

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 114
Committee Substitute Favorable 4/20/99

Short Title: Guard. Ad Litem/Attys.

(Public)

Sponsors:

Referred to:

February 22, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR ATTORNEY REPRESENTATION OF CHILDREN
3 REPRESENTED BY GUARDIAN AD LITEM PROGRAM THROUGHOUT
4 PROCEEDINGS OF THE CASE.

5 The General Assembly of North Carolina enacts:

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

8 **"§ 7B-601. Appointment and duties of guardian ad litem.**

9 (a) When in a petition a juvenile is alleged to be abused or neglected, the court
10 shall appoint a guardian ad litem to represent the juvenile. When a juvenile is alleged to
11 be dependent, the court may appoint a guardian ad litem to represent the juvenile. The
12 juvenile is a party in all actions under this Subchapter. The guardian ad litem and attorney
13 advocate have standing to represent the juvenile in all actions under this Subchapter
14 where they have been appointed. The appointment shall be made pursuant to the program
15 established by Article 12 of this Chapter unless representation is otherwise provided
16 pursuant to G.S. 7B-1202 or G.S. 7B-1203. The appointment shall terminate ~~at the end of~~
17 ~~two years when the permanent plan has been achieved for the juvenile and approved by~~
18 the court. The court may reappoint the guardian ad litem pursuant to a showing of good
19 cause upon motion of any party, including the guardian ad litem, or of the court. In every

1 case where a nonattorney is appointed as a guardian ad litem, an attorney shall be
2 appointed in the case in order to assure protection of the juvenile's legal rights ~~through the~~
3 ~~dispositional phase of the proceedings, and after disposition when necessary to further the best~~
4 ~~interests of the juvenile. throughout the proceeding.~~ The duties of the guardian ad litem
5 program shall be to make an investigation to determine the facts, the needs of the
6 juvenile, and the available resources within the family and community to meet those
7 needs; to facilitate, when appropriate, the settlement of disputed issues; to offer evidence
8 and examine witnesses at adjudication; to explore options with the court at the
9 dispositional ~~hearing; hearing;~~ to conduct follow-up investigations to insure that the
10 orders of the court are being properly executed; to report to the court when the needs of
11 the juvenile are not being met; and to protect and promote the best interests of the
12 juvenile until formally relieved of the responsibility by the court.

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

19 (c) ~~The court may grant the~~ The guardian ad litem has the authority to demand
20 obtain any information or reports, whether or not confidential, that may in the guardian
21 ad litem's opinion be relevant to the case. ~~Neither the physician-patient privilege nor the~~
22 ~~husband-wife privilege.~~ No privilege other than the attorney-client privilege may be
23 invoked to prevent the guardian ad litem and the court from obtaining such information.
24 The confidentiality of the information or reports shall be respected by the guardian ad
25 litem, and no disclosure of any information or reports shall be made to anyone except by
26 order of the court or unless otherwise provided by law."

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