
SENATE BILL 5823

State of Washington

64th Legislature

2015 Regular Session

By Senators Rivers and Litzow

Read first time 02/04/15. 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
5 read 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
10 court ((may)) shall only appoint a guardian ad litem from the
11 guardian ad litem program or court-appointed special advocate
12 program(~~(, if that program exists in the county)~~). 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. The family court services professionals may also
16 make a recommendation to the court regarding whether a guardian ad
17 litem should be appointed for 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
20 investigated to the court. The guardian ad litem shall always
21 represent the best interests of the child. Guardians ad litem under

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

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

27 (d) The court shall enter an order for costs, fees, and
28 disbursements to cover the costs of the guardian ad litem. The court
29 may order either or both parents to pay for the costs of the guardian
30 ad litem, according to their ability to pay. If both parents are
31 indigent, the county shall bear the cost of the guardian, subject to
32 appropriation for guardians' ad litem services by the county
33 legislative authority. Guardians ad litem who are not volunteers
34 shall provide the parties and court with an itemized accounting of
35 their time and billing for services each month. The court may not
36 award fees for services rendered without the guardian ad litem first
37 submitting an itemized accounting of his or her time and billing.

38 (2)(a) ((~~If the guardian ad litem appointed is from the county~~
39 ~~court appointed special advocate program,~~)) The program shall
40 supervise any guardian ad litem assigned to the case. The court-

1 appointed special advocate program shall be entitled to notice of all
2 proceedings in the case.

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

8 (3) Each guardian ad litem program for compensated guardians ad
9 litem and each court-appointed special advocate program shall
10 maintain a background information record for each guardian ad litem
11 in the program. The background information record shall include, but
12 is not limited to, the following information:

13 (a) Level of formal education;

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

15 (c) Specific training related to issues potentially faced by
16 children in dissolution, custody, paternity, and other family law
17 proceedings;

18 (d) Specific training or education related to child disability or
19 developmental issues;

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

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

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

27 (h) Founded allegations of abuse or neglect as defined in RCW
28 26.44.020;

29 (i) The results of an examination that shall consist of a
30 background check as allowed through the Washington state criminal
31 records privacy act under RCW 10.97.050 and the Washington state
32 patrol criminal identification system under RCW 43.43.832 through
33 43.43.834. This background check shall be done through the Washington
34 state patrol criminal identification section; and

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

37 The background information record shall be updated annually. As a
38 condition of appointment, the guardian ad litem's background
39 information record shall be made available to the court. (~~If the~~
40 ~~appointed guardian ad litem is not a member of a guardian ad litem~~

1 ~~program the person appointed as guardian ad litem shall provide the~~
2 ~~background information record to the court.))~~

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

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

18 (5) If a party in a case reasonably believes the court-appointed
19 special advocate or volunteer guardian ad litem is inappropriate or
20 unqualified, the party may request a review of the appointment by the
21 program. The program must complete the review within five judicial
22 days and remove any appointee for good cause. If the party seeking
23 the review is not satisfied with the outcome of the review, the party
24 may file a motion with the court for the removal of the court-
25 appointed special advocate or volunteer guardian ad litem on the
26 grounds the advocate or volunteer is inappropriate or unqualified.

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

29 (1) All guardians ad litem appointed under this title must comply
30 with the training requirements established under RCW 2.56.030(15),
31 prior to their appointment in cases under Title 26 RCW, except that
32 volunteer guardians ad litem or court-appointed special advocates may
33 comply with alternative training requirements approved by the
34 administrative office of the courts that meet or exceed the statewide
35 requirements. In cases involving allegations of limiting factors
36 under RCW 26.09.191, the guardians ad litem appointed under this
37 title must have additional relevant training under RCW 2.56.030(15)
38 ~~((when it is available))~~.

1 (2)(a) Each guardian ad litem program (~~(for compensated guardians~~
2 ~~ad litem)~~) shall establish a rotational registry system for the
3 appointment of guardians ad litem under this title. (~~(If a judicial~~
4 ~~district does not have a program the court shall establish the~~
5 ~~rotational registry system.)~~) Guardians ad litem under this title
6 shall be selected from the registry (~~(except in exceptional~~
7 ~~circumstances as determined and documented by the court)~~). Cases
8 involving mental or physical health, limiting factors under RCW
9 26.09.191, or other issues outside of the guardian ad litem licensing
10 must have a licensed professional for that field appointed to assist
11 the court in examining potential long-term effects on ability to
12 parent. The parties may make a joint recommendation for the
13 appointment of a guardian ad litem from the registry.

14 (b) In judicial districts with a population over one hundred
15 thousand, a list of three names shall be selected from the registry
16 and given to the parties and presiding judge or commissioner along
17 with the background information record as specified in RCW
18 26.12.175(3), including their hourly rate for services. Each party
19 may, within three judicial days, strike one name from the list. If
20 more than one name remains on the list, the court shall make the
21 appointment from the names on the list. In the event all three names
22 are stricken the person whose name appears next on the registry shall
23 be appointed.

24 (c) If a party reasonably believes that the appointed guardian ad
25 litem is inappropriate or unqualified, charges an hourly rate higher
26 than what is reasonable for the particular proceeding, or has a
27 conflict of interest, the party may, within three judicial days from
28 the appointment, move for substitution of the appointed guardian ad
29 litem by filing a motion with the court. Guardians ad litem must
30 notify each party and court of any actual or potential conflicts of
31 interest prior to accepting appointment. Failure to do so results in
32 immediate dismissal of the guardian ad litem and all reports and
33 documents from the court case. A party knowingly withholding conflict
34 of interest information is guilty of a misdemeanor.

35 (d) Under this section, within either registry referred to in (a)
36 of this subsection, a subregistry may be created that consists of
37 guardians ad litem under contract with the department of social and
38 health services' division of child support. Guardians ad litem on
39 such a subregistry shall be selected and appointed in state-initiated
40 paternity cases only. Guardians ad litem must notify each party and

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

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

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

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

13 Except for guardians ad litem appointed by the court from the
14 subregistry created under RCW 26.12.177(2)(d), the court shall
15 specify the hourly rate the guardian ad litem or investigator under
16 this title may charge for his or her services, and shall specify the
17 maximum amount the guardian ad litem or investigator under this title
18 may charge without additional court review and approval. The court
19 shall specify rates and fees in the order of appointment or at the
20 earliest date the court is able to determine the appropriate rates
21 and fees and prior to the guardian ad litem billing for his or her
22 services. ~~((This section shall apply except as provided by local~~
23 ~~court rule.))~~

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