

1 HOUSE BILL NO. 893
2 AMENDMENT IN THE NATURE OF A SUBSTITUTE
3 (Proposed by the House Committee for Courts of Justice
4 on February 2, 2024)
5 (Patron Prior to Substitute--Delegate McClure)

6 A BILL to amend and reenact §§ 16.1-266.1 and 16.1-267 of the Code of Virginia, relating to
7 qualifications and performance of attorneys appointed to represent parents or guardians; child
8 dependency cases; compensation; pilot multidisciplinary law offices.

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

10 **1. That §§ 16.1-266.1 and 16.1-267 of the Code of Virginia are amended and reenacted as follows:**

11 **§ 16.1-266.1. Standards for attorneys appointed as guardians ad litem; list of qualified**
12 **attorneys; attorneys appointed for parents or guardians.**

13 A. On or before January 1, 1995, the Judicial Council of Virginia, in conjunction with the Virginia
14 State Bar and the Virginia Bar Association, shall adopt standards for attorneys appointed as guardians ad
15 litem pursuant to § 16.1-266. The standards shall, insofar as practicable, take into consideration the
16 following criteria: (i) license or permission to practice law in Virginia, (ii) current training in the roles,
17 responsibilities and duties of guardian ad litem representation, (iii) familiarity with the court system and
18 general background in juvenile law, and (iv) demonstrated proficiency in this area of the law.

19 B. The Judicial Council shall maintain a list of attorneys admitted to practice law in Virginia who
20 are qualified to serve as guardians ad litem based upon the standards and shall make the names available
21 to the courts. If no attorney who is on the list is reasonably available, a judge in his discretion may appoint
22 any discreet and competent attorney who is admitted to practice law in Virginia.

23 ~~C. Counsel appointed for a parent or guardian pursuant to subsection D of § 16.1-266 shall be~~
24 ~~selected from the list of attorneys who are qualified to serve as guardians ad litem.~~ On or before January
25 1, 2026, the Judicial Council, in conjunction with the Virginia State Bar, shall adopt standards for the
26 qualification and performance of attorneys appointed pursuant to § 16.1-266 to represent a parent or

27 guardian of a child when such child is the subject of a child dependency case. The standards shall, to the
28 extent practicable, take into consideration the following criteria: (i) license or permission to practice law
29 in Virginia; (ii) current training in the roles, responsibilities, and duties of parent or guardian
30 representation; (iii) familiarity with the court system and a general background in juvenile law; and (iv)
31 demonstrated proficiency in this area of law. For purposes of this section, a "child dependency case"
32 includes cases before the juvenile and domestic relations district courts, and the circuit courts on appeal,
33 involving a child who is (a) alleged to have been abused or neglected pursuant to § 16.1-278.2; (b) alleged
34 to be at risk of being abused or neglected by a parent or custodian who has been adjudicated as having
35 abused or neglected another child in his care pursuant to § 16.1-278.2; (c) the subject of a petition for
36 approval of an entrustment agreement pursuant to § 16.1- 277.01; (d) the subject of a petition for relief of
37 custody pursuant to § 16.1-277.02; (e) placed in foster care and are the subject of a foster care or
38 permanency plan filed pursuant to § 16.1-281, 16.1-282, 16.1-282.1, or 16.1-282.2; and (f) the subject of
39 a petition for termination of residual parental rights pursuant to § 16.1-283.

40 D. Beginning July 1, 2026, the Judicial Council shall maintain a list of attorneys admitted to
41 practice law in Virginia who are qualified to be appointed to represent indigent parents and guardians
42 involved in a child dependency case based on the standards required by this section and shall make such
43 names available to the courts.

44 E. Counsel appointed for a parent or guardian pursuant to subsection D of § 16.1-266 prior to July
45 1, 2026, shall be selected from the list of attorneys who are qualified to serve as guardians ad litem. On or
46 after July 1, 2026, such counsel shall be selected from the list of attorneys who are qualified to be
47 appointed to represent indigent parents and guardians established in accordance with subsection D. If no
48 attorney who is on the list is reasonably available or appropriate considering the circumstances of the
49 parent or case, a judge in his discretion may appoint any discreet and competent attorney who is admitted
50 to practice law in Virginia.

51 **§ 16.1-267. Compensation of appointed counsel.**

52 A. When the court appoints counsel to represent a child pursuant to subsection A of § 16.1-266
53 and, after an investigation by the court services unit, finds that the parents are financially able to pay for

54 the attorney and refuse to do so, the court shall assess costs against the parents for such legal services in
55 the maximum amount of that awarded the attorney by the court under the circumstances of the case,
56 considering such factors as the ability of the parents to pay and the nature and extent of the counsel's duties
57 in the case. Such amount shall not exceed the maximum amount specified in subdivision 1 of § 19.2-163
58 if the action is in district court.

59 When the court appoints counsel to represent a child pursuant to subsection B or C of § 16.1-266
60 and, after an investigation by the court services unit, finds that the parents are financially able to pay for
61 the attorney in whole or in part and refuse to do so, the court shall assess costs in whole or in part against
62 the parents for such legal services in the amount awarded the attorney by the court. Such amount shall not
63 exceed \$100 if the action is in circuit court or the maximum amount specified in subdivision 1 of § 19.2-
64 163 if the action is in district court. In determining the financial ability of the parents to pay for an attorney
65 to represent the child, the court shall utilize the financial statement required by § 19.2-159.

66 In all other cases, except as provided in § 16.1-343, counsel appointed to represent a child shall be
67 compensated for his services pursuant to § 19.2-163.

68 B. When the court appoints counsel to represent a parent, guardian, or other adult pursuant to §
69 16.1-266, such counsel shall be compensated for his services pursuant to § 19.2-163. When the court
70 appoints counsel to represent a parent, guardian, or other adult pursuant to § 16.1-266 in a child
71 dependency case as defined in § 16.1-266.1, such counsel shall be compensated for his services in
72 accordance with clause (iii) of subdivision 2 of § 19.2-163, except that in matters arising under § 16.1-
73 283, such counsel shall be compensated for his services in accordance with clause (ii) of subdivision 2 of
74 § 19.2-163. Notwithstanding the foregoing, no court may waive the limitation of fees as set forth therein.

75 C. 1. In any proceeding in which the court appoints a guardian ad litem to represent a child pursuant
76 to § 16.1-266, the court shall order the parent, or other party with a legitimate interest who has filed a
77 petition in such proceeding, to reimburse the Commonwealth the costs of such services in an amount not
78 to exceed the amount awarded the guardian ad litem by the court. If the court determines that such party
79 is unable to pay, the required reimbursement may be reduced or eliminated. No party whom the court
80 determines to be indigent pursuant to § 19.2-159 shall be required to pay reimbursement except where the

81 court finds good cause to do so. The Executive Secretary of the Supreme Court shall administer the
82 guardian ad litem program and shall report August 1 and January 1 of each year to the Chairmen of the
83 House Committee on Appropriations and the Senate Committee on Finance and Appropriations on the
84 amounts paid for guardian ad litem purposes, amounts reimbursed, savings achieved, and management
85 actions taken to further enhance savings under this program.

86 2. For good cause shown, or upon the failure by the guardian ad litem to substantially comply with
87 the standards adopted for attorneys appointed as guardians ad litem pursuant to § 16.1-266.1, the court
88 may adjust the cost sought by the guardian ad litem of such services.

89 3. For the purposes of this subsection, "other party with a legitimate interest" shall not include
90 child welfare agencies or local departments of social services.

91 **2. That two pilot multidisciplinary law offices shall be established for the purpose of representing**
92 **parents in child dependency proceedings and in child protective services administrative matters**
93 **prior to the initiation of court child dependency proceedings in localities, jurisdictions, or judicial**
94 **districts that apply and that a Parent Advocacy Commission Office be established as an independent**
95 **agency for the purposes of establishing criteria and approving applications for, establishing, and**
96 **providing oversight, administration of funding, and evaluation of the two pilot multidisciplinary**
97 **law offices.**

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