

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. [BILL NUMBER]

Office of guardian ad litem.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to the administration of government;
2 creating the office of the 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; re-appropriating 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

1

ARTICLE 31

2

OFFICE OF GUARDIAN AD LITEM

3

4

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

5

6

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

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9

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

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

21

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

3

4 (iii) Be compensated as determined by the
5 Wyoming personnel division;

6

7 (iv) Devote full time to the performance of his
8 duties;

9

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

12

13 (c) The director shall not engage in private practice
14 except to complete business pending at the time of his
15 appointment.

16

17 **Section 2.** W.S. 9-2-1704(d) by creating a new
18 paragraph (xvii), 14-12-101(a)(intro) and (c)(intro),
19 14-12-103(a), (c) and (d) are amended to read:

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21 **9-2-1704. Reorganization plan; structure; time frame.**

22

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

10

11 (xvii) Office of guardian ad litem.

12

13 **14-12-101. Office of guardian ad litem; guardian ad**
14 **litem program; rulemaking; reporting.**

15

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

21

1 (c) The office shall adopt policies and rules and
2 regulations governing standards for the legal
3 representation by attorneys acting as guardians ad litem in
4 cases under the program and for the training of those
5 attorneys. ~~The policies and rules shall ensure that the~~
6 ~~program will be separate and distinct from the office's~~
7 ~~performance of duties involving criminal defense and~~
8 ~~representation of a juvenile other than as a guardian ad~~
9 ~~litem in delinquency proceedings. To the maximum extent~~
10 ~~possible, the policies and rules shall ensure all fiscal~~
11 ~~and information technology duties for the program are kept~~
12 ~~separate from the fiscal and information technology duties~~
13 ~~for the office of the public defender.~~ Any attorney
14 providing services to the program as a guardian ad litem
15 shall meet the standards established by the office for the
16 program.

17

18 **14-12-103. County participation; reimbursement;**
19 **offices and equipment.**

20

21 (a) The office of the ~~state public defender~~ guardian
22 ad litem shall enter into agreements with each county

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

16

17 (c) There is created a guardian ad litem account.
18 All reimbursements received under the program shall be
19 deposited to the account. Funds within the account are
20 continuously appropriated to the ~~public defender's~~ office
21 of the guardian ad litem for expenditure for the sole
22 purpose of the guardian ad litem program.

1

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

17

18 **Section 3.** W.S. 7-6-103(c)(viii), 7-6-106(d)(iii), 7-
 19 6-112(a)(v), 7-6-113(d) and 14-12-101(b) are repealed.

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21 *****

22 **STAFF COMMENT**

23 The repealed paragraphs and subsections are reproduced here
 24 for the committee's convenience:

25

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:

6
7 ~~(viii) Administer the guardian ad litem program~~
8 ~~as provided in W.S. 14-12-101 through 14-12-104.~~

9
10 7-6-106. Determination of need; reimbursement for
11 services.

12
13 (d) The state public defender shall report in the
14 agency's annual report concerning:

15
16 ~~(iii) For the guardian ad litem program, the~~
17 ~~number of cases, the amount of monies expended and the~~
18 ~~amounts of reimbursements from participating counties.~~

19
20 7-6-112. Applicability of provisions.

21
22 (a) This act does not apply to:

23
24 ~~(v) Administration of the guardian ad litem~~
25 ~~program under W.S. 14-12-101 through 14-12-104, except as~~
26 ~~provided in W.S. 7-6-103(c)(viii) and 7-6-106(d)(iii).~~

27
28 7-6-113. Funding.

29
30 ~~(d) The provisions of this section shall not be~~
31 ~~applicable to the guardian ad litem program administered by~~
32 ~~the office of the public defender and the budget for that~~
33 ~~program shall be as provided in W.S. 14-12-101 through 14-~~
34 ~~12-104.~~

35
36 14-12-101. Office of guardian ad litem; guardian ad
37 litem program; rulemaking; reporting.

38
39 ~~(b) The program shall be administered by an~~
40 ~~administrator appointed by the state public defender~~
41 ~~governor. The administrator shall be an attorney in good~~
42 ~~standing with the Wyoming state bar with experience in~~
43 ~~guardian ad litem representation, child welfare and~~
44 ~~juvenile justice.~~

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Section 4.

(a) On the effective date of this act:

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

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

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

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

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6 **Section 5.** All unexpended, unobligated funds
7 appropriated on or before July 1, 2020 for the guardian ad
8 litem program to the office of the state public defender
9 are hereby reappropriated to the office of the guardian ad
10 litem on July 1, 2020.

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12 *****
13 *****

14 **STAFF COMMENT**

15 The appropriation for the guardian ad litem program for
16 2021-2022 biennium will be housed under the public
17 defender's budget, since the office of guardian ad litem
18 does not yet exist. If the committee sponsors this bill, a
19 footnote should be included in the 2020 budget bill under
20 Section 008, Office of the Public Defender to the effect:

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22 If 2020 House Bill XX (20LSO-99) is enacted into
23 law, this total appropriation for the guardian ad
24 litem program shall be transferred to the office
25 of guardian ad litem.

26 *****
27 *****

28

29 **Section 6.** Any rules or regulations pertaining to
30 guardian ad litem program attorneys promulgated by the

1 office of the state public defender under W.S. 14-12-101(c)
2 shall remain in effect until such time that the office of
3 the guardian ad litem promulgates rules.

4

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

6

7

(END)