**South Carolina General Assembly**

125th Session, 2023-2024

**H. 3882**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Gatch, J.L. Johnson, Leber, Connell, Elliott and Carter

Document Path: LC-0034VR23.docx

Introduced in the House on February 7, 2023

Currently residing in the House

Summary: Private Guardians ad Litem

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 2/7/2023 House Introduced and read first time (House Journal‑page 19)

 2/7/2023 House Referred to Committee on **Judiciary** (House Journal‑page 19)

 2/14/2023 House Member(s) request name added as sponsor: Carter

 5/11/2023 House Member(s) request name removed as sponsor: Mitchell

View the latest  [legislative information](https://www.scstatehouse.gov/billsearch.php?billnumbers=3882&session=125&summary=B)  at the website

**VERSIONS OF THIS BILL**

[02/07/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3882_20230207.docx)

A bill

to amend the South Carolina Code of Laws by amending Section 63‑3‑820, relating to guardians ad litem in private custody or visitation cases, so as to make certain changes regarding cases in which attorney and lay guardians ad litem may be appointed.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 63‑3‑820 of the S.C. Code is amended to read:

 Section 63‑3‑820. (A) A guardian ad litem may be either an attorney or a layperson. A person must not be appointed as a guardian ad litem pursuant to Section 63‑3‑810 unless he possesses the following qualifications:

 (1) a guardian ad litem must be twenty‑five years of age or older;

 (2) a guardian ad litem must possess a high school diploma or its equivalent;

 (3) an attorney guardian ad litem must annually complete a minimum of six hours of family law continuing legal education credit in the areas of custody and visitation; however, this requirement may be waived by the court;

 (4) for initial qualification, a lay guardian ad litem must have completed a minimum of nine hours of continuing education in the areas of custody and visitation and three hours of continuing education related to substantive law and procedure in family court. The courses must be approved by the Supreme Court Commission on Continuing Legal Education and Specialization;

 (5) a lay guardian ad litem must observe three contested custody merits hearings prior to serving as a guardian ad litem. The lay guardian must maintain a certificate showing that observation of these hearings has been completed. This certificate, which shall be on a form approved by Court Administration, shall state the names of the cases, the dates and the judges involved and shall be attested to by the respective judge; and

 (6) lay guardians ad litem must complete annually six hours of continuing education courses in the areas of custody and visitation.(1) Except as provided in item (2), a guardian ad litem appointed pursuant to Section 63‑3‑810 must be an attorney licensed to practice law in South Carolina whose license is in good standing. An attorney guardian ad litem must annually complete a minimum of six hours of family law continuing legal education credit in the areas of custody and visitation; however, this requirement may be waived by the court.

 (2) If both parties are unrepresented, a guardian ad litem appointed pursuant to Section 63‑3‑810 may be a layperson; provided, a lay guardian ad litem must:

 (a) be at least twenty‑five years of age or older;

 (b) possess a high school diploma or its equivalent;

 (c) for initial qualification, have completed a minimum of nine hours continuing education in the areas of custody and visitation and three hours of continuing education related to substantive law and procedure in family court. The courses must be approved by the Supreme Court Commission on Continuing Legal Education and Specialization;

 (d) prior to serving as a guardian ad litem, have observed three contested custody merits hearings. The lay guardian must maintain a certificate showing that observation of these hearings has been completed. This certificate, which shall be on a form approved by Court Administration, shall state the names of the cases, the dates and the judges involved and shall be attested to by the respective judge; and

 (e) complete annually six hours of continuing education courses in the areas of custody and visitation.

 (B) A person shall not be appointed as a guardian ad litem pursuant to Section 63‑3‑810 who has been convicted of any crime listed in Chapter 3 of Title 16, Offenses Against the Person; in Chapter 15 of Title 16, Offenses Against Morality and Decency; in Chapter 25 of Title 16, Criminal Domestic Violence; in Article 3 of Chapter 53 of Title 44, Narcotics and Controlled Substances; or convicted of the crime of contributing to the delinquency of a minor, provided for in Section 16‑17‑490.

 (C) No person may be appointed as a guardian ad litem pursuant to Section 63‑3‑810 if he is or has ever been on the Department of Social Services Central Registry of Abuse and Neglect.

 (D) Upon appointment to a case, a guardian ad litem must provide an affidavit to the court and to the parties attesting to compliance with the statutory qualifications. The affidavit must include, but is not limited to, the following:

 (1) a statement affirming that the guardian ad litem has completed the applicable education and training requirements provided for in subsection (A);

 (2) a statement affirming that the guardian ad litem has complied with the requirements of this section, including a statement that the person has not been convicted of a crime enumerated in subsection (B); and

 (3) a statement affirming that the guardian ad litem is not nor has ever been on the Department of Social Services Central Registry of Child Abuse and Neglect pursuant to Subarticle 13, Article 3, Chapter 7.

 (E) The court may appoint an attorney for a lay guardian ad litem. A party or the guardian ad litem may petition the court by motion for the appointment of an attorney for the guardian ad litem. This appointment may be by consent order. The order appointing the attorney must set forth the reasons for the appointment and must establish a method for compensating the attorney.

SECTION 2. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑