

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2990

FISCAL
NOTE

By Delegate Foster

[Introduced January 24, 2023; Referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §48-9-302 of the Code of West Virginia, 1931, as amended, relating
 2 to ensure that persons appointed as guardians ad litem in divorce and child custody and
 3 parenting cases are properly trained in certified courses of instruction with curricula
 4 grounded in the social science bases for determining the best interests of the child with
 5 regard to custodial responsibility, decision-making responsibility, and parenting time.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 9. ALLOCATION OF CUSTODIAL RESPONSIBILITY AND DECISION-
 MAKING RESPONSIBILITY OF CHILDREN.**

§48-9-302. Appointment of guardian.

1 (a) In its discretion, the court may appoint a guardian ad litem to represent the child’s best
 2 interests. The court shall specify the terms of the appointment, including the guardian's role, duties
 3 and scope of authority.

4 (b) In all cases involving allocation of custodial responsibility, decision-making
 5 responsibility, and parenting time where the court appoints a guardian ad litem to represent the
 6 child’s best interests, such guardian ad litem, prior to appointment by the court, must:

7 (1) Have completed a course of instruction with curricula grounded in the social science
 8 bases for determining the best interests of the child approved by the National Parenting
 9 Organization; and

10 (2) Be certified by examination of the National Parenting Organization for competence and
 11 understanding of the social science bases for determining the best interests of the child in cases
 12 involving allocation of custodial responsibility, decision-making responsibility, and parenting time.

13 (c) The West Virginia Supreme Court of Appeals shall create and establish a budget to
 14 ensure the swift, full, and efficacious implementation of this guardian ad litem training and
 15 certification program in every court of the State of West Virginia.

16 ~~(b)~~(d) In its discretion, the court may appoint a lawyer to represent the child, if the child is

17 competent to direct the terms of the representation and court has a reasonable basis for finding
18 that the appointment would be helpful in resolving the issues of the case. The court shall specify
19 the terms of the appointment, including the lawyer's role, duties and scope of authority.

20 ~~(e)~~(e) When substantial allegations of domestic abuse have been made, the court shall
21 order an investigation under section 9-301 or make an appointment under subsection (a) or (b) of
22 this section, unless the court is satisfied that the information necessary to evaluate the allegations
23 will be adequately presented to the court without such order or appointment.

24 ~~(d)~~(f) Subject to whatever restrictions the court may impose or that may be imposed by the
25 attorney-client privilege or by subsection 9-202(d), the court may require the child or parent to
26 provide information to an individual or agency appointed by the court under section 9-301 or
27 subsection (a), (b) or ~~(b)~~(d) of this section, and it may require any person having information about
28 the child or parent to provide that information, even in the absence of consent by a parent or by the
29 child, except if the information is otherwise protected by law.

30 ~~(e)~~(g) The investigator who submits a report or evidence to the court that has been
31 requested under section 9-301 and a guardian ad litem appointed under subsection (a) of this
32 section who submits information or recommendations to the court are subject to cross-
33 examination by the parties. A lawyer appointed under subsection (b) of this section may not be a
34 witness in the proceedings, except as allowed under standards applicable in other civil
35 proceedings.

36 ~~(f)~~(h) Services and tests ordered under this section shall be ordered only if at no cost to the
37 individuals involved, or at a cost that is reasonable in light of the available financial resources:
38 Provided, That all guardian ad litem training and certification set forth in §48-9-302(b) of this code
39 shall be born by the budgets of the courts of the State of West Virginia.

NOTE: The purpose of this bill is to ensure that persons appointed as guardians ad litem in divorce and child custody and parenting cases are properly trained in certified courses of instruction with curricula grounded in the social science bases for determining the best

interests of the child with regard to custodial responsibility, decision-making responsibility and parenting time.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.