

HOUSE BILL REPORT

HB 1021

As Reported by House Committee On: Judiciary

Title: An act relating to persons appointed by the court to provide information in family law and adoption cases.

Brief Description: Concerning persons appointed by the court to provide information in family law and adoption cases.

Sponsors: Representatives Goodman, Rodne, Pedersen, Roberts, Kagi, Kenney, Appleton and Maxwell.

Brief History:

Committee Activity:

Judiciary: 1/10/11, 1/13/11 [DP].

Brief Summary of Bill

- Allows the court, in adoption proceedings, to order the parties, as opposed to the county, to pay the fee of the guardian ad litem (GAL) or attorney.
- Allows the court, in an adoption proceeding involving a dependent child, to rely on certain reports from the GAL or attorney representing the child's parent in the dependency proceeding.
- Defines the term "investigator" for the purposes of family law cases and requires investigators who are not supervised by a GAL or court-appointed special advocate to comply with training requirements.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 7 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Frockt, Kirby, Orwall and Roberts.

Minority Report: Do not pass. Signed by 5 members: Representatives Shea, Assistant Ranking Minority Member; Chandler, Klippert, Nealey and Rivers.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Trudes Tango (786-7384).

Background:

Guardians Ad Litem in Adoption Cases.

In adoption proceedings, the court must appoint a guardian ad litem (GAL) for any alleged parent under 18 years of age. Among other duties, the GAL must report to the court whether any written consent by the parent to relinquish the child for adoption was made voluntarily. The county in which a petition is filed in an adoption proceeding must pay the fees of a court-appointed GAL or attorney.

In some cases, the child being adopted has been the subject of earlier dependency proceedings, which means the state has terminated the parent's parental rights to the child. In a dependency proceeding, the court determines if a child should be considered a dependent of the state because of abuse, neglect, abandonment, or because there is no parent, guardian, or custodian capable of caring for the child. Once a child is found dependent, the court periodically reviews the case and makes determinations about the parent's progress in correcting parental deficiencies. If the parent fails to take corrective measures needed for the child to safely return home, the court can eventually terminate the parent's parental rights. The parent has the right to an attorney in dependency proceedings.

Investigators and GALs in Family Law Cases.

In dissolution cases in which there are minor children, the court must establish a parenting plan setting forth, among other things, each parent's residential time with the children. The court may order an investigation and report concerning parenting arrangements, may appoint a GAL, or both. The investigation and report may be made by a GAL, the staff of the court, or a professional social service organization experienced in counseling children. Some family law courts have full- or part-time investigators that work for the court. The term "investigator" is used in the statutes but not defined.

In counties with a court-appointed special advocate (CASA) program for family law cases, the court may appoint a GAL from the CASA program. The GALs and CASAs must comply with certain training requirements developed by the Administrative Office of the Courts.

Generally, the court must specify the hourly rate a GAL may charge and specify the maximum amount the GAL may charge without additional court approval. The court must specify rates and fees in the order appointing the GAL or at the earliest date the court is able to determine the appropriate rates and fees.

Summary of Bill:

GALs in Adoption Cases.

If the child in the adoption proceeding is a dependent child and the minor parent of the child is represented by an attorney or a GAL in the dependency proceeding, the court may rely on the parent's dependency attorney or the GAL to report to the court regarding the

voluntariness of any written consent to adoption or petition for relinquishment signed by the parent.

When a GAL is appointed in an adoption case, the court must direct who shall pay the GAL's fee. If the court orders the parties to pay the GAL fee, the fee must be established under the same procedures that GAL fees are established in family law cases.

Investigators.

The term "investigator" is defined to mean a person appointed by the court as a full- or part-time assistant to the court, or any other third-party professional ordered or appointed by the court to provide an opinion, assessment, or evaluation regarding the creation or modification of a parenting plan. It is made explicit that the court may appoint an investigator in family law cases to make recommendations to the court.

Investigators who are not supervised by a GAL or by a CASA program must comply with the training requirements applicable to the GALs or the CASAs.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill is meant to clean up the statutes on the GALs and the CASAs and address excessive fees in adoption cases. The bill helps reduce the burden on counties to pay the fees in adoption cases and helps ensure that adoptions get done.

(Opposed) The bill does not clearly define what investigators will be investigating. Adoption attorneys are encouraging open adoptions, but because there is little consequence for not following an open adoption, these agreements are not being followed. The laws are too vague, which allows the courts wide latitude for abuse. The GALs and the CASAs should be the ones investigated. It is a conflict of interest for the GAL or the CASA to supervise the investigator. The Judiciary Committee needs to work with victims of the system not just the state agencies.

Persons Testifying: (In support) Representative Goodman, prime sponsor; and Laurie Lippold, Children's Home Society of Washington.

(Opposed) Jan Smith, Washington State Extended Family.

Persons Signed In To Testify But Not Testifying: None.