

By the Committee on Judiciary; and Senator Latvala

590-02843-15

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1                   A bill to be entitled  
2           An act relating to the appointment of an ad litem;  
3           creating s. 49.31, F.S.; defining the term "ad litem";  
4           authorizing a court to appoint an ad litem for certain  
5           parties upon whom service of process by publication is  
6           made; prohibiting a court from appointing an ad litem  
7           to represent an interest for which a personal  
8           representative, guardian of property, or trustee is  
9           serving; requiring an ad litem, upon discovery that  
10          the party he or she represents is already represented  
11          by a personal representative, guardian of property, or  
12          trustee, or is deceased, to take certain actions;  
13          prohibiting a court from requiring an ad litem to post  
14          a bond or designate a resident agent; requiring a  
15          court to discharge an ad litem when the final judgment  
16          is entered or as otherwise ordered by the court;  
17          providing that an ad litem is entitled to an award of  
18          a reasonable fee for services and costs; providing for  
19          assessment; prohibiting the use of state funds to pay  
20          fees for services rendered by the ad litem except in  
21          certain circumstances; prohibiting declaring certain  
22          proceedings ineffective solely due to a lack of  
23          statutory authority to appoint an ad litem; providing  
24          construction; providing an effective date.

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26   Be It Enacted by the Legislature of the State of Florida:

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28           Section 1. Section 49.31, Florida Statutes, is created to  
29   read:

590-02843-15

2015922c1

30 49.31 Appointment of ad litem.—

31 (1) As used in this section, the term "ad litem" means an  
32 attorney, administrator, or guardian ad litem.

33 (2) The court may appoint an ad litem for any party,  
34 whether known or unknown, upon whom service of process by  
35 publication under this chapter has been properly made and who  
36 has failed to file or serve any paper in the action within the  
37 time required by law. A court may not appoint an ad litem to  
38 represent an interest for which a personal representative,  
39 guardian of property, or trustee is serving.

40 (a) If the court has appointed an ad litem and the ad litem  
41 discovers that a personal representative, guardian of property,  
42 or trustee is serving who represents the interest for which the  
43 ad litem was appointed, the ad litem must promptly report that  
44 finding to the court and must file a petition for discharge as  
45 to any interest for which the personal representative, guardian  
46 of property, or trustee is serving.

47 (b) If the court has appointed an ad litem to represent an  
48 interest and the ad litem discovers that the person whose  
49 interest he or she represents is deceased and there is no  
50 personal representative, guardian of property, or trustee to  
51 represent the decedent's interest, the ad litem must make a  
52 reasonable attempt to locate any spouse, heir, devisee, or  
53 beneficiary of the decedent, must report to the court the name  
54 and address of all such persons whom the ad litem locates, and  
55 must petition for discharge as to any interest of the person  
56 located.

57 (3) The court may not require an ad litem to post a bond or  
58 designate a resident agent in order to serve as an ad litem.

590-02843-15

2015922c1

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

61       (5) The ad litem is entitled to an award of a reasonable  
62 fee for services rendered and costs, which shall be assessed  
63 against the party requesting the appointment of the ad litem, or  
64 as otherwise ordered by the court. State funds may not be used  
65 to pay fees for services rendered by the ad litem unless the ad  
66 litem was requested by the state.

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

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

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