

FIRST REGULAR SESSION

HOUSE BILL NO. 841

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE LEWIS (25).

0503H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 210.160 and 455.504, RSMo, and to enact in lieu thereof two new sections relating to guardian ad litem fees.

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

Section A. Sections 210.160 and 455.504, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 210.160 and 455.504, to read as follows:

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

3 (1) A child who is the subject of proceedings pursuant to sections 210.110 to 210.165
4 except proceedings under subsection 6 of section 210.152, sections 210.700 to 210.760,
5 sections 211.442 to 211.487, or sections 453.005 to 453.170, or proceedings to determine
6 custody or visitation rights under sections 452.375 to 452.410; or

7 (2) A parent who is a minor, or who is a mentally ill person or otherwise incompetent,
8 and whose child is the subject of proceedings under sections 210.110 to 210.165, sections
9 210.700 to 210.760, sections 211.442 to 211.487, or sections 453.005 to 453.170.

10 2. The judge, either sua sponte or upon motion of a party, may appoint a guardian ad
11 litem to appear for and represent an abused or neglected child involved in proceedings arising
12 under subsection 6 of section 210.152 **or under sections 455.500 to 455.538**.

13 3. The guardian ad litem shall be provided with all reports relevant to the case made
14 to or by any agency or person, shall have access to all records of such agencies or persons
15 relating to the child or such child's family members or placements of the child, and upon
16 appointment by the court to a case, shall be informed of and have the right to attend any and
17 all family support team meetings involving the child. Employees of the division, officers of

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 the court, and employees of any agency involved shall fully inform the guardian ad litem of
19 all aspects of the case of which they have knowledge or belief.

20 4. The appointing judge shall require the guardian ad litem to faithfully discharge
21 such guardian ad litem's duties, and upon failure to do so shall discharge such guardian ad
22 litem and appoint another. The appointing judge shall have the authority to examine the
23 general and criminal background of persons appointed as guardians ad litem, including
24 utilization of the family care safety registry and access line pursuant to sections 210.900 to
25 ~~[210.937]~~ **210.936**, to ensure the safety and welfare of the children such persons are
26 appointed to represent. The judge in making appointments pursuant to this section shall give
27 preference to persons who served as guardian ad litem for the child in the earlier proceeding,
28 unless there is a reason on the record for not giving such preference.

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

36 6. The court may designate volunteer advocates, who may or may not be attorneys
37 licensed to practice law, to assist in the performance of the guardian ad litem duties for the
38 court. Nonattorney volunteer advocates shall not provide legal representation. The court
39 shall have the authority to examine the general and criminal background of persons
40 designated as volunteer advocates, including utilization of the family care safety registry and
41 access line pursuant to sections 210.900 to ~~[210.937]~~ **210.936**, to ensure the safety and
42 welfare of the children such persons are designated to represent. The volunteer advocate shall
43 be provided with all reports relevant to the case made to or by any agency or person, shall
44 have access to all records of such agencies or persons relating to the child or such child's
45 family members or placements of the child, and upon designation by the court to a case, shall
46 be informed of and have the right to attend any and all family support team meetings
47 involving the child. Any such designated person shall receive no compensation from public
48 funds. This shall not preclude reimbursement for reasonable expenses.

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

455.504. 1. The clerk of the court shall make available to the petitioner the uniform forms adopted by the supreme court pursuant to section 455.073. Except as provided in section 455.510, clerks under the supervision of a circuit clerk shall explain to litigants not represented by counsel the procedures for filing all forms and pleadings necessary for the presentation of their petition filed pursuant to the provisions of sections 455.500 to 455.538 to the court. Notice of the fact that clerks will provide such assistance shall be conspicuously posted in the clerks' offices. The location of the office where a petition can be filed shall be conspicuously posted in the court building. The performance of duties prescribed in this section shall not constitute the practice of law as defined in section 484.010. All duties of the clerk prescribed in this section shall be performed without cost to the litigants. The supreme court may promulgate rules as necessary to govern conduct of court clerks under sections 455.500 to 455.538, and shall provide forms for petitions and written instructions on filling out all forms and pleadings necessary for the presentation of the petition to the court.

2. (1) No filing fees, court costs, or bond shall be assessed to the petitioner in an action commenced under sections 455.500 to 455.538.

(2) **A guardian ad litem who has been appointed may be awarded a reasonable fee for such services to be set by the court. The court, in its discretion, may award such fee as a judgment to be paid by any party to the proceeding or from public funds. Such an award of guardian fees shall constitute a final judgment in favor of the guardian ad litem. Such final judgment shall be enforceable against the parties in accordance with chapter 513. However, no fees as a judgment shall be taxed against a party or parties who have not been found to have committed an offense involving domestic violence, stalking, or sexual assault for which the order of protection was entered by the court under sections 455.500 to 455.538.**

3. The clerk shall immediately notify the guardian ad litem or court-appointed special advocate of appointment and shall provide such guardian or advocate with a copy of the petition for the order of protection for the child. The clerk shall provide such guardian or advocate with the names, addresses, and telephone numbers of the parties within twenty-four hours of entry of the order appointing the guardian ad litem or court-appointed special advocate.

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