of
5 appointment, that the guardian ad litem appointed by the court be
6 removed. The court shall grant the first request unless, because of
7 the limited pool of available guardians ad litem, to do so would cause
8 substantial harm to the children involved. Subsequent requests to
9 remove a guardian ad litem shall follow the procedures in (c)(ii) of
10 this subsection.

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

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

24 (e) The superior court shall remove any person from the guardian ad
25 litem registry who ~~((misrepresents))~~ has been found to have
26 substantially misrepresented his or her qualifications ~~((pursuant to a~~
27 ~~grievance procedure established by the court))~~.

28 ~~((+3))~~ (4) The rotational registry system shall not apply to
29 court-appointed special advocate programs.

--- END ---