

ENROLLED

CS/CS/CS/HB 775

2015 Legislature

1
2 An act relating to the appointment of an ad litem;
3 creating s. 49.31, F.S.; defining the term "ad litem";
4 authorizing a court to appoint an ad litem for certain
5 parties upon whom service of process by publication is
6 made; prohibiting a court from appointing an ad litem
7 to represent an interest for which a personal
8 representative, guardian of property, or trustee is
9 serving; requiring an ad litem, upon discovery that
10 the party it represents is already represented by a
11 personal representative, guardian of property, or
12 trustee, or is deceased, to take certain actions;
13 prohibiting a court from requiring an ad litem to post
14 a bond or designate a resident agent; requiring a
15 court to discharge an ad litem when the final judgment
16 is entered or as otherwise ordered by the court;
17 providing that an ad litem is entitled to an award of
18 a reasonable fee for services and costs; providing for
19 assessment; prohibiting the use of state funds except
20 in certain circumstances; prohibiting declaring
21 certain proceedings ineffective solely due to a lack
22 of statutory authority to appoint an ad litem;
23 providing construction; providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:
26

ENROLLED

CS/CS/CS/HB 775

2015 Legislature

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

29 49.31 Appointment of ad litem.—

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

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

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

46 (b) If the court has appointed an ad litem to represent an
 47 interest and the ad litem discovers that the person whose
 48 interest he or she represents is deceased and there is no
 49 personal representative, guardian of property, or trustee to
 50 represent the decedent's interest, the ad litem must make a
 51 reasonable attempt to locate any spouse, heir, devisee, or
 52 beneficiary of the decedent, must report to the court the name

ENROLLED

CS/CS/CS/HB 775

2015 Legislature

53 and address of all such persons whom the ad litem locates, and
54 must petition for discharge as to any interest of the person
55 located.

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

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

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

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

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

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