

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE BILL NO. 1624

By: Vaughn

AS INTRODUCED

An Act relating to marriage and family; providing for appointment of a guardian ad litem for a minor child in certain court proceedings; specifying powers, duties and responsibilities; providing for appointment on a fee or voluntary basis; providing for costs, fees and disbursements; providing for immunity; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 112.1 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. Upon motion of either party or upon motion of the court, the court may appoint, on behalf of a child, a guardian ad litem to advise the court on the best interests of the child with respect to custody, support, visitation, preference of the child and such other matters as directed by the court. The guardian ad litem may be an attorney or may be some other disinterested third party the court may designate, but in either event the guardian ad litem shall be appointed to objectively advocate on behalf of the child and act as

an officer of the court to investigate all matters concerning the best interests of the child. The court shall determine:

1. The degree of participation of the guardian ad litem in the trial regarding the issues before the court; and

2. The matters which the court may wish to have investigated.

B. In addition to other duties required by the court and as specified by the court, a guardian ad litem shall have the following responsibilities:

1. Conduct an independent investigation to determine the facts relevant to the situation of the child and the family, which must include, unless specifically excluded by the court, reviewing relevant documents; meeting with and observing the child in the home setting and considering the child's wishes, as appropriate; and interviewing parents, caregivers, and others with knowledge relevant to the case;

2. Advocate for the child's best interests by participating in appropriate aspects of the case and advocating for appropriate community services when necessary;

3. Maintain the confidentiality of information related to a case, with the exception of sharing information as permitted by law to promote cooperative solutions that are in the best interests of the child;

4. Monitor the child's best interests throughout the judicial proceeding; and

5. Present written reports on the child's best interests that include conclusions and recommendations and the facts upon which they are based.

C. A guardian ad litem appointed pursuant to this section may be appointed either as a volunteer or on a fee basis. If a guardian ad litem is appointed on a fee basis, the court shall enter an order for costs, fees, and disbursements in favor of the child's guardian

ad litem. The order may be made against either or both parties as deemed fair and equitable by the court.

D. As a specifically appointed officer of the court and as an agent of the court, the guardian ad litem shall be entitled to governmental and judicial immunity in the discharge of the guardian ad litem's duties as outlined by the court.

SECTION 2. This act shall become effective November 1, 1997.

46-1-6182

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