

SECOND REGULAR SESSION

HOUSE BILL NO. 2774

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE RILEY.

4509H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 210, RSMo, by adding thereto six new sections relating to guardians ad litem.

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

Section A. Chapter 210, RSMo, is amended by adding thereto six new sections, to be known as sections 210.1400, 210.1403, 210.1406, 210.1409, 210.1412, and 210.1415, to read as follows:

210.1400. 1. The "Office of Guardian Ad Litem" is hereby created and established for the purpose of implementing a pilot program to provide guardians ad litem to appear for and represent children in cases relating to child abuse or neglect. Guardians ad litem provided under the provisions of sections 210.1400 to 210.1415 shall abide by standards of representation and case load limits as determined by the office and shall be funded jointly out of the guardian ad litem fund established under section 210.1409 and by counties that elect to participate in the pilot program.

2. The governor shall appoint a director of the office of guardian ad litem as head of the office. He or she shall qualify and be sworn into office by a judge of the supreme court. He or she shall be an attorney with substantial experience in child abuse or neglect cases. He or she shall have experience in administration of personnel and shall be dedicated to the goal of providing quality legal representation for abused or neglected children.

3. The director shall be devoted full time to the duties of his or her office and shall not otherwise engage in the practice of law. His or her term of office shall be four years and until the appointment and qualification of a successor. His or her term may

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 be renewable at the discretion of the governor. He or she may be removed by the
18 governor during his or her term in office for good cause shown, after notice and hearing.

19 4. The salary of the director shall be set by the governor.

20 210.1403. 1. The office of guardian ad litem shall administer a guardian ad litem
2 program. The program shall employ or contract with, supervise, and manage attorneys
3 providing legal representation as guardians ad litem in the following cases and actions:

4 (1) Child protection cases under this chapter;

5 (2) Children in need of supervision cases under this chapter to the extent an
6 attorney has been appointed to serve only as a guardian ad litem; and

7 (3) Termination of parental rights actions brought as a result of a child
8 protection or child in need of supervision action.

9 2. (1) The office shall adopt policies, rules, and regulations governing standards
10 for the legal representation by attorneys acting as guardians ad litem in cases under the
11 program and for the training of such attorneys. Any attorney providing services to the
12 program as a guardian ad litem shall meet the standards established by the office for the
13 program. The office shall adopt standards of representation to ensure that guardians ad
14 litem have sufficient time to get to know the child to whom they are appointed and the
15 child's case in order to effectively represent the child's best interest. Case load limits
16 may be imposed in order to ensure enough time is devoted to each case.

17 (2) Any rule or portion of a rule, as that term is defined in section 536.010, that is
18 created under the authority delegated in this section shall become effective only if it
19 complies with and is subject to all of the provisions of chapter 536 and, if applicable,
20 section 536.028. This section and chapter 536 are nonseverable, and if any of the powers
21 vested with the general assembly pursuant to chapter 536 to review, to delay the
22 effective date, or to disapprove and annul a rule are subsequently held unconstitutional,
23 then the grant of rulemaking authority and any rule proposed or adopted after August
24 28, 2022, shall be invalid and void.

25 3. (1) The office shall submit an annual report to the chairs of the house budget
26 committee and the senate committee on appropriations on or before December first of
27 each year of the reimbursement for legal representation of children by attorneys as
28 guardians ad litem in child protection or children in need of supervision cases. The
29 report shall include the number of cases and the amount of funds expended for
30 reimbursements and the amounts of matching moneys from participating counties
31 under section 210.1409 for each of the two immediately preceding fiscal years.

32 (2) Counties not participating in the program shall submit a report to the chairs
33 of the house budget committee and the senate committee on appropriations on or before

34 December first of each year. The report shall contain the same information required to
35 be reported under subdivision (1) of this subsection.

210.1406. 1. In cases specified under subsection 1 of section 210.1403, if the
2 county in which the court is located participates in the program:

3 (1) The court shall appoint the program to provide services when appointing a
4 guardian ad litem; and

5 (2) The court shall assign an attorney participating in the program to act as
6 guardian ad litem in accordance with the court's order.

7 2. An attorney accepting a guardian ad litem assignment under the program
8 shall be employed by or under contract with the program to provide services in
9 accordance with program requirements. The contract shall specify the fees to be paid
10 for the assignment, which may be a defined hourly or per case rate or a defined sum.
11 Fees paid by the program may vary based upon the type and difficulty of the case,
12 location, work required, and experience.

210.1409. 1. The office of guardian ad litem shall enter into agreements with
2 each county participating in the program. Agreements shall require counties to comply
3 with all program rules and policies. The agreement shall establish the compensation
4 rate within the county for attorneys providing legal representation as guardians ad litem
5 in program cases and the reimbursement requirements.

6 2. The program shall pay from the guardian ad litem fund established under
7 subsection 3 of this section one hundred percent of the fees for the legal representation
8 of children by attorneys as guardians ad litem in program cases. Participating counties
9 shall reimburse the program an amount equal to no less than twenty-five percent of the
10 agreed program fees and no less than twenty-five percent of the program's
11 administrative cost prorated by program funds expended in each county. The
12 program shall invoice the county for its proportionate share. In the event a county does
13 not make payments within ninety days, the state treasurer may deduct the amount from
14 sales tax revenues due to the county from the state and shall credit the amount to the
15 program account.

16 3. (1) There is hereby created in the state treasury the "Guardian Ad Litem
17 Fund", which shall consist of moneys appropriated to the fund by the general assembly
18 and any reimbursements received under this section. The state treasurer shall be
19 custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer
20 may approve disbursements. The fund shall be a dedicated fund and, upon
21 appropriation, moneys in the fund shall be used solely for the administration of
22 sections 210.1400 to 210.1415.

23 **(2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys**
24 **remaining in the fund at the end of the biennium shall not revert to the credit of the**
25 **general revenue fund.**

26 **(3) The state treasurer shall invest moneys in the fund in the same manner as**
27 **other funds are invested. Any interest and moneys earned on such investments shall be**
28 **credited to the fund.**

29 **4. Agreements entered into under this section shall include a provision for each**
30 **county in which guardians ad litem employed by or under contract with the program**
31 **are located to provide adequate space and utility services for the use of the program's**
32 **guardians ad litem. If suitable office space for all guardians ad litem cannot be**
33 **provided, the county shall provide, based upon a proportional share, a monthly stipend**
34 **to all program guardians ad litem housed in private facilities. The proportional share**
35 **shall be determined by the program, based upon the counties served by each guardian**
36 **ad litem not provided suitable office space. The stipend shall be paid directly by the**
37 **county to the program guardian ad litem.**

38 **5. A county that does not participate in the program shall be responsible for the**
39 **full cost of guardians ad litem's legal fees.**

210.1412. Notwithstanding any other provision of law, any attorney providing
2 **services for the office under the guardian ad litem program shall, for matters arising out**
3 **of such services, be considered a state employee.**

210.1415. Each guardian ad litem appointed under sections 210.1400 to 210.1415
2 **shall conduct himself or herself as provided under sections 210.160 and 211.462.**

✓