

SENATE FILE NO. SF0120

Office of guardian ad litem-2.

Sponsored by: Senator(s) Kost, Anselmi-Dalton, Boner,
Nethercott and Von Flatern and
Representative(s) Kirkbride and Pelkey

A BILL

for

1 AN ACT relating to the administration of government;
2 creating the office of guardian ad litem; modifying
3 administration of guardian ad litem program; repealing
4 provisions related to office of the public defender
5 oversight of the program; making conforming amendments;
6 providing for continuation of contracts; providing for
7 rulemaking; reappropriating funds; and providing for an
8 effective date.

9

10 *Be It Enacted by the Legislature of the State of Wyoming:*

11

12 **Section 1.** W.S. 9-2-3101 is created to read:

13

14

ARTICLE 31

15

OFFICE OF GUARDIAN AD LITEM

1

2 **9-2-3101. Office created; appointment of director.**

3

4 (a) The office of guardian ad litem is created as a
5 separate operating agency as provided in W.S. 9-2-1704(d).

6

7 (b) The governor, with the advice and consent of the
8 senate, shall appoint a director of the office who shall
9 serve as the administrative head of the office and as chief
10 guardian ad litem. Unless sooner removed, the director's
11 term of appointment expires at the end of the term of
12 office of the governor during which he was appointed. The
13 director serves at the pleasure of the governor and may be
14 removed by him as provided by W.S. 9-1-202. The director
15 shall:

16

17 (i) Be a member in good standing of the Wyoming
18 state bar;

19

20 (ii) Have experience in guardian ad litem
21 representation, child welfare and juvenile justice;

22

1 (iii) Be compensated as determined by the
2 Wyoming personnel division;

3

4 (iv) Devote full time to the performance of his
5 duties;

6

7 (v) Administer the guardian ad litem program as
8 provided in W.S. 14-12-101 through 14-12-104.

9

10 (c) The director shall not engage in private practice
11 except to complete business pending at the time of his
12 appointment.

13

14 **Section 2. W.S. 1-39-103(a)(iv)(F),**
15 1-41-102(a)(v)(D), 9-2-1704(d) by creating a new paragraph
16 (xvii), 14-12-101(a)(intro) and (c) and 14-12-103(a), (c)
17 and (d) are amended to read:

18

19 **1-39-103. Definitions.**

20

21 (a) As used in this act:

22

23 (iv) "Public employee":

1

2 (F) Includes contract attorneys in the
3 course of providing contract services for the ~~state public~~
4 ~~defenders~~ office of guardian ad litem as provided in W.S.
5 ~~7-6-103(k) or~~ 14-12-104;

6

7 **1-41-102. Definitions.**

8

9 (a) As used in this act:

10

11 (v) "Public employee" means any officer,
12 employee or servant of the state, provided the term:

13

14 (D) Includes contract attorneys in the
15 course of providing contract services for the ~~state public~~
16 ~~defenders~~ office of guardian ad litem as provided in W.S.
17 ~~7-6-103(k) or~~ 14-12-104;

18

19 **9-2-1704. Reorganization plan; structure; time frame.**

20

21 (d) The entities of state government specified in
22 this subsection are designated as separate operating
23 agencies, which are separate and distinct from the

1 departments and offices specified in subsection (a) of this
2 section because of their quasi-judicial responsibility or
3 because of their unique, specialized function which
4 precludes their inclusion in another department. This act
5 does not otherwise apply to separate operating agencies.
6 Separate operating agencies are as follows:

7

8 (xvii) Office of guardian ad litem.

9

10 **14-12-101. Office of guardian ad litem; guardian ad**
11 **litem program; rulemaking; reporting.**

12

13 (a) The office of ~~the state public defender~~ guardian
14 ad litem shall administer a guardian ad litem program. The
15 program shall employ or contract with, supervise and manage
16 attorneys providing legal representation as guardians ad
17 litem in the following cases and actions:

18

19 (c) The office shall adopt policies and rules and
20 regulations governing standards for the legal
21 representation by attorneys acting as guardians ad litem in
22 cases under the program and for the training of those
23 attorneys. ~~The policies and rules shall ensure that the~~

1 ~~program will be separate and distinct from the office's~~
2 ~~performance of duties involving criminal defense and~~
3 ~~representation of a juvenile other than as a guardian ad~~
4 ~~litem in delinquency proceedings. To the maximum extent~~
5 ~~possible, the policies and rules shall ensure all fiscal~~
6 ~~and information technology duties for the program are kept~~
7 ~~separate from the fiscal and information technology duties~~
8 ~~for the office of the public defender.~~ Any attorney
9 providing services to the program as a guardian ad litem
10 shall meet the standards established by the office for the
11 program.

12

13 **14-12-103. County participation; reimbursement;**
14 **offices and equipment.**

15

16 (a) The office of ~~the state public defender~~ guardian
17 ad litem shall enter into agreements with each county
18 participating in the program. Agreements shall require
19 counties to comply with all program rules and policies. The
20 agreement shall establish the compensation rate within the
21 county for attorneys providing legal representation as
22 guardians ad litem in program cases and the reimbursement
23 requirements. A county may agree with an attorney providing

1 services under the program to pay a rate in excess of the
2 rate set for payment by the program. If a county agrees to
3 do so, it shall enter into a separate contract with the
4 attorney providing services and shall be responsible and
5 obligated to reimburse the program for one hundred percent
6 (100%) of the excess amount. The county shall enter into a
7 separate agreement with the office setting out the
8 agreement, the excess rate and the responsibilities and
9 obligations of all parties.

10

11 (c) There is created a guardian ad litem account.
12 All reimbursements received under the program shall be
13 deposited to the account. Funds within the account are
14 continuously appropriated to the ~~public defender's~~ office
15 of guardian ad litem for expenditure for the sole purpose
16 of the guardian ad litem program.

17

18 (d) Agreements entered into under this section shall
19 include provision for each county, in which guardians ad
20 litem employed by or under contract with the program are
21 located, to provide ~~separate from any public defender field~~
22 ~~office,~~ adequate space and utility services, other than
23 telephone service, for the use of the program's guardians

1 ad litem. If suitable office space for all guardians ad
2 litem cannot be provided, the county shall provide, based
3 upon a proportional share, a monthly stipend to all program
4 guardians ad litem housed in private facilities. The
5 proportional share shall be determined by the program,
6 based upon the counties served by each guardian ad litem
7 not provided suitable office space. The stipend shall be
8 paid directly by the county to the program guardian ad
9 litem.

10

11 **Section 3.** W.S. 7-6-103(c)(viii), 7-6-106(d)(iii),
12 7-6-112(a)(v), 7-6-113(d) and 14-12-101(b) are repealed.

13

14 **Section 4.**

15

16 (a) On the effective date of this act:

17

18 (i) All unexpired contracts existing between the
19 office of the state public defender and attorneys under
20 W.S. 14-12-101(a) or 14-12-102(c) shall continue with the
21 office of guardian ad litem substituted for the office of
22 the state public defender;

23

1 (ii) All unexpired agreements existing between
2 the office of the state public defender and counties under
3 W.S. 14-12-103 shall continue with the office of guardian
4 ad litem substituted for the office of the state public
5 defender;

6

7 (iii) Any unexpired memorandum of understanding
8 existing between the office of the state public defender
9 and the department of family services shall continue with
10 the office of guardian ad litem substituted for the office
11 of the state public defender.

12

13 (b) Nothing in this section shall be construed to
14 prevent any party from renegotiating any contract,
15 agreement or memorandum of understanding.

16

17 **Section 5.**

18

19 (a) All unexpended, unobligated funds appropriated on
20 or before July 1, 2020 for the guardian ad litem program to
21 the office of the state public defender are hereby
22 reappropriated to the office of guardian ad litem on July
23 1, 2020.

1

2 (b) All positions authorized on or before July 1,
3 2020 for the guardian ad litem program to the office of the
4 state public defender are hereby transferred to the office
5 of guardian ad litem on July 1, 2020.

6

7 **Section 6.** Any rules or regulations pertaining to
8 guardian ad litem program attorneys promulgated by the
9 office of the state public defender under W.S. 14-12-101(c)
10 shall remain in effect until such time that the office of
11 guardian ad litem promulgates rules.

12

13 **Section 7.** This act is effective July 1, 2020.

14

15

(END)