

IN THE SENATE

SENATE BILL NO. 1053

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1
2 RELATING TO THE PROTECTION OF PERSONS UNDER DISABILITY AND THEIR PROPERTY;
3 AMENDING SECTION 15-5-316, IDAHO CODE, TO REVISE PROVISIONS RELATING TO
4 THE RIGHTS AND POWERS OF GUARDIANS AD LITEM; AND AMENDING SECTION 15-5-
5 435, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE RIGHTS AND POWERS
6 OF GUARDIANS AD LITEM.

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Section 15-5-316, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 15-5-316. GUARDIAN AD LITEM -- RIGHTS AND POWERS. (1) The guardian ad
11 litem has the following rights and powers to fulfill the duties set forth in
12 ~~this~~ section 15-5-315, Idaho Code, which shall continue until the resigna-
13 tion of the guardian ad litem or until the court removes the guardian ad litem
14 or no longer has jurisdiction, whichever occurs first.

15 (2) The guardian ad litem shall have the right and power to file plead-
16 ings, motions, memoranda and briefs on behalf of the ward, and to have all of
17 the rights of the ward, whether conferred by statute, rule of court, or oth-
18 erwise.

19 (3) All parties to any proceeding under this chapter shall promptly no-
20 tify the guardian ad litem, and the guardian's attorney, if any, of all hear-
21 ings, staff hearings or meetings, investigations, depositions, and signifi-
22 cant changes of circumstances of the ward.

23 (4) Except to the extent prohibited or regulated by federal law, upon
24 presentation of a copy of the order appointing the guardian ad litem, any
25 person or agency including, without limitation, any hospital, school or-
26 ganization, department of health and welfare, doctor, nurse or other health
27 care provider, psychologist, psychiatrist, police department, or mental
28 health clinic, shall permit the guardian ad litem to inspect and copy perti-
29 nent records relating to the ward necessary for the proceeding for which the
30 guardian ad litem has been appointed.

31 (5) The guardian ad litem may request, and the court may order whether
32 in response to such request or otherwise, a criminal history and background
33 check to be conducted at the proposed guardian's expense on any individual
34 who resides in the ward's proposed residence. Any such check shall be con-
35 ducted pursuant to section 56-1004A(2) and (3), Idaho Code.

36 SECTION 2. That Section 15-5-435, Idaho Code, be, and the same is hereby
37 amended to read as follows:

38 15-5-435. GUARDIAN AD LITEM -- RIGHTS AND POWERS. (1) The guardian ad
39 litem has the following rights and powers to fulfill the duties set forth in
40 ~~this~~ section 15-5-434, Idaho Code, which shall continue until the resigna-

1 tion of the guardian ad litem or until the court removes the guardian ad litem
2 or no longer has jurisdiction, whichever occurs first.

3 (2) The guardian ad litem shall have the right and power to file plead-
4 ings, motions, memoranda and briefs on behalf of the protected person, and to
5 have all of the rights of the protected person, whether conferred by statute,
6 rule of court, or otherwise.

7 (3) All parties to any proceeding under this chapter shall promptly no-
8 tify the guardian ad litem, and the conservator's attorney, if any, of all
9 hearings, staff hearings or meetings, investigations, depositions, and sig-
10 nificant changes of circumstances of the protected person.

11 (4) Except to the extent prohibited or regulated by federal law, upon
12 presentation of a copy of the order appointing the guardian ad litem, any
13 person or agency including, without limitation, any hospital, school or-
14 ganization, department of health and welfare, doctor, nurse or other health
15 care provider, psychologist, psychiatrist, police department, or mental
16 health clinic, shall permit the guardian ad litem to inspect and copy perti-
17 nent records relating to the protected person necessary for the proceeding
18 for which the guardian ad litem has been appointed.