
SENATE BILL 6126

State of Washington

63rd Legislature

2014 Regular Session

By Senators O'Ban, Darneille, Becker, Tom, Fraser, Pedersen, Kline, Pearson, Kohl-Welles, Braun, and Frockt

Read first time 01/15/14. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to representation of children in dependency
2 matters; amending RCW 13.34.100; adding a new section to chapter 13.34
3 RCW; adding a new section to chapter 2.53; creating a new section; and
4 providing an expiration date.

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

6 **Sec. 1.** RCW 13.34.100 and 2010 c 180 s 2 are each amended to read
7 as follows:

8 (1) The court shall appoint a guardian ad litem for a child who is
9 the subject of an action under this chapter, unless a court for good
10 cause finds the appointment unnecessary. The requirement of a guardian
11 ad litem may be deemed satisfied if the child is represented by an
12 independent (~~counsel~~) attorney in the proceedings. The court shall
13 attempt to match a child with special needs with a guardian ad litem
14 who has specific training or education related to the child's
15 individual needs.

16 (2) If the court does not have available to it a guardian ad litem
17 program with a sufficient number of volunteers, the court may appoint
18 a suitable person to act as guardian ad litem for the child under this

1 chapter. Another party to the proceeding or the party's employee or
2 representative shall not be so appointed.

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

7 (a) Level of formal education;

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

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

11 (d) Specific training or education related to child disability or
12 developmental issues;

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

14 (f) Number of appointments as a guardian ad litem and the county or
15 counties of appointment;

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

20 (h) Founded allegations of abuse or neglect as defined in RCW
21 26.44.020;

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

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

33 The background information record shall be updated annually. As a
34 condition of appointment, the guardian ad litem's background
35 information record shall be made available to the court. If the
36 appointed guardian ad litem is not a member of a guardian ad litem
37 program a suitable person appointed by the court to act as guardian ad
38 litem shall provide the background information record to the court.

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

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

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

23 (6)(a) The court must appoint an attorney for a child in a
24 dependency proceeding within seventy-two hours of granting a petition
25 to terminate the parent and child relationship pursuant to RCW
26 13.34.180.

27 (b) Legal services provided by an attorney appointed pursuant to
28 (a) of this subsection do not include representation of the child in
29 any appellate proceedings relative to the termination of the parent and
30 child relationship.

31 (c)(i) Except as provided in (c)(ii) of this subsection, all costs
32 of legal services provided by an attorney appointed pursuant to (a) of
33 this subsection must be paid by the county.

34 (ii) The state must pay one-half of the costs of legal services
35 provided by an attorney appointed pursuant to (a) of this subsection,
36 if the legal services are provided in accordance with the standards of
37 practice, voluntary training, and caseload limits developed and
38 recommended by the statewide children's representation work group

1 pursuant to section 5, chapter 180, Laws of 2010. The office of civil
2 legal aid is responsible for implementation of this subsection
3 (6)(c)(ii) as provided in section 4 of this act.

4 (7)(a) The court may appoint an attorney to represent the child's
5 position in any dependency action on its own initiative, or upon the
6 request of a parent, the child, a guardian ad litem, a caregiver, or
7 the department.

8 (b) The child's caregiver, or any individual, may refer the child
9 to an attorney for the purposes of filing a motion to request
10 appointment of an attorney at public expense.

11 (c) The child or any individual may retain an attorney for the
12 child for the purposes of filing a motion to request appointment of an
13 attorney at public expense.

14 (d) Pursuant to this subsection, the department or supervising
15 agency and the child's guardian ad litem shall each notify a child of
16 his or her right to request (~~counsel~~) an attorney and shall ask the
17 child whether he or she wishes to have (~~counsel~~) an attorney. The
18 department or supervising agency and the child's guardian ad litem
19 shall notify the child and make this inquiry immediately after:

20 (i) The date of the child's twelfth birthday;

21 (ii) Assignment of a case involving a child age twelve or older; or

22 (iii) July 1, 2010, for a child who turned twelve years old before
23 July 1, 2010.

24 ~~((b))~~ (e) The department or supervising agency and the child's
25 guardian ad litem shall repeat the notification and inquiry at least
26 annually and upon the filing of any motion or petition affecting the
27 child's placement, services, or familial relationships.

28 ~~((e))~~ (f) The notification and inquiry is not required if the
29 child has already been appointed (~~counsel~~) an attorney.

30 ~~((d))~~ (g) The department or supervising agency shall note in the
31 child's individual service and safety plan, and the guardian ad litem
32 shall note in his or her report to the court, that the child was
33 notified of the right to request (~~counsel~~) an attorney and indicate
34 the child's position regarding appointment of (~~counsel~~) an attorney.

35 ~~((e))~~ (h) At the first regularly scheduled hearing after:

36 (i) The date of the child's twelfth birthday;

37 (ii) The date that a dependency petition is filed pursuant to this
38 chapter on a child age twelve or older; or

1 (iii) July 1, 2010, for a child who turned twelve years old before
2 July 1, 2010;

3 the court shall inquire whether the child has received notice of his or
4 her right to request (~~(legal counsel)~~) an attorney from the department
5 or supervising agency and the child's guardian ad litem. The court
6 shall make an additional inquiry at the first regularly scheduled
7 hearing after the child's fifteenth birthday. No inquiry is necessary
8 if the child has already been appointed (~~(counsel)~~) an attorney.

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

13 ~~(7))~~ (8) For the purposes of child abuse prevention and treatment
14 act (42 U.S.C. Secs. 5101 et seq.) grants to this state under P.L. 93-
15 247, or any related state or federal legislation, a person appointed
16 pursuant to this section shall be deemed a guardian ad litem (~~(to
17 represent the best interests of the minor in proceedings before the
18 court)~~).

19 ~~((8))~~ (9) When a court-appointed special advocate or volunteer
20 guardian ad litem is requested on a case, the program shall give the
21 court the name of the person it recommends. The program shall attempt
22 to match a child with special needs with a guardian ad litem who has
23 specific training or education related to the child's individual needs.
24 The court shall immediately appoint the person recommended by the
25 program.

26 ~~((9))~~ (10) If a party in a case reasonably believes the court-
27 appointed special advocate or volunteer guardian ad litem is
28 inappropriate or unqualified, the party may request a review of the
29 appointment by the program. The program must complete the review
30 within five judicial days and remove any appointee for good cause. If
31 the party seeking the review is not satisfied with the outcome of the
32 review, the party may file a motion with the court for the removal of
33 the court-appointed special advocate or volunteer guardian ad litem on
34 the grounds the advocate or volunteer is inappropriate or unqualified.

35 NEW SECTION. Sec. 2. A new section is added to chapter 13.34 RCW
36 to read as follows:

37 (1) A pilot program is established for the purpose of studying the

1 effect that automatic appointment of an attorney for a child at the
2 time of the shelter care hearing has on the following factors: Case
3 processing timelines, child and family well-being outcomes, and fiscal
4 costs to the state and counties in proceedings under this chapter. The
5 administrative office of the courts, in consultation with the office of
6 civil legal aid, shall designate the two pilot counties. On and after
7 April 1, 2015, courts in these two pilot counties must appoint an
8 attorney for each child at the time of the shelter care hearing. Legal
9 services provided pursuant to this pilot program must be provided in
10 accordance with the standards of practice, voluntary training, and
11 caseload limits developed and recommended by the statewide children's
12 representation work group pursuant to section 5, chapter 180, Laws of
13 2010.

14 (2) The legislature must appropriate funds for the costs of legal
15 services provided by an attorney appointed pursuant to subsection (1)
16 of this section. The office of civil legal aid is responsible for
17 implementation of this subsection as provided in section 4 of this act.

18 (3) This section expires March 30, 2017.

19 NEW SECTION. **Sec. 3.** A university-based child welfare research
20 entity must evaluate the effects of attorney representation under RCW
21 13.34.100 and section 2 of this act. The research must address: Case
22 processing timelines, child and family well-being outcomes, and fiscal
23 costs to the state and counties. The research entity must submit a
24 report regarding its findings to the appropriate committees of the
25 legislature and the governor by December 1, 2016.

26 NEW SECTION. **Sec. 4.** A new section is added to chapter 2.53 RCW
27 to read as follows:

28 (1) Money appropriated by the legislature for legal services
29 provided by an attorney appointed pursuant to section 1 or 2 of this
30 act must be administered by the office of civil legal aid established
31 under RCW 2.53.020.

32 (2) The office of civil legal aid may enter into contracts with the
33 counties to disburse state funds for an attorney appointed pursuant to
34 section 1 or 2 of this act.

35 (3) Prior to distributing state funds under subsection (2) of this
36 section, the office of civil legal aid must verify that attorneys

1 providing legal representation to children under section 1 or 2 of this
2 act meet the standards of practice, voluntary training, and caseload
3 limits developed and recommended by the statewide children's
4 representation work group pursuant to section 5, chapter 180, Laws of
5 2010.

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