

SENATE BILL 126

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

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AN ACT

RELATING TO CHILDREN; AMENDING THE CHILDREN'S CODE; PROVIDING THAT A GUARDIAN AD LITEM SHALL NOT SERVE AS GUARDIAN AD LITEM FOR MORE THAN TWENTY CHILDREN AT THE SAME TIME; MAKING CONFORMING AMENDMENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 32A-1-7 NMSA 1978 (being Laws 1993, Chapter 77, Section 16, as amended) is amended to read:

"32A-1-7. GUARDIAN AD LITEM--POWERS AND DUTIES.--

A. A guardian ad litem shall zealously represent ~~[the]~~ a child's best interests in ~~[the]~~ a proceeding for which the guardian ad litem has been appointed and in any subsequent appeals.

B. Unless excused by a court, a guardian ad litem appointed to represent a child's best interests shall continue

1 the representation in any subsequent appeals.

2 C. Any party may petition the court for an order to
3 remove a guardian ad litem on the grounds that the guardian ad
4 litem has a conflict of interest or is unwilling or unable to
5 zealously represent ~~[the]~~ a child's best interests.

6 D. After consultation with the child a guardian ad
7 litem represents, the guardian ad litem shall convey the
8 child's declared position to the court at every hearing.

9 E. Unless a child's circumstances render the
10 following duties and responsibilities unreasonable, a guardian
11 ad litem shall:

12 (1) meet with and interview the child prior to
13 custody hearings, adjudicatory hearings, dispositional
14 hearings, judicial reviews and any other hearings scheduled in
15 accordance with the provisions of the Children's Code;

16 (2) communicate with health care, mental
17 health care and other professionals involved with the child's
18 case;

19 (3) review medical and psychological reports
20 relating to the child and the respondents;

21 (4) contact the child prior to any proposed
22 change in the child's placement;

23 (5) contact the child after changes in the
24 child's placement;

25 (6) attend local substitute care review board

.233120.1

1 hearings concerning the child and if unable to attend the
2 hearings, forward to the board a letter setting forth the
3 child's status during the period since the last local
4 substitute care review board review and include an assessment
5 of the department's permanency and treatment plans;

6 (7) report to the court on the child's
7 adjustment to placement, the department's and respondent's
8 compliance with prior court orders and treatment plans and the
9 child's degree of participation during visitations; and

10 (8) represent and protect the cultural needs
11 of the child.

12 F. A guardian ad litem may retain separate counsel
13 to represent ~~[the]~~ a child in a tort action on a contingency
14 fee basis or any other cause of action in proceedings that are
15 outside the jurisdiction of the children's court. When a
16 guardian ad litem retains separate counsel to represent ~~[the]~~ a
17 child, the guardian ad litem shall provide the court with
18 written notice within ten days of retaining the separate
19 counsel. A guardian ad litem shall not retain or subsequently
20 obtain any pecuniary interest in an action filed on behalf of
21 ~~[the]~~ a child outside of the jurisdiction of the children's
22 court.

23 G. ~~[In the event of]~~ If there is a change of venue
24 in a case, the originating guardian ad litem shall remain on
25 the case until a new guardian ad litem is appointed by the

1 court in the new venue and the new guardian ad litem has
2 communicated with and received all pertinent information from
3 the ~~[former]~~ originating guardian ad litem.

4 H. A guardian ad litem shall receive notices,
5 pleadings or other documents required to be provided to or
6 served upon a party. A guardian ad litem may file motions and
7 other pleadings and take other actions consistent with the
8 guardian ad litem's powers and duties.

9 I. A guardian ad litem shall not serve concurrently
10 as both ~~[the]~~ a child's delinquency attorney and guardian ad
11 litem and shall not serve as guardian ad litem for more than
12 twenty children at the same time."