
SENATE BILL 5895

State of Washington

66th Legislature

2019 Regular Session

By Senators Wilson, C., Nguyen, and Darneille

1 AN ACT Relating to fingerprint background checks for guardians ad
2 litem; and amending RCW 13.34.100.

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

4 **Sec. 1.** RCW 13.34.100 and 2017 c 99 s 2 are each amended to read
5 as follows:

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

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

19 (3) Each guardian ad litem program shall maintain a background
20 information record for each guardian ad litem in the program. The

1 background information record shall include, but is not limited to,
2 the following information:

3 (a) Level of formal education;

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

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

7 (d) Specific training or education related to child disability or
8 developmental issues;

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

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

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

16 (h) Founded allegations of abuse or neglect as defined in RCW
17 26.44.020;

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

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

29 The background information record shall be updated annually and
30 fingerprint-based background checks shall be updated every three
31 years. As a condition of appointment, the guardian ad litem's
32 background information record shall be made available to the court.
33 If the appointed guardian ad litem is not a member of a guardian ad
34 litem program a suitable person appointed by the court to act as
35 guardian ad litem shall provide the background information record to
36 the court.

37 Upon appointment, the guardian ad litem, or guardian ad litem
38 program, shall provide the parties or their attorneys with a copy of
39 the background information record. The portion of the background
40 information record containing the results of the criminal background

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

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

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

19 (6)(a) The court must appoint an attorney for a child in a
20 dependency proceeding six months after granting a petition to
21 terminate the parent and child relationship pursuant to RCW 13.34.180
22 and when there is no remaining parent with parental rights.

23 The court must appoint an attorney for a child when there is no
24 remaining parent with parental rights for six months or longer prior
25 to July 1, 2014, if the child is not already represented.

26 The court may appoint one attorney to a group of siblings, unless
27 there is a conflict of interest, or such representation is otherwise
28 inconsistent with the rules of professional conduct.

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

33 (c)(i) Subject to the availability of amounts appropriated for
34 this specific purpose, the state shall pay the costs of legal
35 services provided by an attorney appointed pursuant to (a) of this
36 subsection, if the legal services are provided in accordance with the
37 standards of practice, voluntary training, and caseload limits
38 developed and recommended by the statewide children's representation
39 work group pursuant to section 5, chapter 180, Laws of 2010. Caseload
40 limits must be calculated pursuant to (c)(ii) of this subsection.

1 (ii) Counties are encouraged to set caseloads as low as possible
2 and to account for the individual needs of the children in care.
3 Notwithstanding the caseload limits developed and recommended by the
4 statewide children's representation work group pursuant to section 5,
5 chapter 180, Laws of 2010, when one attorney represents a sibling
6 group, the first child is counted as one case, and each child
7 thereafter is counted as one-half case to determine compliance with
8 the caseload standards pursuant to (c)(i) of this subsection and RCW
9 2.53.045.

10 (iii) The office of civil legal aid is responsible for
11 implementation of (c)(i) and (ii) of this subsection as provided in
12 RCW 2.53.045.

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

17 (b)(i) If the court has not already appointed an attorney for a
18 child, or the child is not represented by a privately retained
19 attorney:

20 (A) The child's caregiver, or any individual, may refer the child
21 to an attorney for the purposes of filing a motion to request
22 appointment of an attorney at public expense; or

23 (B) The child or any individual may retain an attorney for the
24 child for the purposes of filing a motion to request appointment of
25 an attorney at public expense.

26 (ii) Nothing in this subsection (7)(b) shall be construed to
27 change or alter the confidentiality provisions of RCW 13.50.100.

28 (c) Pursuant to this subsection, the department or supervising
29 agency and the child's guardian ad litem shall each notify a child of
30 his or her right to request an attorney and shall ask the child
31 whether he or she wishes to have an attorney. The department or
32 supervising agency and the child's guardian ad litem shall notify the
33 child and make this inquiry immediately after:

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

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

36 or

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

39 (d) The department or supervising agency and the child's guardian
40 ad litem shall repeat the notification and inquiry at least annually

1 and upon the filing of any motion or petition affecting the child's
2 placement, services, or familial relationships.

3 (e) The notification and inquiry is not required if the child has
4 already been appointed an attorney.

5 (f) The department or supervising agency shall note in the
6 child's individual service and safety plan, and the guardian ad litem
7 shall note in his or her report to the court, that the child was
8 notified of the right to request an attorney and indicate the child's
9 position regarding appointment of an attorney.

10 (g) At the first regularly scheduled hearing after:

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

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

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

16 the court shall inquire whether the child has received notice of his
17 or her right to request an attorney from the department or
18 supervising agency and the child's guardian ad litem. The court shall
19 make an additional inquiry at the first regularly scheduled hearing
20 after the child's fifteenth birthday. No inquiry is necessary if the
21 child has already been appointed an attorney.

22 (8) For the purposes of child abuse prevention and treatment act
23 (42 U.S.C. Secs. 5101 et seq.) grants to this state under P.L.
24 93-247, or any related state or federal legislation, a person
25 appointed pursuant to this section shall be deemed a guardian ad
26 litem.

27 (9) When a court-appointed special advocate or volunteer guardian
28 ad litem is requested on a case, the program shall give the court the
29 name of the person it recommends. The program shall attempt to match
30 a child with special needs with a guardian ad litem who has specific
31 training or education related to the child's individual needs. The
32 court shall immediately appoint the person recommended by the
33 program.

34 (10) If a party in a case reasonably believes the court-appointed
35 special advocate or volunteer guardian ad litem is inappropriate or
36 unqualified, the party may request a review of the appointment by the
37 program. The program must complete the review within five judicial
38 days and remove any appointee for good cause. If the party seeking
39 the review is not satisfied with the outcome of the review, the party
40 may file a motion with the court for the removal of the court-

1 appointed special advocate or volunteer guardian ad litem on the
2 grounds the advocate or volunteer is inappropriate or unqualified.

3 (11) The court shall remove any person from serving as a court-
4 appointed special advocate or volunteer guardian ad litem if the
5 court is notified that the person has been removed from another
6 county's registry pursuant to the disposition of a grievance or if
7 the court is otherwise made aware that the individual was found by a
8 court to have made a materially false statement that he or she knows
9 to be false during an official proceeding under oath.

--- END ---