

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

H

3

HOUSE BILL 230
Committee Substitute Favorable 4/6/93
Senate Judiciary I Committee Substitute Adopted 7/22/93

Short Title: Juv. Pet./Guardian ad Litem.

(Public)

Sponsors:

Referred to:

February 22, 1993

A BILL TO BE ENTITLED

AN ACT RECOMMENDED BY THE JUVENILE LAW STUDY COMMISSION TO ENSURE THE GUARDIAN AD LITEM'S STANDING TO REPRESENT THE JUVENILE AND TO MAKE OTHER CHANGES RELATED TO PROCEEDINGS UNDER THE JUVENILE CODE INVOLVING GUARDIANS AD LITEM.

The General Assembly of North Carolina enacts:

Sec. 1. G.S. 7A-586 reads as rewritten:

"§ 7A-586. Appointment and duties of guardian ad litem.

(a) When in a petition a juvenile is alleged to be abused or neglected, the judge shall appoint a guardian **ad litem** to represent the juvenile. When a juvenile is alleged to be dependent, the judge may appoint a guardian **ad litem** to represent the juvenile. The guardian **ad litem** and attorney advocate have standing to represent the juvenile in all actions under this Subchapter where they have been appointed. The appointment shall be made pursuant to the program established by Article 39 of this Chapter unless representation is otherwise provided pursuant to G.S. 7A-491 or G.S. 7A-492. In every case where a nonattorney is appointed as a guardian **ad litem**, an attorney shall be appointed in the case in order to assure protection of the child's legal rights within the proceeding. The duties of the guardian **ad litem** shall be to make an investigation to determine the facts, the needs of the juvenile, and the available resources within the family and community to meet those needs; to facilitate, when appropriate, the settlement of disputed issues; to offer evidence and examine witnesses at adjudication; to explore options with the judge at the dispositional hearing; and to protect and

1 promote the best interest of the juvenile until formally relieved of the responsibility by
2 the judge.

3 (b) The judge may order the Department of Social Services or the guardian **ad**
4 **litem** to conduct follow-up investigations to insure that the orders of the court are being
5 properly executed and to report to the court when the needs of the juvenile are not being
6 met. The judge may also authorize the guardian **ad litem** to accompany the juvenile to
7 court in any criminal action wherein he may be called on to testify in a matter relating to
8 abuse.

9 (c) The judge may grant the guardian **ad litem** the authority to demand any
10 information or reports whether or not confidential, that may in the guardian **ad litem's**
11 opinion be relevant to the case. Neither the physician-patient privilege nor the husband-
12 wife privilege may be invoked to prevent the guardian **ad litem** and the court from
13 obtaining such information. The confidentiality of the information or reports shall be
14 respected by the guardian **ad litem** and no disclosure of any information or reports shall
15 be made to anyone except by order of the judge."

16 Sec. 2. G.S. 7A-659(f) reads as rewritten:

17 "(f) The process of selection of specific adoptive parents shall be the
18 responsibility of and within the discretion of the county department of social services or
19 licensed child-placing agency. The guardian ad litem may request information from and
20 consult with the county department or child-placing agency concerning the selection
21 process. If the guardian **ad litem** requests information about the selection process, the
22 county shall provide the information within five days. Any issue of abuse of discretion
23 by the county department or child-placing agency in the selection process must be
24 raised by the guardian ad litem within 10 days following the date the agency notifies the
25 court and the guardian ad litem in writing of the filing of the adoption petition."

26 Sec. 3. G.S. 7A-661 reads as rewritten:

27 "**§ 7A-661. Review of voluntary foster care placements.**

28 (a) The court shall review the placement of any juvenile in foster care made
29 pursuant to a voluntary agreement between the juvenile's parents or guardian and a
30 county department of social services and shall make findings from evidence presented at
31 a review hearing with regard to:

32 (1) The voluntariness of the placement;

33 (2) The appropriateness of the placement;

34 (3) Whether the placement is in the best interests of the juvenile; and

35 (4) The services that have been or should be provided to the parents, guardian,
36 foster parents, and juvenile, as the case may be, either (i) to improve the placement or
37 (ii) to eliminate the need for the placement.

38 (b) The court may approve the continued placement of the juvenile in foster care
39 on a voluntary agreement basis, disapprove the continuation of the voluntary placement,
40 or direct the department of social services to petition the court for legal custody if the
41 placement is to continue.

42 (c) An initial review hearing shall be held not more than 180 days after the
43 juvenile's placement and shall be calendared by the clerk for hearing within such period
44 upon timely request by the director of social services. Additional review hearings shall

1 be held at such times as the court shall deem appropriate and shall direct, either upon its
2 own motion or upon written request of the parents, guardian, foster parents or director
3 of social services. A child placed under a voluntary agreement between the juvenile's
4 parent or guardian and the county department of social services shall not remain in
5 placement more than 12 months without the filing of a petition alleging abuse,
6 neglect, or dependency.

7 (d) The clerk shall give at least 15 days advance written notice of the initial and
8 subsequent review hearings to the parents or guardian of the juvenile, to the juvenile if
9 12 or more years of age, to the director of social services, and to any other persons
10 whom the court may specify."

11 Sec. 4. G.S. 7A-660(b) reads as rewritten:

12 "(b) In any case where an adoption is dismissed or withdrawn and the child
13 returns to foster care with a department of social services or a licensed private child-
14 placing agency, then the department of social services or licensed child-placing agency
15 shall notify the clerk within ~~six months~~ 30 days from the date the child returns to care to
16 calendar the case for review of the agency's plan for the child at a session of court
17 scheduled for the hearing of juvenile matters."

18 Sec. 5. This act becomes effective January 1, 1994, and applies to petitions
19 filed and requests for information made on or after that date.