

FIRST REGULAR SESSION

HOUSE BILL NO. 121

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BARNES.

0826H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 210.160 and 455.513, RSMo, and to enact in lieu thereof two new sections relating to the appointment of guardians ad litem.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 210.160 and 455.513, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 210.160 and 455.513, to read as follows:

210.160. 1. In every case involving an abused or neglected child which results in a judicial proceeding, the judge shall appoint a guardian ad litem to appear for and represent:

(1) A child who is the subject of proceedings pursuant to sections 210.110 to 210.165, **except for proceedings under subsection 5 of section 210.152 where the appointment of a guardian ad litem shall be discretionary with the court**, sections 210.700 to 210.760, sections 211.442 to 211.487, or sections 453.005 to 453.170, or proceedings to determine custody or visitation rights under sections 452.375 to 452.410; or

(2) A parent who is a minor, or who is a mentally ill person or otherwise incompetent, and whose child is the subject of proceedings under sections 210.110 to 210.165, sections 210.700 to 210.760, sections 211.442 to 211.487, or sections 453.005 to 453.170.

2. The guardian ad litem shall be provided with all reports relevant to the case made to or by any agency or person, shall have access to all records of such agencies or persons relating to the child or such child's family members or placements of the child, and upon appointment by the court to a case, shall be informed of and have the right to attend any and all family support team meetings involving the child. Employees of the division, officers of the court, and employees of any agency involved shall fully inform the guardian ad litem of all aspects of the case of which they have knowledge or belief.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 3. The appointing judge shall require the guardian ad litem to faithfully discharge such
19 guardian ad litem's duties, and upon failure to do so shall discharge such guardian ad litem and
20 appoint another. The appointing judge shall have the authority to examine the general and
21 criminal background of persons appointed as guardians ad litem, including utilization of the
22 family care safety registry and access line pursuant to sections 210.900 to 210.937, to ensure the
23 safety and welfare of the children such persons are appointed to represent. The judge in making
24 appointments pursuant to this section shall give preference to persons who served as guardian
25 ad litem for the child in the earlier proceeding, unless there is a reason on the record for not
26 giving such preference.

27 4. The guardian ad litem may be awarded a reasonable fee for such services to be set by
28 the court. The court, in its discretion, may award such fees as a judgment to be paid by any party
29 to the proceedings or from public funds. However, no fees as a judgment shall be taxed against
30 a party or parties who have not been found to have abused or neglected a child or children. Such
31 an award of guardian fees shall constitute a final judgment in favor of the guardian ad litem.
32 Such final judgment shall be enforceable against the parties in accordance with chapter 513.

33 5. The court may designate volunteer advocates, who may or may not be attorneys
34 licensed to practice law, to assist in the performance of the guardian ad litem duties for the court.
35 Nonattorney volunteer advocates shall not provide legal representation. The court shall have the
36 authority to examine the general and criminal background of persons designated as volunteer
37 advocates, including utilization of the family care safety registry and access line pursuant to
38 sections 210.900 to 210.937, to ensure the safety and welfare of the children such persons are
39 designated to represent. The volunteer advocate shall be provided with all reports relevant to the
40 case made to or by any agency or person, shall have access to all records of such agencies or
41 persons relating to the child or such child's family members or placements of the child, and upon
42 designation by the court to a case, shall be informed of and have the right to attend any and all
43 family support team meetings involving the child. Any such designated person shall receive no
44 compensation from public funds. This shall not preclude reimbursement for reasonable
45 expenses.

46 6. Any person appointed to perform guardian ad litem duties shall have completed a
47 training program in permanency planning and shall advocate for timely court hearings whenever
48 possible to attain permanency for a child as expeditiously as possible to reduce the effects that
49 prolonged foster care may have on a child. A nonattorney volunteer advocate shall have access
50 to a court appointed attorney guardian ad litem should the circumstances of the particular case
51 so require.

 455.513. 1. Upon the filing of a verified petition under sections 455.500 to 455.538, for
2 good cause shown in the petition, and upon finding that no prior order regarding custody is

3 pending or has been made or that the respondent is less than seventeen years of age, the court
4 may immediately issue an ex parte order of protection. An immediate and present danger of
5 abuse to a child shall constitute good cause for purposes of this section. An ex parte order of
6 protection entered by the court shall be in effect until the time of the hearing.

7 2. Upon the entry of the ex parte order of protection, the court shall enter its order
8 appointing a guardian ad litem or court-appointed special advocate to represent the child victim,
9 **except that when the allegation is stalking, the appointment of a guardian ad litem or**
10 **court-appointed special advocate shall be discretionary with the court.**

11 3. If the allegations in the petition would give rise to jurisdiction under section 211.031,
12 the court may direct the children's division to conduct an investigation and to provide appropriate
13 services. The division shall submit a written investigative report to the court and to the juvenile
14 officer within thirty days of being ordered to do so. The report shall be made available to the
15 parties and the guardian ad litem or court-appointed special advocate.

16 4. If an ex parte order is entered and the allegations in the petition would give rise to
17 jurisdiction under section 211.031 because the respondent is less than seventeen years of age, the
18 court shall transfer the case to juvenile court for a hearing on a full order of protection. Service
19 of process shall be made pursuant to section 455.035.

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