

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1315
101ST GENERAL ASSEMBLY

1855H.02C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 452.423, RSMo, and to enact in lieu thereof one new section relating to guardians ad litem.

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

Section A. Section 452.423, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 452.423, to read as follows:

452.423. 1. In all proceedings for child custody or for dissolution of marriage or legal separation where custody, visitation, or support of a child is a contested issue, the court may appoint a guardian ad litem. **Such appointment may be for a limited purpose when made on its own motion, the motion of a party, or by agreement of the parties. Such limited purpose shall be specified in the court's appointment order.** Disqualification of a guardian ad litem shall be ordered in any legal proceeding only pursuant to this chapter, upon the filing of a written application by any party within ten days of appointment~~], or within ten days of August 28, 1998, if the appointment occurs prior to August 28, 1998].~~ Each party shall be entitled to one disqualification of a guardian ad litem appointed under this subsection in each proceeding, except a party may be entitled to additional disqualifications of a guardian ad litem for good cause shown.

2. The court shall appoint a guardian ad litem in any proceeding in which child abuse or neglect is alleged. **Such allegations shall be made by a party under oath with specificity.**

3. The guardian ad litem shall:

(1) Be the legal representative of the child at the hearing, and may examine, cross-examine, subpoena witnesses and offer testimony;

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.

17 (2) Prior to the hearing, conduct all necessary interviews with persons having contact
18 with or knowledge of the child in order to ascertain the child's wishes, feelings, attachments and
19 attitudes. If appropriate, the child should be interviewed;

20 (3) Request the juvenile officer to cause a petition to be filed in the juvenile division of
21 the circuit court if the guardian ad litem believes the child alleged to be abused or neglected is
22 in danger.

23 4. The appointing judge shall require the guardian ad litem **to provide the parents of**
24 **a child with a copy of the Missouri supreme court standards governing guardians ad litem**
25 **and** to faithfully discharge such guardian ad litem's duties, and upon failure to do so shall
26 discharge such guardian ad litem and appoint another. The judge in making appointments
27 pursuant to this section shall give preference to persons who served as guardian ad litem for the
28 child in the earlier proceeding, unless there is a reason on the record for not giving such
29 preference.

30 5. The guardian ad litem shall be awarded a reasonable fee for such services to be set by
31 the court. The court, in its discretion, may:

32 (1) Issue a direct payment order to the parties. If a party fails to comply with the court's
33 direct payment order, the court may find such party to be in contempt of court; or

34 (2) Award such fees as a judgment to be paid by any party to the proceedings or from
35 public funds. Such an award of guardian fees shall constitute a final judgment in favor of the
36 guardian ad litem. Such final judgment shall be enforceable against the parties in accordance
37 with chapter 513.

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