

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 64.2-2003 of the Code of Virginia, relating to guardianship and*
 3 *conservatorship; duties of the guardian ad litem; report contents.*

[H 623]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 64.2-2003 of the Code of Virginia is amended and reenacted as follows:**8 **§ 64.2-2003. Appointment of guardian ad litem.**

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

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

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

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

ENROLLED

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