

SECOND REGULAR SESSION

# SENATE BILL NO. 930

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CURLS.

Read 1st time January 18, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4712S.02I

## AN ACT

To repeal section 210.160, RSMo, and to enact in lieu thereof three new sections relating to guardians ad litem.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 210.160, RSMo, is repealed and three new sections  
2 enacted in lieu thereof, to be known as sections 210.160, 477.700, and 477.705,  
3 to read as follows:

210.160. 1. In every case involving an abused or neglected child which  
2 results in a judicial proceeding, the judge shall appoint a guardian ad litem to  
3 appear for and represent:

4 (1) A child who is the subject of proceedings pursuant to sections 210.110  
5 to 210.165 except proceedings under subsection 6 of section 210.152, sections  
6 210.700 to 210.760, sections 211.442 to 211.487, or sections 453.005 to 453.170,  
7 or proceedings to determine custody or visitation rights under sections 452.375  
8 to 452.410; or

9 (2) A parent who is a minor, or who is a mentally ill person or otherwise  
10 incompetent, and whose child is the subject of proceedings under sections 210.110  
11 to 210.165, sections 210.700 to 210.760, sections 211.442 to 211.487, or sections  
12 453.005 to 453.170.

13 2. The judge, either sua sponte or upon motion of a party, may appoint a  
14 guardian ad litem to appear for and represent an abused or neglected child  
15 involved in proceedings arising under subsection 6 of section 210.152.

16 3. **The guardian ad litem shall establish a relationship with the**  
17 **child and shall meet face-to-face with the child in a private setting at**  
18 **a time and place that allows the guardian ad litem to observe the child**

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

19 and ascertain the child's wishes, safety and placement needs, and the  
20 need for further meetings and investigation. Such initial interview  
21 shall take place prior to any initial court appearance and shall occur  
22 away from the courthouse. The guardian ad litem shall continue to  
23 maintain contact with the child for the duration of the  
24 appointment. This duty shall not be designated to any volunteer  
25 advocate or other person; however, nothing in this subsection shall be  
26 construed to prohibit a volunteer advocate from meeting with the child.

27 4. The guardian ad litem shall be provided with all reports relevant to the  
28 case made to or by any agency or person, shall have access to all records of such  
29 agencies or persons relating to the child or such child's family members or  
30 placements of the child, and upon appointment by the court to a case, shall be  
31 informed of and [have the right to] attend, **as appropriate and necessary**, any  
32 and all family support team meetings involving the child. Employees of the  
33 division, officers of the court, and employees of any agency involved shall fully  
34 inform the guardian ad litem of all aspects of the case of which they have  
35 knowledge or belief.

36 [4.] 5. The appointing judge shall require the guardian ad litem to  
37 faithfully discharge such guardian ad litem's duties, and upon failure to do so  
38 shall discharge such guardian ad litem and appoint another. The appointing  
39 judge shall have the authority to examine the general and criminal background  
40 of persons appointed as guardians ad litem, including utilization of the family  
41 care safety registry and access line pursuant to sections 210.900 to 210.937, to  
42 ensure the safety and welfare of the children such persons are appointed to  
43 represent. The judge in making appointments pursuant to this section shall give  
44 preference to persons who served as guardian ad litem for the child in the earlier  
45 proceeding, unless there is a reason on the record for not giving such preference.

46 [5.] 6. The guardian ad litem may be awarded a reasonable fee for such  
47 services to be set by the court. The court, in its discretion, may award such fees  
48 as a judgment to be paid by any party to the proceedings or from public  
49 funds. However, no fees as a judgment shall be taxed against a party or parties  
50 who have not been found to have abused or neglected a child or children. Such  
51 an award of guardian fees shall constitute a final judgment in favor of the  
52 guardian ad litem. Such final judgment shall be enforceable against the parties  
53 in accordance with chapter 513.

54 [6.] 7. The court may designate volunteer advocates, who may or may not

55 be attorneys licensed to practice law, to assist in the performance of the guardian  
56 ad litem duties for the court. Nonattorney volunteer advocates shall not provide  
57 legal representation. The court shall have the authority to examine the general  
58 and criminal background of persons designated as volunteer advocates, including  
59 utilization of the family care safety registry and access line pursuant to sections  
60 210.900 to 210.937, to ensure the safety and welfare of the children such persons  
61 are designated to represent. The volunteer advocate shall be provided with all  
62 reports relevant to the case made to or by any agency or person, shall have access  
63 to all records of such agencies or persons relating to the child or such child's  
64 family members or placements of the child, and upon designation by the court to  
65 a case, shall be informed of and have the right to attend any and all family  
66 support team meetings involving the child. Any such designated person shall  
67 receive no compensation from public funds. This shall not preclude  
68 reimbursement for reasonable expenses.

69 [7.] 8. Any person appointed to perform guardian ad litem duties shall  
70 have completed a training program in permanency planning and shall advocate  
71 for timely court hearings whenever possible to attain permanency for a child as  
72 expeditiously as possible to reduce the effects that prolonged foster care may have  
73 on a child. A nonattorney volunteer advocate shall have access to a court  
74 appointed attorney guardian ad litem should the circumstances of the particular  
75 case so require.

76 **9. Any person appointed to perform guardian ad litem duties**  
77 **under this or any other section shall first have completed at least eight**  
78 **hours of specialized training and, for each year thereafter, at least**  
79 **three hours of specialized training. Such specialized training shall**  
80 **include, but not be limited to, the following:**

- 81 (1) Dynamics of child abuse and neglect;
- 82 (2) Factors to consider in determining the best interests of the  
83 child;
- 84 (3) Interrelationships between the family, the legal process, and  
85 the child welfare system;
- 86 (4) Federal, state, and local legislation and case law affecting  
87 children;
- 88 (5) Cultural and ethnic diversity and gender-specific issues;
- 89 (6) Family and domestic violence issues;
- 90 (7) Available community resources and services;

91 (8) Child development; and

92 (9) Guardian ad litem standards.

477.700. 1. There shall be created an independent "Statewide  
2 Guardian Ad Litem Office" within the office of state courts  
3 administrator, the head of which shall be an executive director. The  
4 office of state courts administrator shall provide administrative  
5 support and services to the statewide guardian ad litem office to the  
6 extent requested by the executive director and within the available  
7 resources of the office of state courts administrator. The statewide  
8 guardian ad litem office shall not be subject to control, supervision, or  
9 direction by the office of state courts administrator in the performance  
10 of its duties.

11 2. The executive director shall be appointed by the governor  
12 from a list of a minimum of three eligible applicants submitted by a  
13 "Guardian Ad Litem Qualifications Committee", which shall be  
14 composed of the child advocate appointed under section 37.705 and four  
15 individuals appointed jointly by the governor and the chief justice of  
16 the Missouri supreme court with the advice and consent of the  
17 senate. The committee shall provide for statewide advertisement and  
18 the receipt of applications for the position of executive director. The  
19 governor shall appoint an executive director from among the  
20 recommendations or the governor may reject the recommendations and  
21 request a new list of nominees.

22 3. In order to be eligible for the position of executive director,  
23 a nominee shall have knowledge of dependency law, family law,  
24 juvenile law, child abuse and neglect, termination of parental rights,  
25 and adoption, as well as knowledge of Missouri's court systems and  
26 social services available to meet the needs of children who are abused,  
27 neglected, or abandoned. The executive director shall serve on a full-  
28 time basis and shall personally, or through representatives of the  
29 office, carry out the purpose and functions of the statewide guardian  
30 ad litem office in accordance with state and federal law. The executive  
31 director shall serve a three year term, subject to removal for cause by  
32 the governor. Any person appointed to serve as the executive director  
33 may be permitted to serve more than one term.

34 4. The statewide guardian ad litem office shall, within available  
35 resources, have oversight responsibilities for and provide technical

36 assistance to all appointed guardians ad litem, including, but not  
37 limited to, the following:

38 (1) Identifying resources required to implement methods of  
39 collecting, reporting, and tracking reliable and consistent case data;

40 (2) Reviewing Missouri's guardian ad litem program, as well as  
41 similar programs in other states;

42 (3) Developing, in consultation with the Missouri supreme court,  
43 statewide performance measures and standards;

44 (4) Developing a guardian ad litem training program. The office  
45 shall establish a curriculum committee to develop the training  
46 program, which shall include, but not be limited to, juvenile and family  
47 court judges, guardians ad litem, mental health professionals who  
48 specialize in the treatment of children, members of child advocacy  
49 groups, members of domestic violence victim advocacy groups, and  
50 representatives of the children's division with experience working with  
51 victims and perpetrators of child abuse;

52 (5) Reviewing methods of funding guardians ad litem and the  
53 best methods for maximizing existing funds;

54 (6) Developing and distributing an informational website and an  
55 age-appropriate informational pamphlet to interested parties in a case,  
56 including a child who is the subject of the case, in which a guardian ad  
57 litem has been appointed regarding:

58 (a) The role of an appointed guardian ad litem;

59 (b) The duties and standards of conduct by which a guardian ad  
60 litem abides; and

61 (c) The process by which an individual may initiate a complaint  
62 about a guardian ad litem and how a complaint may be investigated  
63 and resolved; and

64 (7) Determining the feasibility or desirability of new concepts of  
65 organization, administration, financing, or service delivery designed to  
66 preserve the best interests and needs, as well as the civil and  
67 constitutional rights of, dependent children.

68 5. The office shall submit to the governor, the general assembly,  
69 and the chief justice of the Missouri supreme court an annual report  
70 describing the progress of the office in meeting the goals required  
71 under this section, as well as recommendations for improvements for  
72 guardian ad litem services in Missouri and related issues.

477.705 1. The Missouri supreme court shall promulgate rules for  
2 the establishment of a "Guardian Ad Litem Review Board" within the  
3 Missouri supreme court. The review board shall consist of twelve  
4 individuals, six of whom shall be attorneys and six of whom shall be  
5 public members, to sit in panels of no more than three  
6 members. Members shall serve terms of four years and no member  
7 shall serve more than two consecutive terms. The governor, the  
8 president pro tempore of the senate, and the speaker of the house of  
9 representatives shall each be invited to submit recommendations for  
10 the public members and the Missouri supreme court shall select the  
11 public members from the recommendations. Review board members  
12 shall receive no compensation for their services, but may be  
13 reimbursed by the Missouri supreme court for travel and other  
14 expenses incidental to the performance of their duties.

15 2. The review board shall have the responsibility to investigate  
16 allegations of misconduct against guardians ad litem. The Missouri  
17 supreme court shall promulgate rules for the establishment of a  
18 complaint, investigation, and sanction process. Conduct meriting  
19 sanction by the review board shall include, but not be limited to, the  
20 following:

21 (1) Violating or attempting to violate the "Standards with  
22 Comments for Guardians ad Litem in Juvenile and Family Court  
23 Division Matters", or other applicable standards developed by local  
24 court rule or the statewide guardian ad litem office, or knowingly  
25 assisting or inducing another to do so, or doing so through the acts of  
26 another;

27 (2) Violating or attempting to violate any statutory duty  
28 imposed on a guardian ad litem, including the provisions of section  
29 210.160, or knowingly assisting or inducing another to do so, or doing  
30 so through the acts of another;

31 (3) Engaging in conduct that violates the applicable rules of  
32 conduct for guardians ad litem in another jurisdiction;

33 (4) Committing any criminal or unlawful act that reflects  
34 adversely on the guardian ad litem's honesty, trustworthiness, or  
35 fitness as a guardian ad litem;

36 (5) Engaging in conduct involving dishonesty, fraud, deceit, or  
37 misrepresentation;

38           **(6) Having allegations of abuse or neglect against him or her**  
39 **substantiated by the department of social services;**

40           **(7) Manifesting, by words or conduct in the performance of**  
41 **guardian ad litem duties, bias or prejudice based on race, color, sex,**  
42 **religion, national origin, disability, age, sexual orientation, gender**  
43 **identity, or socioeconomic status; and**

44           **(8) Willfully violated an order imposing sanctions under the rules**  
45 **promulgated under this section.**

46           **3. Review board meetings and disciplinary hearings shall be**  
47 **open to the public, except that to protect the interests of a complainant,**  
48 **witness, child, third party, or the respondent, the review board may**  
49 **issue a protective order prohibiting the disclosure of privileged or**  
50 **confidential information and direct that the proceedings be conducted**  
51 **so as to implement that order. Deliberations of the review board or**  
52 **review board panel concerning the outcome of a particular case shall**  
53 **not be open to the public or the parties.**

54           **4. Sanctions imposed under this section shall include, but not be**  
55 **limited to, the following:**

56           **(1) A reprimand if the misconduct is minor; there was no injury**  
57 **to a child, the public, or the court; the guardian ad litem did not act**  
58 **intentionally; and there is not a likelihood of recurrence;**

59           **(2) Additional guardian ad litem training according to a**  
60 **correction plan in order to assist the guardian ad litem in complying**  
61 **with the applicable standards and statutory duties; or**

62           **(3) Temporary or permanent disqualification as a guardian ad**  
63 **litem.**

64 **In no case shall any sanction from the review board consist of any**  
65 **action against the guardian ad litem's professional license. In such**  
66 **cases that may merit more substantial sanctions, the review board may**  
67 **recommend further investigation by the office of chief disciplinary**  
68 **counsel and may assist in such investigation as needed.**

69           **5. The review board shall make information concerning the**  
70 **complaint, investigation, and sanction process available to the public**  
71 **through a website, as well as include information about the review**  
72 **board members and the duties, either through statute or rule, of a**  
73 **guardian ad litem. The review board shall work with the statewide**  
74 **guardian ad litem office to make such information available to**

75 interested parties in a case in which a guardian ad litem has been  
76 appointed, including, as necessary, a physical pamphlet addressing the  
77 duties of a guardian ad litem and the process by which a complaint  
78 against a guardian ad litem may be initiated.

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