

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:*

8

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) and (viii) 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.**

4

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;

(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.

(b) The ~~program~~division shall be administered by ~~an administrator~~a deputy appointed by the state public defender. The ~~administrator~~deputy shall be an attorney in good standing with the Wyoming state bar with experience in

1 guardian ad litem representation, child welfare and
2 juvenile justice.

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4 **14-12-102. Appointment of division to provide**
5 **guardian ad litem services.**

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

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

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

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18 (b) The program shall cooperate with juvenile
19 district courts in developing a case appointment system in
20 each participating county for all applicable cases
21 requiring the appointment of a guardian ad litem.

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1 (c) An attorney accepting a guardian ad litem
2 assignment under the program shall be employed by or
3 contract with the ~~program~~division to provide services in
4 accordance with ~~program~~division requirements. The contract
5 shall specify the fees to be paid for the assignment, which
6 may be a defined hourly or per case rate or a defined sum.
7 Fees paid by the ~~program~~division may vary based upon the
8 type and difficulty of the case, location, work required
9 and experience.

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11 **14-12-103. County participation; reimbursement;**
12 **offices and equipment.**

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

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

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10 (b) The ~~program~~division shall pay from the guardian
11 ad litem account one hundred percent (100%) of the fees for
12 the legal representation of children by attorneys as
13 guardians ad litem in ~~program~~division cases.
14 Participating counties shall reimburse the ~~program~~division
15 an amount equal to not less than twenty-five percent (25%)
16 of the agreed ~~program~~division fees, not less than
17 twenty-five percent (25%) of the ~~program's~~division's
18 administrative cost prorated by program funds expended in
19 each county and one hundred percent (100%) of excess rate
20 fees. The ~~program~~division shall invoice the county for
21 its proportionate share. In the event a county does not
22 make payments within ninety (90) days, the state treasurer
23 may deduct the amount from sales tax revenues due to the

1 county from the state and shall credit the amount to the
2 ~~program~~-division account.

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4 (c) There is created a guardian ad litem account.
5 All reimbursements received under the ~~program~~-division
6 shall be deposited to the account. Funds within the account
7 are continuously appropriated to the public defender's
8 office for expenditure for the sole purpose of the guardian
9 ad litem ~~program~~-division and cannot be transferred or
10 expended for criminal defense purposes.

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12 (d) Agreements entered into under this section shall
13 include provision for each county, in which guardians ad
14 litem employed by or under contract with the ~~program~~
15 division are located, to provide separate from any public
16 defender field office, adequate space and utility services,
17 other than telephone service, for the use of the ~~program's~~
18 division's guardians ad litem. If suitable office space
19 for all guardians ad litem cannot be provided, the county
20 shall provide, based upon a proportional share, a monthly
21 stipend to all ~~program~~-division guardians ad litem housed
22 in private facilities. The proportional share shall be
23 determined by the ~~program~~-division, based upon the counties

1 served by each guardian ad litem not provided suitable
2 office space. The stipend shall be paid directly by the
3 county to the ~~program~~division guardian ad litem.

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5 (e) A county which does not participate in the
6 ~~program~~division, shall be responsible for the full cost of
7 guardians ad litem legal fees as provided by W.S.
8 14-2-318(b)(i), 14-3-434(b)(vi), 14-6-235(b)(vi) and
9 14-6-434(b)(vi).

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11 (f) The office shall enter into a memorandum of
12 understanding with the department of family services under
13 which a guardian ad litem will be provided for cases in
14 which the department is required by law or court order to
15 provide guardian ad litem services in any of the cases or
16 actions specified in W.S. 14-12-101(a). The department
17 shall reimburse the ~~program~~division an amount equal to not
18 less than twenty-five percent (25%) of the agreed ~~program~~
19 division fees paid to guardians ad litem in actions under
20 this subsection.

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22 **14-12-104. Applicability of the Wyoming Governmental**
23 **Claims Act and state self-insurance program.**

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2 Notwithstanding any other provision of law to the contrary,
3 any attorney providing services for the office pursuant to
4 the guardian ad litem ~~program~~division shall, for matters
5 arising out of such services, be considered a state
6 employee for purposes of coverage and representation under
7 the Wyoming Governmental Claims Act, W.S. 1-39-101 through
8 1-39-121, and the state self-insurance program, W.S.
9 1-41-101 through 1-41-111.

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

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(END)