

By Senator Latvala

20-01205-15

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1                   A bill to be entitled  
2           An act relating to the appointment of an ad litem;  
3           amending s. 49.021, F.S.; defining the term "ad  
4           litem"; authorizing a court to appoint an ad litem for  
5           any party in certain circumstances; prohibiting a  
6           court from requiring an ad litem to post a bond or  
7           designate a resident agent in order to serve as ad  
8           litem; requiring courts to discharge an ad litem when  
9           the final judgment is entered or as otherwise ordered  
10          by the court; providing that an ad litem is entitled  
11          to an award of a reasonable fee for services rendered  
12          and costs that must be assessed by the court against a  
13          specified party or as otherwise ordered by the court;  
14          prohibiting a proceeding in which the court appointed  
15          an ad litem from being declared ineffective solely due  
16          to a lack of statutory authority to appoint an ad  
17          litem; providing that this section does not abrogate a  
18          court's common law authority to appoint an ad litem;  
19          prohibiting a court from appointing an ad litem to  
20          represent an interest for which a personal  
21          representative, guardian of property, or trustee is  
22          serving; requiring an ad litem, upon discovery that  
23          the party it represents is already represented by a  
24          personal representative, guardian of property, or  
25          trustee, or is deceased, to take certain actions;  
26          providing an effective date.

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28   Be It Enacted by the Legislature of the State of Florida:  
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30 Section 1. Section 49.021, Florida Statutes, is amended to  
31 read:

32 49.021 Service of process by publication; appointment of ad  
33 litem.—

34 (1) If, upon whom. Where personal service of process or, if  
35 appropriate, service of process under s. 48.194 cannot be made  
36 ~~had~~, service of process by publication may be made ~~had~~ upon any  
37 party, natural or corporate, known or unknown, including:

38 (a)(1) Any known or unknown natural person, and, if when  
39 described as such, the unknown spouse, heirs, devisees,  
40 grantees, creditors, or other parties claiming by, through,  
41 under, or against any known or unknown person who is known to be  
42 dead or is not known to be either dead or alive;

43 (b)(2) Any corporation or other legal entity, regardless of  
44 whether its domicile is ~~be~~ foreign, domestic, or unknown, and  
45 whether dissolved or existing, including corporations or other  
46 legal entities not known to be dissolved or existing, and, if  
47 ~~when~~ described as such, the unknown assigns, successors in  
48 interest, trustees, or any other party claiming by, through,  
49 under, or against any named corporation or legal entity;

50 (c)(3) Any group, firm, entity, or persons who operate or  
51 do business, or have operated or done business, in this state,  
52 under a name or title that ~~which~~ includes the word  
53 "corporation," "company," "incorporated," "Inc.," or any  
54 combination thereof, or under a name or title which indicates,  
55 tends to indicate, or leads one to think that the same may be a  
56 corporation or other legal entity; and

57 (d)(4) All claimants under any of the ~~such~~ parties  
58 specified in paragraph (a), paragraph (b), or paragraph (c).

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Unknown parties may be proceeded against exclusively or together with other parties.

(2) For the purposes of this section, the term "ad litem" means an attorney, administrator, or guardian ad litem. The court may appoint an ad litem for any party, whether known or unknown, upon whom constructive service of process under this chapter has been properly made and who has failed to file or serve any paper in the action within the time required by law. The court may not require an ad litem to post a bond or designate a resident agent in order to serve as an ad litem.

(a) The court shall discharge the ad litem when the final judgment is entered or as otherwise ordered by the court.

(b) The ad litem is entitled to an award of a reasonable fee for services rendered and costs, which shall be assessed against the party requesting the appointment of the ad litem, or as otherwise ordered by the court.

(3) In all cases adjudicated in which the court appointed an ad litem, a proceeding may not be declared ineffective solely due to lack of statutory authority to appoint an ad litem.

(4) This section does not abrogate a court's common law authority to appoint an ad litem.

(5) A court may not appoint an ad litem to represent an interest for which a personal representative, guardian of property, or trustee is serving. If the court has appointed an ad litem and the ad litem discovers that a personal representative, guardian of property, or trustee is serving who represents the interest for which the ad litem was appointed, the ad litem must promptly report that finding to the court and

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88 must file a petition for discharge as to any interest for which  
89 the personal representative, guardian of the property, or  
90 trustee is serving. If the court has appointed an ad litem to  
91 represent an interest and the ad litem discovers that the person  
92 whose interest he or she represents is deceased, and there is no  
93 personal representative, guardian of the property, or trustee to  
94 represent the decedent's interest, the ad litem must make a  
95 reasonable attempt to locate any spouse, heir, devisee, or  
96 beneficiaries of the decedent, must report to the court the name  
97 and address of any such persons that the ad litem locates, and  
98 must petition for discharge as to any interest of the person  
99 located.

100 Section 2. This act shall take effect July 1, 2015.