

HCS HB 1315 -- GUARDIANS AD LITEM

SPONSOR: Hicks

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Judiciary by a vote of 12 to 0.

The following is a summary of the House Committee Substitute for HB 1315.

This bill establishes requirements for guardians ad litem (GAL). The bill specifies that appointments for GALs may be for a limited purpose when made on the court's own motion, on motion of a party, or by agreement of the parties. The limited purpose must be specified in the court's appointment order. When a GAL is appointed in a proceeding where there is an allegation of child abuse or neglect, the allegations must be made by a party under oath and with specificity. Lastly, the appointed GAL must provide the parents of the child with a copy of the Missouri Supreme Court standards governing GALs.

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

PROPOSERS: Supporters say that this has been filed for a few years now, so it's nothing new. There was news out of St. Louis that GALs are making money off people and taking advantage of parents, and children pay the price. Not trying to get rid of GALs, to attack judges, or to attack lawyers, but we do need to reform this. The point of this was to start a collaborative process to address what is obviously a problem. The two main purposes are to make GAL laws consistent across all areas of law where GALs can be appointed. For example, in some areas they are considered a party to the lawsuit but in others they are not. The second is to codify the current Supreme Court standards for GALs. This way, the legislature would have oversight over these issues. There are also procedural safeguards. Publicity in St. Louis validated why these procedural safeguards are needed. When GALs don't meet with the kids, going to the court to complain could take 3-4 months. There is a threat of retaliation that the GAL is going to retaliate against the parent. There is a lack of due process and rules of evidence that allow certain cases to turn into disasters. One man testified that if he filed a complaint against the GAL, the GAL would file a negative report. He lost everything to prove that he was a fit parent. The worst is that the kids are going to suffer the worst because all the opportunities you work hard to provide for your kids are all gone after you're finished fighting the GAL. There is nothing in law that requires any

discovery for billing to a GAL. So they can bill whatever they want. A majority of the time, judges just accept the recommendations of the GAL.

Testifying for the bill were Representative Hicks; Edward Harlow; Matt Bledsoe; Linda Reutzler; Scott Smith; and Jeff Miller, Americans for Equal Shared Parenting.

OPPONENTS: Those who oppose the bill say that the bill presumes that the role of a GAL in all sorts of cases is the same. But that is not the case. Sometimes the GAL can't talk to a parent because the parent's attorney won't let him or her, so you can't fulfill your obligation even if you want to. There is a simple way to make sure that there are clear expectations for the GAL by getting input at the outset from both parties' attorneys. That way everyone knows what the GAL is meant to accomplish. The bill actually takes away due process from the parents if the bill requires a report to be filed after the case versus now when the attorney can cross examine the GAL about his or her findings. There are hundreds of cases where the GALs are not getting paid anything because the parents are not paying, and they are doing everything they are supposed to do while still meeting the obligations of the firms for which they actually work.

Testifying against the bill were Beth Lewandowski; Cary J. Mogeran; Crystal Lynn Blacketer; David Betz, The Betz Law Firm; Missouri Circuit Judges' Association; Sarah Pleban, Sarah S Pleban Attorney At Law; Simone Haberstock; Susan Jensen; Alisse Camazine; Arnie C. Dienoff; and Carla Holste.

Written testimony has been submitted for this bill. The full written testimony can be found under Testimony on the bill page on the House website.