

SECOND REGULAR SESSION

HOUSE BILL NO. 1233

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES DAVIS (Sponsor) AND NANCE (Co-sponsor).

3498L.01I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 210.160, RSMo, and to enact in lieu thereof two new sections relating to children and minors who are the subject of certain administrative and judicial proceedings.

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

Section A. Section 210.160, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 210.160 and 452.005, to read as follows:

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

(1) A child **twelve years of age or younger** who is the subject of proceedings pursuant to sections 210.110 to 210.165, sections 210.700 to 210.760, sections 211.442 to 211.487, RSMo, or sections 453.005 to 453.170, RSMo, or proceedings to determine custody or visitation rights under sections 452.375 to 452.410, RSMo; 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, RSMo, or sections 453.005 to 453.170, RSMo.

2. **The court may appoint a guardian ad litem to appear for and represent a child thirteen years of age or older who 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 or proceedings to determine custody or visitation rights under sections 452.375 to 452.410 only if the court determines and makes specific findings on the record regarding the necessity for such representation by a guardian ad litem.**

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

24 [3.] **4.** The appointing judge shall require the guardian ad litem to faithfully discharge
25 such guardian ad litem's duties, and upon failure to do so shall discharge such guardian ad litem
26 and appoint another. The appointing judge shall have the authority to examine the general and
27 criminal background of persons appointed as guardians ad litem, including utilization of the
28 family care safety registry and access line pursuant to sections 210.900 to 210.937, to ensure the
29 safety and welfare of the children such persons are appointed to represent. The judge in making
30 appointments pursuant to this section shall give preference to persons who served as guardian
31 ad litem for the child in the earlier proceeding, unless there is a reason on the record for not
32 giving such preference.

33 [4.] **5.** The guardian ad litem may be awarded a reasonable fee for such services to be
34 set by the court. The court, in its discretion, may award such fees as a judgment to be paid by
35 any party to the proceedings or from public funds. However, no fees as a judgment shall be
36 taxed against a party or parties who have not been found to have abused or neglected a child or
37 children. Such an award of guardian fees shall constitute a final judgment in favor of the
38 guardian ad litem. Such final judgment shall be enforceable against the parties in accordance
39 with chapter 513, RSMo.

40 [5.] **6.** The court may designate volunteer advocates, who may or may not be attorneys
41 licensed to practice law, to assist in the performance of the guardian ad litem duties for the court;
42 **except that, the court shall not designate volunteer advocates unless the court determines**
43 **and makes specific findings on the record regarding a necessity for the designation of a**
44 **volunteer advocate.** Nonattorney volunteer advocates shall not provide legal representation.
45 The court shall have the authority to examine the general and criminal background of persons
46 designated as volunteer advocates, including utilization of the family care safety registry and
47 access line pursuant to sections 210.900 to 210.937, to ensure the safety and welfare of the
48 children such persons are designated to represent. The volunteer advocate shall be provided with
49 all reports relevant to the case made to or by any agency or person, shall have access to all
50 records of such agencies or persons relating to the child or such child's family members or
51 placements of the child, and upon designation by the court to a case, shall be informed of and
52 have the right to attend any and all family support team meetings involving the child. Any such

53 designated person shall receive no compensation from public funds. This shall not preclude
54 reimbursement for reasonable expenses.

55 [6.] 7. Any person appointed to perform guardian ad litem duties shall have completed
56 a training program in permanency planning and shall advocate for timely court hearings
57 whenever possible to attain permanency for a child as expeditiously as possible to reduce the
58 effects that prolonged foster care may have on a child. A nonattorney volunteer advocate shall
59 have access to a court appointed attorney guardian ad litem should the circumstances of the
60 particular case so require.

**452.005. In any administrative or judicial proceeding under this chapter or chapter
2 210, 211, or 453 involving a child, the best interest of the child standard shall include, but
3 not be limited to, a rebuttable presumption that the care, custody, and control of the child
4 shall be awarded to the parents of the child or through kinship care, in that order of
5 preference. If such care, custody, and control of the child is not awarded to a parent or
6 parents of the child or through kinship care, the court shall make specific findings on the
7 record detailing the reasons for denying the care, custody, and control of the child to such
8 parent or parents or through kinship care.**

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