

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 25

Short Title: Guard. Ad Litem/Attys.

(Public)

Sponsors: Senators Wellons; Ballance, Dalton, Dannelly, Garrou, Gulley, Hagan, Horton, Kerr, Lucas, Metcalf, Miller, Purcell, Rand, Reeves, Warren, and Weinstein.

Referred to: Judiciary I.

February 3, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR ATTORNEY REPRESENTATION OF CHILDREN REPRESENTED BY GUARDIAN AD LITEM PROGRAM THROUGHOUT PROCEEDINGS OF THE CASE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7B-601, as recodified by Section 6 of S.L. 1998-202, reads as rewritten:

"§ 7B-601. Appointment and duties of guardian ad litem.

(a) When in a petition a juvenile is alleged to be abused or neglected, the court shall appoint a guardian ad litem to represent the juvenile. When a juvenile is alleged to be dependent, the court may appoint a guardian ad litem to represent the juvenile. The guardian ad litem and attorney advocate have standing to represent the juvenile in all actions under this Subchapter where they have been appointed. The appointment shall be made pursuant to the program established by Article 12 of this Chapter unless representation is otherwise provided pursuant to G.S. 7B-1202 or G.S. 7B-1203. The appointment shall terminate at the end of two years. The court may reappoint the guardian ad litem pursuant to a showing of good cause upon motion of any party, including the guardian ad litem, or of the court. In every case where a nonattorney is appointed as a guardian ad litem, an attorney shall be appointed in the case in order to

1 assure protection of the juvenile's legal rights ~~through the dispositional phase of the~~
2 ~~proceedings, and after disposition when necessary to further the best interests of the juvenile.~~
3 within the proceeding. The duties of the guardian ad litem program shall be to make an
4 investigation to determine the facts, the needs of the juvenile, and the available resources
5 within the family and community to meet those needs; to facilitate, when appropriate, the
6 settlement of disputed issues; to offer evidence and examine witnesses at adjudication; to
7 explore options with the court at the dispositional hearing; and to protect and promote the
8 best interests of the juvenile until formally relieved of the responsibility by the court.

9 (b) The court may order the department of social services or the guardian ad litem
10 to conduct follow-up investigations to ensure that the orders of the court are being
11 properly executed and to report to the court when the needs of the juvenile are not being
12 met. The court may also authorize the guardian ad litem to accompany the juvenile to
13 court in any criminal action wherein the juvenile may be called on to testify in a matter
14 relating to abuse.

15 (c) The court may grant the guardian ad litem the authority to demand any
16 information or reports, whether or not confidential, that may in the guardian ad litem's
17 opinion be relevant to the case. Neither the physician-patient privilege nor the husband-
18 wife privilege may be invoked to prevent the guardian ad litem and the court from
19 obtaining such information. The confidentiality of the information or reports shall be
20 respected by the guardian ad litem, and no disclosure of any information or reports shall
21 be made to anyone except by order of the court or unless otherwise provided by law."

22 Section 2. This act is effective when it becomes law.