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HOUSE BILL NO. 277

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice on February 26, 2018)

(Patron Prior to Substitute—Delegate Collins)

A BILL to amend and reenact § 16.1-274 of the Code of Virginia, relating to guardians ad litem for children; report requirements; certification form.

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-274 of the Code of Virginia is amended and reenacted as follows:

§ 16.1-274. Time for filing of reports; copies furnished to attorneys; amended reports; fees; guardian ad litem certification form.

A. Whenever any court directs an investigation pursuant to subdivision A of § 16.1-237 or § 16.1-273 or 9.1-153, or an evaluation pursuant to § 16.1-278.5, the probation officer, court-appointed special advocate, or other agency conducting such investigation shall file such report with the clerk of the court directing the investigation. The clerk shall furnish a copy of such report to all attorneys representing parties in the matter before the court no later than 72 hours, and in cases of child custody, 15 days, prior to the time set by the court for hearing the matter. If such probation officer or other agency discovers additional information or a change in circumstance after the filing of the report, an amended report shall be filed forthwith and a copy sent to each person who received a copy of the original report. Whenever such a report is not filed or an amended report is filed, the court shall grant such continuance of the proceedings as justice requires. All attorneys receiving such report or amended report shall return such to the clerk upon the conclusion of the hearing and shall not make copies of such report or amended report or any portion thereof. However, the chief judge of each juvenile and domestic relations district court may provide for an alternative means of copying and distributing reports or amended reports filed pursuant to § 9.1-153.

B. Notwithstanding the provisions of §§ 16.1-69.48:2 and 17.1-275, when the court directs the appropriate local department of social services to conduct supervised visitation or directs the appropriate local department of social services or court services unit to conduct an investigation pursuant to § 16.1-273 or to provide mediation services in matters involving a child's custody, visitation, or support, the court shall assess a fee against the petitioner, the respondent, or both, in accordance with fee schedules established by the appropriate local board of social services when the service is provided by a local department of social services or by a court services unit. The fee schedules shall include (i) standards for determining the paying party's or parties' ability to pay and (ii) a scale of fees based on the paying party's or parties' income and family size and the actual cost of the services provided. The fee charged shall not exceed the actual cost of the service. The fee shall be assessed as a cost of the case and shall be paid as prescribed by the court to the local department of social services, locally operated court services unit or Department of Juvenile Justice, whichever performed the service, unless payment is waived. The method and medium for payment for such services shall be determined by the local department of social services, Department of Juvenile Justice, or the locally operated court services unit that provided the services.

C. When a local department of social services or any court services unit is requested by another local department or court services unit in the Commonwealth or by a similar department or entity in another state to conduct an investigation involving a child's custody, visitation or support pursuant to § 16.1-273 or, in the case of a request from another state pursuant to a provision corresponding to § 16.1-273, or to provide mediation services, or for a local department of social services to provide supervised visitation, the local department or the court services unit performing the service may require payment of fees prior to conducting the investigation or providing mediation services or supervised visitation.

D. In any matter in which the court appoints a guardian ad litem to represent a child, such guardian ad litem shall conduct an investigation in accordance with the standards established under § 16.1-266.1. If the court directs such guardian ad litem to make a written report, the guardian ad litem shall file such written report with the clerk of the court in which the matter is pending and shall furnish a copy of such written report to all attorneys representing parties to the matter, and all parties proceeding pro se in the matter, before such court no later than 72 hours or, in child custody or visitation matters, 15 days prior to the dates set by the court for a trial or other hearing or proceeding on such matter unless otherwise ordered by the court.

If the court does not direct such guardian ad litem to make such written report, the guardian ad litem shall inform all attorneys representing parties to the matter, and all parties proceeding pro se in the matter, of any preliminary recommendations such guardian ad litem intends to make at a trial or other hearing or proceeding on the matter prior to such trial or other hearing or proceeding on the

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60 matter.

61 No report of a guardian ad litem shall be received by the court after the commencement of evidence
62 in a trial or other hearing or proceeding on a matter and shall not be admitted into evidence unless the
63 contents of such report are otherwise established at such trial or other hearing proceeding on the
64 matter. Based on the evidence at a trial or hearing, a guardian ad litem may alter his preliminary
65 written or oral recommendations or make additional recommendations as the best interests of the child
66 require.

67 In all matters in which the court has appointed a guardian ad litem to represent a child at any trial
68 or other hearing or proceeding on such matter, before a final ruling is made, the guardian ad litem
69 shall file with the court, with a copy to all attorneys representing parties to the matter and all parties
70 proceeding pro se in the matter, a certification of the guardian ad litem's compliance with the standards
71 established under § 16.1-266.1, along with a summary of the actions taken by the guardian ad litem
72 during the matter.

73 If any requirements of this subsection are not met, the court may grant a continuance of the matter,
74 or any hearing or proceeding on such matter, as justice requires.