

By Mr. White, petition (accompanied by bill, Senate, No. 833) of W. Paul White for legislation relative to the appointment of guardians ad litem. The Judiciary.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Ninety-Three.

AN ACT RELATIVE TO GUARDIANS AD LITEM.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 34 of chapter 201 of the General Laws,  
2 as appearing in the 1990 Official Edition, is hereby amended by  
3 adding after the last sentence the following sentence: —  
4 The court shall specify in any such order of appointment that  
5 a guardian ad litem for a minor shall be a guardian ad litem next  
6 friend.

1 SECTION 2. Chapter 215 of the General Laws, as appearing  
2 in the 1990 Official Edition, is hereby amended by striking sec-  
3 tion 56A and inserting in place thereof the following section: —  
4 Section 56A. During the pendency of any proceeding, a justice  
5 of the probate and family department of the trial court may  
6 appoint a guardian ad litem to investigate or evaluate any  
7 questions or issues raised in the proceeding and related to the care,  
8 custody or maintenance of minor children or related to any  
9 domestic relations issue except where the investigation is for such  
10 issues governed by section sixteen of chapter two hundred and  
11 eight.

12 The court shall include in the written order of appointment a  
13 specific description of the role and duties which the guardian ad  
14 litem is to perform and assume in the investigation or evaluation  
15 in the proceeding in which the appointment is ordered. The court  
16 shall designate the term of a guardian ad litem's service and shall  
17 designate the guardian ad litem as one or both of the following: —

18 (i) A Guardian ad Litem Evaluator; or (ii) A Guardian ad Litem  
19 Investigator. When appointing a Guardian ad Litem Evaluator,  
20 the court shall specify in its order who is to be evaluated and the  
21 purpose of such evaluation.

22 A Guardian ad Litem Evaluator shall be a psychiatrist,  
23 psychologist, licensed independent clinical social worker or other  
24 appropriate mental health professional appointed by the probate  
25 court to evaluate the mental and emotional health of the child  
26 or any party to the proceeding or any other mental health issues  
27 pertinent to a determination of the best interests of the child and  
28 make written recommendations and report thereon.

29 A Guardian ad Litem Investigator shall be an attorney, social  
30 worker or other appropriate professional or lay person appointed  
31 by the court to conduct an investigation into the facts of the  
32 proceedings at issue and make written recommendations and  
33 report thereon.

34 A court shall fix compensation for any guardians ad litem and  
35 all such compensation and any expenses approved by the court  
36 shall be paid by the parties or the commonwealth as ordered by  
37 the court.

38 A guardian ad litem shall have access to all records of the child  
39 which are available to either parent, unless otherwise ordered by  
40 the court.

41 A guardian ad litem shall be given timely notice of any hearings  
42 in the pending case.

43 Within a time period specified in the order of appointment, the  
44 guardian ad litem shall file with the court a written report detailing  
45 the results of the investigation or evaluation or any interim report  
46 as ordered by the court, setting forth any recommendations, if a  
47 recommendation is requested by the written order of appoint-  
48 ment. In any proceeding in which a guardian ad litem is appointed,  
49 the guardian ad litem shall file a current report with the Clerk  
50 of Court or Register of Probate no later than thirty days prior  
51 to any final hearing involving the placement or custody of the child  
52 unless otherwise ordered by the court. The written report shall  
53 be open to inspection by the parties and their counsel. Upon a  
54 request of the guardian ad litem or any of the parties, a judgment  
55 or order shall not enter until the court has reviewed the guardian  
56 ad litem's report.

57 A guardian ad litem shall not act as the child's attorney. Upon  
58 a determination by the court that the best interests of the child  
59 would not otherwise be protected, the court may appoint special  
60 counsel for the child to serve as the child's legal advocate. The  
61 court in such cases may assess the child's reasonable attorney's  
62 fees and costs against the parties or against the commonwealth.

