

# WEST VIRGINIA LEGISLATURE

## 2024 REGULAR SESSION

Introduced

### House Bill 4930

FISCAL  
NOTE

By Delegate Foster

[Introduced January 19, 2024; Referred to the  
Committee on the Judiciary]

1 A BILL to amend and reenact §48-9-302 of the Code of West Virginia, 1931, as amended, relating  
 2 to ensuring that persons appointed as guardians ad litem in divorce and child custody and  
 3 parenting cases are properly trained in certified courses of instruction with curricula  
 4 grounded in the social science bases for determining the best interests of the child with  
 5 regard to custodial responsibility, decision-making responsibility, and parenting time.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 9. ALLOCATION OF CUSTODIAL RESPONSIBILITY AND DECISION-  
 MAKING RESPONSIBILITY OF CHILDREN.**

**§48-9-302. Appointment of guardian.**

1 (a) In its discretion, the court may appoint a guardian ad litem to represent the child’s best  
 2 interests. The court shall specify the terms of the appointment, including the guardian's role, duties  
 3 and scope of authority.

4 (b) In all cases involving allocation of custodial responsibility, decision-making  
 5 responsibility, and parenting time where the court appoints a guardian ad litem to represent the  
 6 child's best interests, such guardian ad litem, prior to appointment by the court, must:

7 (1) Have completed a course of instruction with curricula grounded in the social science  
 8 bases for determining the best interests of the child approved by the National Parenting  
 9 Organization; and

10 (2) Be certified by examination of the National Parenting Organization for competence and  
 11 understanding of the social science bases for determining the best interests of the child in cases  
 12 involving allocation of custodial responsibility, decision-making responsibility, and parenting time.

13 (c) The West Virginia Supreme Court of Appeals shall create and establish a budget to  
 14 ensure the swift, full, and efficacious implementation of this guardian ad litem training and  
 15 certification program in every court of the State of West Virginia.

16 ~~(b)~~(d) In its discretion, the court may appoint a lawyer to represent the child, if the child is

17 competent to direct the terms of the representation and court has a reasonable basis for finding  
18 that the appointment would be helpful in resolving the issues of the case. The court shall specify  
19 the terms of the appointment, including the lawyer's role, duties and scope of authority.

20 ~~(e)~~(e) When substantial allegations of domestic abuse have been made, the court shall  
21 order an investigation under section §48-9-301 of this code or make an appointment under  
22 subsection (a) or (b) of this section, unless the court is satisfied that the information necessary to  
23 evaluate the allegations will be adequately presented to the court without such order or  
24 appointment.

25 ~~(d)~~(f) Subject to whatever restrictions the court may impose or that may be imposed by the  
26 attorney-client privilege or by §48-9-202(d) of this code, the court may require the child or parent to  
27 provide information to an individual or agency appointed by the court under §48-9-301 of this code  
28 or subsection (a), (b) or ~~(b)~~(d) of this section, and it may require any person having information  
29 about the child or parent to provide that information, even in the absence of consent by a parent or  
30 by the child, except if the information is otherwise protected by law.

31 ~~(e)~~(g) The investigator who submits a report or evidence to the court that has been  
32 requested under §48-9-301 of this code and a guardian ad litem appointed under subsection (a) of  
33 this section who submits information or recommendations to the court are subject to cross-  
34 examination by the parties. A lawyer appointed under subsection (b) of this section may not be a  
35 witness in the proceedings, except as allowed under standards applicable in other civil  
36 proceedings.

37 ~~(f)~~(h) Services and tests ordered under this section shall be ordered only if at no cost to the  
38 individuals involved, or at a cost that is reasonable in light of the available financial resources:  
39 Provided, That all guardian ad litem training and certification set forth in §48-9-302(b) of this code  
40 shall be born by the budgets of the courts of the State of West Virginia.

NOTE: The purpose of this bill is to ensure that persons appointed as guardians ad litem in

divorce and child custody and parenting cases are properly trained in certified courses of instruction with curricula grounded in the social science bases for determining the best interests of the child with regard to custodial responsibility, decision-making responsibility and parenting time.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.