

CHAPTER 2015-95

Committee Substitute for Committee Substitute for Committee Substitute for House Bill No. 775

An act relating to the appointment of an ad litem; creating s. 49.31, F.S.; defining the term “ad litem”; authorizing a court to appoint an ad litem for certain parties upon whom service of process by publication is made; prohibiting a court from appointing an ad litem to represent an interest for which a personal representative, guardian of property, or trustee is serving; requiring an ad litem, upon discovery that the party it represents is already represented by a personal representative, guardian of property, or trustee, or is deceased, to take certain actions; prohibiting a court from requiring an ad litem to post a bond or designate a resident agent; requiring a court to discharge an ad litem when the final judgment is entered or as otherwise ordered by the court; providing that an ad litem is entitled to an award of a reasonable fee for services and costs; providing for assessment; prohibiting the use of state funds except in certain circumstances; prohibiting declaring certain proceedings ineffective solely due to a lack of statutory authority to appoint an ad litem; providing construction; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 49.31, Florida Statutes, is created to read:

49.31 Appointment of ad litem.—

(1) As used in this section, the term “ad litem” means an attorney, administrator, or guardian ad litem.

(2) The court may appoint an ad litem for any party, whether known or unknown, upon whom service of process by publication under this chapter has been properly made and who has failed to file or serve any paper in the action within the time required by law. A court may not appoint an ad litem to represent an interest for which a personal representative, guardian of property, or trustee is serving.

(a) If the court has appointed an ad litem and the ad litem discovers that a personal representative, guardian of property, or trustee is serving who represents the interest for which the ad litem was appointed, the ad litem must promptly report that finding to the court and must file a petition for discharge as to any interest for which the personal representative, guardian of property, or trustee is serving.

(b) If the court has appointed an ad litem to represent an interest and the ad litem discovers that the person whose interest he or she represents is deceased and there is no personal representative, guardian of property, or trustee to represent the decedent’s interest, the ad litem must make a

reasonable attempt to locate any spouse, heir, devisee, or beneficiary of the decedent, must report to the court the name and address of all such persons whom the ad litem locates, and must petition for discharge as to any interest of the person located.

(3) The court may not require an ad litem to post a bond or designate a resident agent in order to serve as an ad litem.

(4) The court shall discharge the ad litem when the final judgment is entered or as otherwise ordered by the court.

(5) The ad litem is entitled to an award of a reasonable fee for services rendered and costs, which shall be assessed against the party requesting the appointment of the ad litem, or as otherwise ordered by the court. State funds may not be used to pay fees for services rendered by the ad litem unless state funds would have been expended for such services in the same circumstance before July 1, 2015.

(6) In all cases adjudicated in which the court appointed an ad litem, a proceeding may not be declared ineffective solely due to lack of statutory authority to appoint an ad litem.

(7) This section does not abrogate a court's common law authority to appoint an ad litem.

Section 2. This act shall take effect July 1, 2015.

Approved by the Governor June 2, 2015.

Filed in Office Secretary of State June 2, 2015.