
SENATE BILL 6447

State of Washington

63rd Legislature

2014 Regular Session

By Senator Rivers

Read first time 01/27/14. Referred to Committee on Law & Justice.

1 AN ACT Relating to guardians ad litem; amending RCW 26.12.175,
2 26.12.177, and 26.12.183; and prescribing penalties.

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

4 **Sec. 1.** RCW 26.12.175 and 2011 c 292 s 6 are each amended to read
5 as follows:

6 (1)(a) The court may appoint a guardian ad litem to represent the
7 interests of a minor or dependent child when the court believes the
8 appointment of a guardian ad litem is necessary to protect the best
9 interests of the child in any proceeding under this chapter. The court
10 ((may)) shall only appoint a guardian ad litem from the guardian ad
11 litem program or court-appointed special advocate program(~~(, if that~~
12 ~~program exists in the county)~~). The court shall attempt to match a
13 child with special needs with a guardian ad litem who has specific
14 training or education related to the child's individual needs. The
15 family court services professionals may also make a recommendation to
16 the court regarding whether a guardian ad litem should be appointed for
17 the child.

18 (b) The guardian ad litem's role is to investigate and report
19 factual information regarding the issues ordered to be reported or

1 investigated to the court. The guardian ad litem shall always
2 represent the best interests of the child. Guardians ad litem under
3 this title may make recommendations based upon his or her
4 investigation, which the court may consider and weigh in conjunction
5 with the recommendations of all of the parties. However, all
6 recommendations must be substantiated through accurate factual
7 information and may only be made according to the guardian ad litem's
8 training and licensing. A guardian ad litem may not make
9 recommendations based upon mental health, physical health, or other
10 special circumstance without the aid of a licensed professional for
11 that field of study. The court shall strike all nonprofessional
12 recommendations from the guardian ad litem report. If a child
13 expresses a preference regarding the parenting plan, the guardian ad
14 litem shall report the preferences to the court, together with the
15 facts relative to whether any preferences are being expressed
16 voluntarily and the degree of the child's understanding. The court
17 ((may)) shall require the guardian ad litem to provide periodic reports
18 to the parties regarding the status of his or her investigation. The
19 guardian ad litem shall file his or her report at least sixty days
20 prior to trial.

21 (c) The parties to the proceeding may file with the court written
22 responses to any report filed by the guardian ad litem. The court
23 shall consider any written responses to a report filed by the guardian
24 ad litem, including any factual information or recommendations provided
25 in the report. The court may not adopt or act upon the guardian ad
26 litem report or recommendations prior to each party to the proceeding
27 having at least thirty days to respond to any report or recommendation
28 filed by the guardian ad litem.

29 (d) 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 and court with an itemized accounting of their time
37 and billing for services each month. The court may not award fees for

1 services rendered without the guardian ad litem first submitting an
2 itemized accounting of his or her time and billing.

3 (2)(a) (~~If the guardian ad litem appointed is from the county~~
4 ~~court-appointed special advocate program,~~) The program shall supervise
5 any guardian ad litem assigned to the case. The court-appointed
6 special advocate program shall be entitled to notice of all proceedings
7 in the case.

8 (b) The legislative authority of each county may authorize creation
9 of a court-appointed special advocate program. The county legislative
10 authority (~~may~~) shall adopt rules of eligibility for court-appointed
11 special advocate program services that are (~~not inconsistent~~)
12 consistent with this section.

13 (3) Each guardian ad litem program for compensated guardians ad
14 litem and each court-appointed special advocate program shall maintain
15 a background information record for each guardian ad litem in the
16 program. The background information record shall include, but is not
17 limited to, the following information:

18 (a) Level of formal education;

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

20 (c) Specific training related to issues potentially faced by
21 children in dissolution, custody, paternity, and other family law
22 proceedings;

23 (d) Specific training or education related to child disability or
24 developmental issues;

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

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

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

32 (h) Founded allegations of abuse or neglect as defined in RCW
33 26.44.020;

34 (i) The results of an examination that shall consist of a
35 background check as allowed through the Washington state criminal
36 records privacy act under RCW 10.97.050 and the Washington state patrol
37 criminal identification system under RCW 43.43.832 through 43.43.834.

1 This background check shall be done through the Washington state patrol
2 criminal identification section; and

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

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

11 Upon appointment, the guardian ad litem, court-appointed special
12 advocate program or guardian ad litem program, shall provide the
13 parties or their attorneys with a copy of the background information
14 record. The portion of the background information record containing
15 the results of the criminal background check and the criminal history
16 shall (~~not~~) be disclosed to the parties (~~or~~) and their attorneys.
17 The background information record shall not include identifying
18 information that may be used to harm a guardian ad litem, such as home
19 addresses and home telephone numbers, and for volunteer guardians ad
20 litem the court may allow the use of maiden names or pseudonyms as
21 necessary for their safety.

22 (4) When a court-appointed special advocate or volunteer guardian
23 ad litem is requested on a case, the program shall give the court the
24 name of the person it recommends. The court shall immediately appoint
25 the person recommended by the program.

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

35 **Sec. 2.** RCW 26.12.177 and 2011 c 292 s 7 are each amended to read
36 as follows:

37 (1) All guardians ad litem appointed under this title must comply

1 with the training requirements established under RCW 2.56.030(15),
2 prior to their appointment in cases under Title 26 RCW, except that
3 volunteer guardians ad litem or court-appointed special advocates may
4 comply with alternative training requirements approved by the
5 administrative office of the courts that meet or exceed the statewide
6 requirements. In cases involving allegations of limiting factors under
7 RCW 26.09.191, the guardians ad litem appointed under this title must
8 have additional relevant training under RCW 2.56.030(15) (~~when it is~~
9 available)).

10 (2)(a) Each guardian ad litem program (~~for compensated guardians~~
11 ~~ad litem~~) shall establish a rotational registry system for the
12 appointment of guardians ad litem under this title. (~~If a judicial~~
13 ~~district does not have a program the court shall establish the~~
14 ~~rotational registry system.~~) Guardians ad litem under this title
15 shall be selected from the registry (~~except in exceptional~~
16 ~~circumstances as determined and documented by the court~~). Cases
17 involving mental or physical health, limiting factors under RCW
18 26.09.191, or other issues outside of the guardian ad litem licensing
19 must have a licensed professional for that field appointed to assist
20 the court in examining potential long-term effects on ability to
21 parent. The parties may make a joint recommendation for the
22 appointment of a guardian ad litem from the registry.

23 (b) In judicial districts with a population over one hundred
24 thousand, a list of three names shall be selected from the registry and
25 given to the parties and presiding judge or commissioner along with the
26 background information record as specified in RCW 26.12.175(3),
27 including their hourly rate for services. Each party may, within three
28 judicial days, strike one name from the list. If more than one name
29 remains on the list, the court shall make the appointment from the
30 names on the list. In the event all three names are stricken the
31 person whose name appears next on the registry shall be appointed.

32 (c) If a party reasonably believes that the appointed guardian ad
33 litem is inappropriate or unqualified, charges an hourly rate higher
34 than what is reasonable for the particular proceeding, or has a
35 conflict of interest, the party may, within three judicial days from
36 the appointment, move for substitution of the appointed guardian ad
37 litem by filing a motion with the court. Guardians ad litem must
38 notify each party and court of any actual or potential conflicts of

1 interest prior to accepting appointment. Failure to do so results in
2 immediate dismissal of the guardian ad litem and all reports and
3 documents from the court case. A party knowingly withholding conflict
4 of interest information is guilty of a misdemeanor.

5 (d) Under this section, within either registry referred to in (a)
6 of this subsection, a subregistry may be created that consists of
7 guardians ad litem under contract with the department of social and
8 health services' division of child support. Guardians ad litem on such
9 a subregistry shall be selected and appointed in state-initiated
10 paternity cases only. Guardians ad litem must notify each party and
11 court of any actual or potential conflicts of interest prior to
12 accepting appointment. Failure to do so results in immediate dismissal
13 of the guardian ad litem and all reports and documents from the court
14 case. A party knowingly withholding conflict of interest information
15 is guilty of a misdemeanor.

16 (e) The superior court shall remove any person from the guardian ad
17 litem registry who has been found to have misrepresented his or her
18 qualifications.

19 ~~((3) The rotational registry system shall not apply to court-~~
20 ~~appointed special advocate programs.))~~

21 **Sec. 3.** RCW 26.12.183 and 2000 c 124 s 15 are each amended to read
22 as follows:

23 Except for guardians ad litem appointed by the court from the
24 subregistry created under RCW 26.12.177(2)(d), the court shall specify
25 the hourly rate the guardian ad litem or investigator under this title
26 may charge for his or her services, and shall specify the maximum
27 amount the guardian ad litem or investigator under this title may
28 charge without additional court review and approval. The court shall
29 specify rates and fees in the order of appointment or at the earliest
30 date the court is able to determine the appropriate rates and fees and
31 prior to the guardian ad litem billing for his or her services. ~~((This~~
32 ~~section shall apply except as provided by local court rule.))~~

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