

## HOUSE BILL NO. HB0210

Guardian ad litem division.

Sponsored by: Representative(s) Zwonitzer, Dn., Connolly,  
Lindholm, Paxton and Petroff

A BILL

for

1 AN ACT relating to the office of the state public defender;  
2 assigning operation of the guardian ad litem program as a  
3 division of the office of the state public defender; making  
4 conforming amendments; specifying duties of the guardian ad  
5 litem division; and providing for an effective date.

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

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9       **Section 1.** W.S. 7-6-103(c) (viii), 7-6-106(d) (iii),  
10 7-6-112(a) (v), 7-6-113(d), 14-12-101(a) (intro), by creating  
11 new paragraphs (vii) through (xi) and (b), 14-12-102(a)  
12 through (c), 14-12-103 and 14-12-104 are amended to read:

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1           **7-6-103. Creation of office of state public defender;**  
2 **appointment of state public defender and assistants;**  
3 **duties; removal.**

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5           (c) The state public defender shall:

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

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10           **7-6-106. Determination of need; reimbursement for**  
11 **services.**

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13           (d) The state public defender shall report in the  
14 agency's annual report concerning:

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16           (iii) For the guardian ad litem ~~program~~  
17 division, the number of cases, the amount of monies  
18 expended and the amounts of reimbursements from  
19 participating counties.

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21           **7-6-112. Applicability of provisions.**

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23           (a) This act does not apply to:

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2 (v) Administration of the guardian ad litem  
3 ~~program~~division under W.S. 14-12-101 through 14-12-104,  
4 except as provided in W.S. 7-6-103(c)(viii) and  
5 7-6-106(d)(iii).

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7 **7-6-113. Funding.**

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9 (d) The provisions of this section shall not be  
10 applicable to the guardian ad litem ~~program~~division  
11 administered by the office of the public defender and the  
12 budget for that program shall be as provided in W.S.  
13 14-12-101 through 14-12-104.

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15 **14-12-101. Guardian ad litem division; administration**  
16 **by the office of public defender; standards; rulemaking;**  
17 **reporting.**

18

19 (a) The office of the state public defender shall  
20 administer a guardian ad litem ~~program~~division. The  
21 ~~program~~division shall employ or contract with, supervise  
22 and manage attorneys providing legal representation as  
23 guardians ad litem in the following cases and actions:

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(vii) Guardianships arising out of permanency plans in child protection cases under W.S. 14-3-101 through 14-3-440, children in need of supervision cases under W.S. 14-6-401 through 14-6-440, to the extent an attorney has been appointed to serve only as a guardian ad litem, delinquency cases under W.S. 14-6-201 through 14-6-252, to the extent an attorney has been appointed to serve only as a guardian ad litem and adult protective services under W.S. 35-20-101 through 35-20-116;

(viii) Adoptions arising out of permanency plans in child protection cases under W.S. 14-3-101 through 14-3-440, children in need of supervision cases under W.S. 14-6-401 through 14-6-440, to the extent an attorney has been appointed to serve only as a guardian ad litem and delinquency cases under W.S. 14-6-201 through 14-6-252, to the extent an attorney has been appointed to serve only as a guardian ad litem;

(ix) Adult protective services cases under W.S. 35-20-101 through 35-20-116;

1           (x) Abortions under W.S. 35-6-118;

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3           (xi) Persons subject to involuntary commitment  
4 at the Wyoming state hospital or Wyoming life resource  
5 center under title 25 of these statutes.

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7           (b) The ~~program~~division shall be administered by ~~an~~  
8 ~~administrator~~a deputy appointed by the state public  
9 defender. The ~~administrator~~deputy shall be an attorney in  
10 good standing with the Wyoming state bar with experience in  
11 guardian ad litem representation, child welfare and  
12 juvenile justice.

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14           **14-12-102. Appointment of division to provide**  
15 **guardian ad litem services.**

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17           (a) In cases specified in W.S. 14-12-101(a), if the  
18 county in which the court is located participates in the  
19 guardian ad litem program:

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21           (i) The court shall appoint the ~~program~~division  
22 to provide services when appointing a guardian ad litem;

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1           (ii) The ~~administrator~~deputy or designee shall  
2 assign an attorney to act as guardian ad litem in  
3 accordance with the court's order.

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5           (b) The program shall cooperate with ~~juvenile~~  
6 district courts in developing a case appointment system in  
7 each participating county for all applicable cases  
8 requiring the appointment of a guardian ad litem.

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10          (c) An attorney accepting a guardian ad litem  
11 assignment under the program shall be employed by or  
12 contract with the ~~program~~division to provide services in  
13 accordance with ~~program~~division requirements. The contract  
14 shall specify the fees to be paid for the assignment, which  
15 may be a defined hourly or per case rate or a defined sum.  
16 Fees paid by the ~~program~~division may vary based upon the  
17 type and difficulty of the case, location, work required  
18 and experience.

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20           **14-12-103. County participation; reimbursement;**  
21 **offices and equipment.**

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1           (a) The office of the state public defender shall  
2 enter into agreements with each county participating in the  
3 ~~program~~-division. Agreements shall require counties to  
4 comply with all ~~program~~-division rules and policies. The  
5 agreement shall establish the compensation rate within the  
6 county for attorneys providing legal representation as  
7 guardians ad litem in ~~program~~-division cases and the  
8 reimbursement requirements. A county may agree with an  
9 attorney providing services under the ~~program~~-division to  
10 pay a rate in excess of the rate set for payment by the  
11 ~~program~~-division. If a county agrees to do so, it shall  
12 enter into a separate contract with the attorney providing  
13 services and shall be responsible and obligated to  
14 reimburse the ~~program~~-division for one hundred percent  
15 (100%) of the excess amount. The county shall enter into a  
16 separate agreement with the office setting out the  
17 agreement, the excess rate and the responsibilities and  
18 obligations of all parties.

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20           (b) The ~~program~~-division shall pay from the guardian  
21 ad litem account one hundred percent (100%) of the fees for  
22 the legal representation of children by attorneys as  
23 guardians ad litem in ~~program~~-division cases.

1 Participating counties shall reimburse the ~~program~~division  
2 an amount equal to not less than twenty-five percent (25%)  
3 of the agreed ~~program~~division fees, not less than twenty-  
4 five percent (25%) of the ~~program's~~division's  
5 administrative cost prorated by program funds expended in  
6 each county and one hundred percent (100%) of excess rate  
7 fees. The ~~program~~division shall invoice the county for  
8 its proportionate share. In the event a county does not  
9 make payments within ninety (90) days, the state treasurer  
10 may deduct the amount from sales tax revenues due to the  
11 county from the state and shall credit the amount to the  
12 ~~program~~division account.

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14 (c) There is created a guardian ad litem account.  
15 All reimbursements received under the ~~program~~division  
16 shall be deposited to the account. Funds within the account  
17 are continuously appropriated to the public defender's  
18 office for expenditure for the sole purpose of the guardian  
19 ad litem ~~program~~division and cannot be transferred or  
20 expended for criminal defense purposes.

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22 (d) Agreements entered into under this section shall  
23 include provision for each county, in which guardians ad



1 litem employed by or under contract with the ~~program~~  
2 division are located, to provide separate from any public  
3 defender field office, adequate space and utility services,  
4 other than telephone service, for the use of the ~~program's~~  
5 division's guardians ad litem. If suitable office space  
6 for all guardians ad litem cannot be provided, the county  
7 shall provide, based upon a proportional share, a monthly  
8 stipend to all ~~program-division~~ guardians ad litem housed  
9 in private facilities. The proportional share shall be  
10 determined by the ~~program-division~~, based upon the counties  
11 served by each guardian ad litem not provided suitable  
12 office space. The stipend shall be paid directly by the  
13 county to the ~~program-division~~ guardian ad litem.

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15 (e) A county which does not participate in the  
16 ~~program-division~~, shall be responsible for the full cost of  
17 guardians ad litem legal fees as provided by W.S.  
18 14-2-318(b)(i), 14-3-434(b)(vi), 14-6-235(b)(vi) and  
19 14-6-434(b)(vi).

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21 (f) The office shall enter into a memorandum of  
22 understanding with the department of family services under  
23 which a guardian ad litem will be provided for cases in

1 which the department is required by law or court order to  
2 provide guardian ad litem services in any of the cases or  
3 actions specified in W.S. 14-12-101(a). The department  
4 shall reimburse the ~~program~~division an amount equal to not  
5 less than twenty-five percent (25%) of the agreed ~~program~~  
6 division fees paid to guardians ad litem in actions under  
7 this subsection.

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9 **14-12-104. Applicability of the Wyoming Governmental**  
10 **Claims Act and state self-insurance program.**

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12 Notwithstanding any other provision of law to the contrary,  
13 any attorney providing services for the office pursuant to  
14 the guardian ad litem ~~program~~division shall, for matters  
15 arising out of such services, be considered a state  
16 employee for purposes of coverage and representation under  
17 the Wyoming Governmental Claims Act, W.S. 1-39-101 through  
18 1-39-121, and the state self-insurance program, W.S.  
19 1-41-101 through 1-41-111.

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21 **Section 2.** This act is effective July 1, 2015.

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(END)