

1 HOUSE BILL NO. 623  
2 AMENDMENT IN THE NATURE OF A SUBSTITUTE  
3 (Proposed by the House Committee for Courts of Justice  
4 on \_\_\_\_\_)  
5 (Patron Prior to Substitute--Delegate Hudson)

6 A BILL to amend and reenact § 64.2-2003 of the Code of Virginia, relating to guardianship and  
7 conservatorship; duties of the guardian ad litem; report contents.

8 **Be it enacted by the General Assembly of Virginia:**

9 **1. That § 64.2-2003 of the Code of Virginia is amended and reenacted as follows:**

10 **§ 64.2-2003. Appointment of guardian ad litem.**

11 A. On the filing of every petition for guardianship or conservatorship, the court shall appoint a  
12 guardian ad litem to represent the interests of the respondent. The guardian ad litem shall be paid a fee  
13 that is fixed by the court to be paid by the petitioner or taxed as costs, as the court directs.

14 B. Duties of the guardian ad litem include (i) personally visiting the respondent; (ii) advising the  
15 respondent of rights pursuant to §§ 64.2-2006 and 64.2-2007 and certifying to the court that the respondent  
16 has been so advised; (iii) recommending that legal counsel be appointed for the respondent, pursuant to §  
17 64.2-2006, if the guardian ad litem believes that counsel for the respondent is necessary; (iv) notifying the  
18 court as soon as practicable if the respondent requests counsel regardless of whether the guardian ad litem  
19 recommends counsel; (v) investigating the petition and evidence, requesting additional evaluation if  
20 necessary, considering whether a less restrictive alternative to guardianship or conservatorship is  
21 available, including the use of an advance directive, supported decision-making agreement, or durable  
22 power of attorney, and filing a report pursuant to subsection C; and ~~(v)~~ (vi) personally appearing at all  
23 court proceedings and conferences. If the respondent is between 17 and a half and 21 years of age and has  
24 an Individualized Education Plan (IEP) and transition plan, the guardian ad litem shall review such IEP  
25 and transition plan and include the results of his review in the report required by clause ~~(iv)~~ (v).

26 C. In the report required by clause ~~(iv)~~ (v) of subsection B, the guardian ad litem shall address the  
27 following major areas of concern: (i) whether the court has jurisdiction; (ii) whether a guardian or  
28 conservator is needed based on evaluations and reviews conducted pursuant to subsection B; (iii) the  
29 extent of the duties and powers of the guardian or conservator; (iv) the propriety and suitability of the  
30 person selected as guardian or conservator after consideration of the person's geographic location, familial  
31 or other relationship with the respondent, ability to carry out the powers and duties of the office,  
32 commitment to promoting the respondent's welfare, any potential conflicts of interests, wishes of the  
33 respondent, and recommendations of relatives; (v) a recommendation as to the amount of surety on the  
34 conservator's bond, if any; and (vi) consideration of proper residential placement of the respondent. The  
35 report shall also contain an explanation by the guardian ad litem as to any (a) decision not to recommend  
36 the appointment of counsel for the respondent, (b) determination that a less restrictive alternative to  
37 guardianship or conservatorship is not available, and (c) determination that appointment of a limited  
38 guardian or conservator is not appropriate.

39 D. A health care provider and local school division shall disclose or make available to the guardian  
40 ad litem, upon request, any information, records, and reports concerning the respondent that the guardian  
41 ad litem determines necessary to perform his duties under this section.

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