



## Representation of Children in Child Abuse and Neglect Proceedings

The Federal Child Abuse Prevention and Treatment Act (CAPTA) requires States to document in their State plan provisions for appointing a guardian ad litem (GAL) to represent the child's best interests in every case of abuse or neglect that results in a judicial proceeding. The GAL may be an attorney or a court-appointed special advocate (CASA)—or both—who has received appropriate training.<sup>1</sup>

<sup>1</sup> To be eligible for funding under CAPTA, a State is required to submit to the Secretary of the U.S. Department of Health and Human Services a written plan for improving the State's child protective services system. The plan must include an assurance that the State has in effect laws, policies, or procedures that address specific issues required by CAPTA (42 U.S.C. § 5106a(b) (2010)).

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**To find statute information for a particular State, go to**

[https://www.childwelfare.gov/systemwide/laws\\_policies/state/](https://www.childwelfare.gov/systemwide/laws_policies/state/)

The GAL represents the child at all judicial proceedings related to the case and has the responsibility to:

- Obtain firsthand a clear understanding of the situation and needs of the child
- Make recommendations to the court concerning the best interests of the child

At the State level, statutes specify when the court must appoint a representative for a child who is involved in an abuse and neglect proceeding and whom the court may appoint.<sup>2</sup> As described in the National Council of Juvenile and Family Court Judges' *Resource Guidelines: Improving Court Practice in Child Abuse and Neglect Cases*,<sup>3</sup> there are a number of ways that a child's interests can be represented. In some instances, two or more of these representatives may work on the same case:

- A GAL may be appointed to investigate and represent the child's best interests as described above.
- An attorney may be appointed specifically to represent the child's expressed wishes before the court.
- A CASA may be appointed to assist the court by investigating a child's circumstances and providing recommendations on meeting the child's needs. In some cases, a CASA may serve as the child's GAL as described in CAPTA.

## Making the Appointment

All States, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands provide in their statutes for the appointment of representation for a child involved in a child abuse or neglect proceeding. Approximately 41 States, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, and the Virgin Islands provide for the appointment of a GAL to represent the best interests of the child.<sup>4</sup> In 15 of these States, the

District of Columbia, and the Virgin Islands, the GAL must be an attorney.<sup>5</sup> In other States, volunteers who may or may not be attorneys may serve as GALs.

Seventeen States and Puerto Rico require the appointment of an attorney for the child;<sup>6</sup> seven States require both an attorney and GAL.<sup>7</sup> Oregon requires the appointment of a CASA. In Wisconsin, a child has the right to counsel, and he or she may not be removed from the home unless counsel has been appointed. If the child is under age 12, the court may appoint a GAL instead of counsel. In four States, if the GAL is not an attorney, counsel may be appointed to represent the GAL.<sup>8</sup>

In all cases, the appointment of a GAL, attorney, or CASA is made by the court that has jurisdiction over the child abuse or neglect proceedings. In Louisiana, the attorney may be provided by a Child Advocacy Program. In Maryland, the court appoints an attorney with whom the Department of Human Resources has contracted to provide legal services. In Washington, the court may select a GAL from a rotational registry of qualified GALs.

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Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Maine, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico (for a child under age 14; an attorney must be appointed for a child who is age 14 or older), North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, Wisconsin (for a child under age 12; an attorney must be appointed for a child who is age 12 or older), and Wyoming. In Vermont, the GAL must advocate for the child's wishes if the child is able to communicate them effectively.

<sup>5</sup> Alabama, Arkansas, Colorado, Kansas, Michigan, Missouri, Nebraska, New Jersey, New Mexico, North Dakota, Pennsylvania, Utah, Virginia, Wisconsin, and Wyoming.

<sup>6</sup> California, Connecticut, Georgia, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Montana, Nevada, New Mexico, New York, Oklahoma, South Dakota, West Virginia, Wisconsin, and Wyoming. In Wyoming, the attorney also shall serve as the child's GAL. In New Mexico, an attorney is required if the child is age 14 or older. In California, the appointment of an attorney is required unless the court finds the child would not benefit from the appointment; in that case, the court must appoint a CASA for the child.

<sup>7</sup> Georgia, Mississippi, Montana, North Carolina, South Carolina, Texas, and Vermont. In Texas, the attorney may serve in the dual role of attorney and GAL, or a separate GAL may be appointed. In Mississippi and North Carolina, an attorney also must be appointed if the court appoints a nonattorney GAL.

<sup>8</sup> Idaho, Illinois, Indiana, and South Carolina.

<sup>2</sup> Throughout this document, analyses of requirements in some States were derived from court rules as well as statutes.

<sup>3</sup> National Council of Juvenile and Family Court Judges (1995), [http://www.ncjfcj.org/sites/default/files/resguide\\_0.pdf](http://www.ncjfcj.org/sites/default/files/resguide_0.pdf)

<sup>4</sup> The word "approximately" is used to stress the fact that States frequently amend their laws. This information is current through August 2014. The States that provide for the appointment of a GAL include Alabama, Alaska,

## The Use of Court-Appointed Special Advocates

Approximately 34 States and the Virgin Islands allow for the appointment of a CASA.<sup>9</sup> In 17 of these States, the CASA may serve as the GAL.<sup>10</sup> In 13 States and the U.S. Virgin Islands, the CASA may be appointed in addition to the GAL.<sup>11</sup> A CASA may be appointed in addition to an attorney in five States.<sup>12</sup> In Louisiana and New Mexico, a CASA may be assigned to assist the court, while in Utah a CASA may be selected to assist the court or the child's GAL.

## Qualifications and Training

Approximately 46 States, the District of Columbia, and the Virgin Islands address the qualifications and training required for those who can be assigned to represent a child involved in a child abuse or neglect proceeding.<sup>13</sup> While most States that require the appointment of an attorney for the child do not require additional specific training, some States do have certain requirements that must be met. Texas, for example, requires the attorney to have training in child advocacy or experience equivalent to that training, while West Virginia requires 8 hours of continuing legal education per year focusing on the representation of children and child abuse and neglect.<sup>14</sup>

For attorneys serving as GALs, training requirements vary considerably from State to State. In four States, additional training is not specified.<sup>15</sup>

<sup>9</sup> Alabama, Arizona, Arkansas, California, Colorado, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, and Wisconsin.

<sup>10</sup> Arizona, California, Delaware, Georgia, Illinois, Indiana (the court may appoint a CASA to act as GAL or appoint both a CASA and GAL), Iowa, Maine, Missouri, Nevada, New Hampshire, Ohio, Oregon, Rhode Island, South Carolina, Texas, and Washington.

<sup>11</sup> Alabama, Arkansas, Colorado, Indiana, Kansas, Mississippi, Nebraska, New Mexico, Pennsylvania, Tennessee, Utah, Virginia, and Wisconsin.

<sup>12</sup> Kentucky, Louisiana, Maryland, Oklahoma, and Wisconsin.

<sup>13</sup> In all States except Arizona, Hawaii, Iowa, and Oregon.

<sup>14</sup> Louisiana requires attorneys who are appointed as a child's counsel to possess training or education relevant to child abuse and neglect cases. Attorneys in Massachusetts must complete an initial 5-day certification course, work with a mentor, and complete other training specified in policy, including annual continuing education requirements.

<sup>15</sup> New Jersey, New Mexico, New York, and Pennsylvania.

In 17 States and the District of Columbia, laws require attorneys to receive training specific to their roles as GALs.<sup>16</sup> For example, Delaware requires GALs to complete training offered by the State Office of the Child Advocate, and Florida requires training to be provided by the Statewide Guardian ad Litem Office. In Georgia, the requirement for training can be satisfied within the State's existing continuing legal education obligations. The statutes in six States provide more specific requirements about the content of training, including knowledge about the needs and protection of children; applicable statutory, regulatory, and case law; and the roles, responsibilities, and duties when representing the best interests of a child.<sup>17</sup>

For nonattorneys acting as GALs and CASAs, the laws in many States provide more detailed training requirements. Typically, an initial training program must be completed before a person may be assigned to a child's case, followed by ongoing in-service training. The training programs are designed to ensure that the child's advocate possesses the knowledge and skills to represent the child's best interests competently. Topics covered in these programs may include:

- Child abuse and neglect
- Child development
- Roles and responsibilities of the child's advocate
- Cultural awareness
- The juvenile court process
- Federal, State, and local laws, regulations, and rules
- Interview techniques and information gathering
- Documentation and report writing

Seven States specify that the training provided to CASAs must comply with standards set by the National Court Appointed Special Advocates Association.<sup>18</sup>

<sup>16</sup> Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Kansas, Missouri, Nebraska, North Dakota, South Carolina, Texas, Utah, Virginia, Wisconsin, and Wyoming.

<sup>17</sup> Arkansas, Connecticut, Kansas, Utah, Virginia, and Wyoming.

<sup>18</sup> Those States are Arkansas, California, Kentucky, Louisiana, Nevada, Tennessee, and Utah. For information on the National CASA Association curriculum, see [http://www.casaforchildren.org/site/c.mtJSJ7MPlsE/b.5466267/k.5DDB0/Training\\_Staff\\_and\\_Volunteers.htm](http://www.casaforchildren.org/site/c.mtJSJ7MPlsE/b.5466267/k.5DDB0/Training_Staff_and_Volunteers.htm).

In addition to training requirements, volunteers are screened and interviewed prior to acceptance in a GAL or CASA program. Sixteen States and the Northern Mariana Islands require criminal background checks.<sup>19</sup> Checks of the State's child abuse and neglect registry are required in 10 States.<sup>20</sup> California, Florida, and Idaho require checks of the State's sex offender registry.

## Specific Duties

The primary responsibility of a GAL is to represent the best interests of a child in child abuse and neglect proceedings. The laws in 41 States, American Samoa, Guam, the Northern Mariana Islands, and the Virgin Islands list specific duties that may be required as part of that responsibility.<sup>21</sup> These duties include, but are not limited to:

- Meeting face-to-face with the child on a regular basis, including before all hearings
- Conducting an independent investigation of the circumstances of the case
- Attending all hearings and staffings related to the case
- Monitoring cases to ensure that court orders for services have been fulfilled
- Submitting written reports to the court

The GAL also is expected to make recommendations to the court about specific actions that would serve the best interests of the child. Sometimes, the GAL's determination of best interests may conflict with the child's expressed wishes. In 25 States, the District of Columbia, Guam, and the Virgin Islands, the GAL is obligated to communicate the child's wishes to the court along with his or her own

<sup>19</sup> Arkansas, California, Colorado, Delaware, Florida, Idaho, Illinois, Kentucky, Louisiana, Minnesota, Missouri, Nebraska, Pennsylvania, South Carolina, Virginia, and Washington.

<sup>20</sup> Arkansas, Colorado, Illinois, Kentucky, Minnesota, Missouri, Nebraska, Pennsylvania, Virginia, and Washington.

<sup>21</sup> Alabama, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, Wisconsin, and Wyoming.

recommendations.<sup>22</sup> In 14 States, the District of Columbia, and Guam, the court may appoint a separate counsel to represent the child's wishes.<sup>23</sup>

The statutes in 13 States list specific duties for a CASA who is appointed in addition to an attorney or GAL.<sup>24</sup> Typically, these duties may include:

- Investigating the case to provide independent, factual information to the court
- Monitoring the case to ensure compliance with court orders
- Determining whether appropriate services are being offered to the child and family
- Preparing regular written reports for the court and parties to the case

## Compensating the Representative

Many States provide in statute that reasonable compensation should be paid to attorneys and GALs who are appointed to represent a child.<sup>25</sup> In Arkansas and Delaware, the child's attorney is contracted through a State agency, while in Colorado, Kentucky, and Oregon, attorney expenses are paid by either a State agency or a specially designated fund. In California and Connecticut, the child's attorney and GAL are assigned by the public defender's office, which also has the responsibility to pay the fees of the attorney and GAL.

In 32 States, the District of Columbia, American Samoa, and Guam, fees and expenses for attorney and/or GAL services are paid by the court handling the case.<sup>26</sup>

<sup>22</sup> Arkansas, California, Delaware, Idaho, Hawaii, Kansas, Maine, Michigan, Nevada, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, Wisconsin, and Wyoming.

<sup>23</sup> Alaska, Connecticut, Delaware, Hawaii, Illinois, Kansas, Maine, Michigan, New Hampshire, South Dakota, Tennessee, Texas, Washington (if a child who is age 12 or older requests separate counsel), and Wisconsin.

<sup>24</sup> Arkansas, Colorado, Kansas, Kentucky, Louisiana, Maryland, Nebraska, New Mexico, Pennsylvania, Tennessee, Utah, Virginia, and Wisconsin.

<sup>25</sup> Alabama, Arizona, California, New Hampshire, New Jersey, Pennsylvania, Rhode Island, South Carolina, Vermont, Puerto Rico, and the U.S. Virgin Islands do not address this issue in their statutes.

<sup>26</sup> Alaska, Florida, Hawaii, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

In seven States and American Samoa, these costs are funded by the State;<sup>27</sup> in 12 States, expenses are paid by the county.<sup>28</sup> To the extent that they are able to pay, the court in 21 States and Guam may require the parent or guardian of the child or other appropriate party to reimburse the court for any attorney or GAL fees that have been paid.<sup>29</sup> In Tennessee and American Samoa, the person found responsible for the abuse or neglect is required to pay these expenses.

Since they serve as volunteers, CASAs are not compensated. However, in Maine and Missouri, they may be reimbursed for any expenses they incur.

This publication is a product of the State Statutes Series prepared by Child Welfare Information Gateway. While every attempt has been made to be complete, additional information on these topics may be in other sections of a State's code as well as agency regulations, case law, and informal practices and procedures.

### **Suggested citation:**

Child Welfare Information Gateway. (2014). *Representation of children in child abuse and neglect proceedings*. Washington, DC: U.S. Department of Health and Human Services, Children's Bureau.

<sup>27</sup> Alaska, Minnesota, Montana, Nevada, New Mexico, Virginia, and Washington.

<sup>28</sup> Idaho, Illinois, Indiana, Iowa, Kansas, Mississippi, Nebraska, Ohio, South Dakota, Texas, Wisconsin, and Wyoming.

<sup>29</sup> Connecticut, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri (except for any person who is found not to have committed the abuse), Nebraska, New Mexico, North Carolina (only if the child is adjudicated as being abused or neglected), North Dakota, Oklahoma, Texas, Utah, Virginia, and Wisconsin.

## Alabama

### Making the Appointment

#### Ann. Code §§ 26-14-11; 12-15-304

In every case involving an abused or neglected child that results in a judicial proceeding, an attorney shall be appointed to represent the child. This attorney will represent the rights, interests, welfare, and well-being of the child, and serve as guardian ad litem (GAL) for that child.

In all dependency and termination of parental rights proceedings, the juvenile court shall appoint a GAL for a child who is a party to the proceedings and whose primary responsibility shall be to protect the best interests of the child.

### The Use of Court-Appointed Special Advocates (CASAs)

#### Ann. Code § 12-15-304

Nothing in this section shall prohibit the juvenile court from appointing trained volunteers in addition to GALs in promoting the best interests of the child.

### Qualifications/Training

#### Ann. Code § 12-15-304

Before being appointed by the juvenile court, every GAL appointed in juvenile dependency or termination of parental rights cases shall receive training appropriate to their role.

### Specific Duties

#### Ann. Code § 12-15-304

The duties of the GAL include, but shall not be limited to, the following:

- Irrespective of the age of the child, to meet with the child prior to juvenile court hearings and when apprised of emergencies or significant events affecting the child
- To explain, in terms understandable to the child, what is expected to happen before, during, and after each juvenile court hearing
- To conduct a thorough and independent investigation
- To advocate for appropriate services for the child and the family
- To attend all juvenile court hearings scheduled by the juvenile court and file all necessary pleadings to facilitate the best interests of the child

### How the Representative Is Compensated

This issue is not addressed in the statutes reviewed.

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## Alaska

### Making the Appointment

#### Alaska Stat. § 47.10.050; AK CINA Rule 12(b)(3)

Whenever in the course of proceedings instituted under this chapter it appears to the court that the welfare of a child will be promoted by the appointment of an attorney to represent the child, the court may make the appointment. If it appears to the court that the welfare of a child in the proceeding will be promoted by the appointment of a guardian ad litem (GAL), the court shall make the appointment. Appointment of a GAL or attorney shall be made under the terms of § 25.24.310.

The court shall appoint counsel, pursuant to Administrative Rule 12, for a child when the court determines that the interests of justice require the appointment of an attorney to represent the child's expressed interests.

### The Use of Court-Appointed Special Advocates (CASAs)

This issue is not addressed in the statutes reviewed.

**Qualifications/Training****Alaska Stat. § 25.24.310; AK CINA Rule 11(c)**

The court shall make every reasonable effort to appoint a GAL from among persons in the community where the child's parents or the person having legal custody or guardianship of the child resides.

*In court rules:* A GAL should possess the knowledge, skill, experience, training, or education that allows the GAL to conduct an independent, thorough, and impartial investigation and to advocate effectively for the best interests of the child.

The GAL should have an understanding of the following as appropriate to the case:

- Child development from infancy through adolescence
- The impact of child abuse and neglect on the child
- The impact of child in need of assistance (CINA) proceedings, including out-of-home placement and the restriction or termination of parental rights, on the child
- Unique issues related to families involved in CINA proceedings such as substance abuse, domestic violence, and disabilities
- Community and other resources available for placement, treatment, and other necessary services for abused or neglected children
- The ethnic, cultural, and socioeconomic backgrounds of the population to be served
- The Indian Child Welfare Act and the prevailing social and cultural standards of the Indian community in which the child, parent, Indian custodian, or extended family resides or maintains social and cultural ties
- Alaska and applicable Federal statutes, rules, and supreme court decisions relating to CINA proceedings
- The ability to research and develop special areas of knowledge as appropriate or necessary in a given case

**Specific Duties****Alaska Stat. § 25.24.310**

The court shall require a GAL when, in the opinion of the court, representation of the child's best interests, to be distinguished from preferences, would serve the welfare of the child. The court in its order appointing a GAL shall:

- Limit the duration of the appointment of the GAL to the pendency of the legal proceedings affecting the child's interests
- Outline the GAL's responsibilities
- Limit the authority to those matters related to the guardian's effective representation of the child's best interests in the pending legal proceeding

**How the Representative Is Compensated****Alaska Stat. § 25.24.310**

The court shall notify the office of public advocacy if the office is required to provide GAL services. The court shall enter an order for costs, fees, and disbursements in favor of the State and may further order that other services be provided for the protection of a minor or other child.

**American Samoa****Making the Appointment****Ann. Code §§ 45.2017(c); 45.0326**

In each case filed under this section, the court appoints a guardian ad litem (GAL) in accordance with § 45.0326.

In all proceedings brought for the protection of a child suffering from abuse or nonaccidental injury, following a report made under § 45.2010, a GAL shall be appointed for this child. The GAL shall have the powers and duties specified in § 45.2017.

**The Use of Court-Appointed Special Advocates (CASAs)**

This issue is not addressed in the statutes reviewed.

**Qualifications/Training**

This issue is not addressed in the statutes reviewed.

### **Specific Duties**

#### **Ann. Code § 45.2017**

The GAL is given access to all reports relevant to the case made to or by any public agency or person under this chapter and § 45.0304 and to reports of any examination of the responsible person.

The GAL is charged in general with the representation of the child's interests. To that end he or she may:

- Make further investigation that he or she considers necessary to ascertain the facts
- Interview witnesses
- Examine and cross-examine witnesses in both the adjudicatory and dispositional hearings
- Introduce and examine his or her own witnesses
- Make recommendations to the court concerning the child's welfare
- Participate further in the proceedings to the degree necessary to adequately represent the child

### **How the Representative Is Compensated**

#### **Ann. Code § 45.2017**

If the petition is granted to place the child under the jurisdiction of the court, the costs of the proceeding, including GAL and expert witness fees, may be charged by the court against the person found responsible for the abuse or neglect. If the petition is not granted, the costs may be charged against the Territory of American Samoa.

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## **Arizona**

### **Making the Appointment**

#### **Rev. Stat. § 8-221**

In all juvenile court proceedings in which the dependency petition includes an allegation that the juvenile is abused or neglected, the court shall appoint a guardian ad litem (GAL) to protect the juvenile's best interests. This guardian may be an attorney or a court-appointed special advocate (CASA).

### **The Use of Court-Appointed Special Advocates (CASAs)**

#### **Rev. Stat. §§ 8-523; 8-524**

The CASA program is established in the Administrative Office of the Supreme Court. The program shall establish local special advocate programs in each county.

The Supreme Court shall adopt rules prescribing the establishment of local programs and the minimum performance standards of these programs.

The CASA fund consists of moneys received pursuant to § 5-568 [from unclaimed prizes from the State lottery]. The fund is subject to annual legislative appropriation. Moneys appropriated by the legislature from the CASA fund for the CASA program shall be used by the Supreme Court to operate, improve, maintain, and enhance the program.

### **Qualifications/Training**

This issue is not addressed in the statutes reviewed.

### **Specific Duties**

#### **Rev. Stat. § 8-221**

The GAL or attorney for a juvenile shall meet with the juvenile before the preliminary protective hearing, if possible, or within 14 days after the preliminary protective hearing. The GAL or attorney for the juvenile also shall meet with the juvenile before all substantive hearings. Upon a showing of extraordinary circumstances, the judge may modify this requirement for any substantive hearing.

### **How the Representative Is Compensated**

This issue is not addressed in the statutes reviewed.

## Arkansas

### Making the Appointment

#### Ann. Code § 9-27-316

The court shall appoint an attorney ad litem when a dependency-neglect petition is filed or when an emergency ex parte order is entered in a dependency-neglect case, whichever occurs earlier.

The court may appoint an attorney ad litem to represent the best interests of a child involved in any case before the court and shall consider the child's best interests in determining whether to appoint an attorney ad litem.

### The Use of Court-Appointed Special Advocates (CASAs)

#### Ann. Code § 9-27-316(g)

The court may appoint a volunteer court-appointed special advocate (CASA) from a program that shall meet all State and national CASA standards to advocate for the best interests of juveniles in dependency-neglect proceedings. No CASA shall be assigned a case before:

- Completing a training program in compliance with National Court-Appointed Special Advocate Association and State standards
- Being approved by the local CASA program, including appropriate criminal background and child abuse registry checks

Each CASA shall:

- Investigate the case to which he or she is assigned to provide independent factual information to the court through the attorney ad litem, court testimony, or court reports
- Monitor the case to which he or she is assigned to ensure compliance with the court's orders

The CASA may testify if called as a witness. When the CASA prepares a written report for the court, the advocate shall provide all parties or the attorney of record with a copy of the written report 7 business days before the relevant hearing.

Upon presentation of an order of appointment, a CASA shall be provided access to all records relevant to the child's case including, but not limited to, school records, medical records, all court records relating to the child and his or her family, and department records to the extent permitted by Federal law.

A CASA is not a party to the case to which he or she is assigned and shall not call witnesses or examine witnesses.

### Qualifications/Training

#### Ann. Code §§ 9-27-401(b)(4); 9-27-316(f)(1); AR Sup. Ct. Adm. Order No. 15.1, § 1

The Supreme Court shall adopt standards of practice and qualifications for service for all attorneys who seek employment or contracts to provide legal representation to children in dependency-neglect cases.

The court shall appoint an attorney ad litem who shall meet standards and qualifications established by the Supreme Court to represent the best interests of the juvenile when a dependency-neglect petition is filed or when an emergency ex parte order is entered in a dependency-neglect case, whichever occurs earlier.

*In court rules:* Prior to appointment, an attorney ad litem shall have initial education to include approved legal education of not less than 10 hours in the 2 years prior to the date an attorney qualifies as a court-appointed attorney for children in dependency-neglect cases. Initial training must include:

- Child development
- Dynamics of abuse and neglect
- Attorney roles and responsibilities, including ethical considerations
- Relevant State law, Federal law, case law, and rules
- Family dynamics, including, but not limited to, substance abuse, domestic violence, and mental health issues
- Division of Children and Family Services policies and procedures
- Additional initial legal education that may include, but is not limited to:
  - » Grief and attachment
  - » Custody and visitation
  - » Resources and services
  - » Trial and appellate advocacy

The Administrative Office of the Courts (AOC) shall design and conduct programs for the initial 10 hours of legal education, either alone or in collaboration with other agencies or entities.

Following completion of the initial 10 hours of legal education, continuing legal education shall include at least 4 hours per year related to representation in dependency-neglect cases that may include, but is not limited to, the subject categories listed above.

### **Specific Duties**

#### **Ann. Code § 9-27-316; AR Sup. Ct. Adm. Order No. 15.1, § 2**

An attorney ad litem shall:

- File written motions, responses, or objections at all stages of the proceedings when necessary to protect the best interests of the child
- Attend all hearings and participate in all telephone conferences with the court unless excused by the court
- Present witnesses and exhibits when necessary to protect the child's best interests

An attorney ad litem shall be provided access to all records relevant to the child's case, including, but not limited to, school records, medical records, all court records relating to the child and his or her family, and records of the Department of Human Services to the extent permitted by Federal law.

An attorney ad litem shall represent the best interests of the child. If the child's wishes differ from the attorney's determination of the child's best interests, the attorney ad litem shall communicate the child's wishes to the court in addition to presenting his or her determination of the child's best interests.

*In court rules:* An attorney ad litem shall determine the best interests of a child by considering such factors as the child's age and sense of time, level of maturity, culture and ethnicity, degree of attachment to family members including siblings, as well as continuity, consistency, and the child's sense of belonging and identity.

An attorney ad litem shall:

- Make earnest efforts to attend all case staffings and court-ordered mediation conferences and to meet with his or her client prior to every hearing
- Appear at all hearings to represent the best interests of the child and present all relevant facts to the court and, if the child's wishes differ from the ad litem's determination of the child's best interests, communicate the child's wishes to the court
- Explain the court proceedings and the role of the ad litem in terms that the child can understand
- Advocate for specific and appropriate services for the child and the child's family
- Monitor implementation of case plans and court orders
- File appropriate pleadings on behalf of the child
- Review the progress of the child's case and advocate for timely hearings
- Request orders that are clear, specific, and, where appropriate, include a time line for assessment, services, placement, treatment, and evaluation of the child and the child's family

### **How the Representative Is Compensated**

#### **Ann. Code § 9-27-401**

The director of the AOC is authorized to employ or enter into professional service contracts with private individuals or businesses or public agencies to represent all children in dependency-neglect proceedings. Before employing or entering into a contract or contracts, the office shall consult with the judges of the circuit court designated to hear dependency-neglect cases.

Those obtaining employment or contracts through the office will be designated as the providers for representation of children in dependency-neglect cases in each judicial district.

The distribution of funds among the judicial districts shall be based on a formula developed by the office and approved by the Juvenile Judges Committee of the Arkansas Judicial Council. In the transition to a State-funded system of dependency-neglect representation, it is the intent of the General Assembly to provide an appropriate and adequate level of representation to all children in dependency-neglect proceedings as required under Federal and State law.

The court may also require the parties to pay all or a portion of the expenses, depending on the ability of the parties to pay.

The office shall establish guidelines to provide a maximum amount of expenses and fees per hour and per case that will be paid.

## California

### Making the Appointment

#### Welf. & Inst. Code §§ 317(c), 326.5; 326.7; Cal. Rules of Ct., Rule 5.660(b)

If a child or nonminor dependent is not represented by counsel, the court shall appoint counsel for the child or nonminor dependent unless the court finds that he or she would not benefit from the appointment of counsel. The court shall state on the record its reasons for that finding.

The Judicial Council shall adopt a rule of court effective July 1, 2001, that complies with the requirement of the Federal Child Abuse Prevention and Treatment Act (CAPTA, P.L. 93-247) for the appointment of a guardian ad litem (GAL) for a child in cases in which a petition is filed based upon neglect or abuse of the child or in which a prosecution is initiated under the Penal Code arising from neglect or abuse of the child.

Appointment of a GAL shall not be required for a minor who is a parent of the child who is the subject of the dependency petition unless the minor parent is unable to understand the nature of the proceedings or to assist counsel in preparing the case.

*In court rules:* The court must appoint counsel for a child who is the subject of a petition under § 300 and who is unrepresented by counsel unless the court finds that the child would not benefit from the appointment of counsel.

In order to find that a child would not benefit from the appointment of counsel, the court must find all of the following:

- The child understands the nature of the proceedings.
- The child is able to communicate and advocate effectively with the court, other counsel, other parties, including social workers and other professionals involved in the case.
- Under the circumstances of the case, the child would not gain any benefit by being represented by counsel.

If the court finds that the child would not benefit from representation by counsel, the court must appoint a court-appointed special advocate (CASA) volunteer for the child, to serve as the CAPTA GAL, as required in § 326.5.

### The Use of Court-Appointed Special Advocates (CASAs)

#### Welf. & Inst. Code §§ 326.5; 356.5; 102; 103

The rule of court may include guidelines to the courts for determining when an attorney should be appointed rather than a CASA, and caseload standards for GALs.

A child advocate appointed by the court to represent the interests of a dependent child shall have the same duties and responsibilities as a GAL and shall be trained by and function under the auspices of a CASA/GAL program, formed and operating under the guidelines established by the National Court Appointed Special Advocate Association.

A CASA may be appointed in juvenile dependency proceedings, including proceedings involving a nonminor dependent.

A judge may appoint a CASA when, in the opinion of the judge, a child requires services that can be provided by the CASA consistent with the local rules of court.

To accomplish the appointment of a CASA, the judge making the appointment shall sign an order that may grant the CASA the authority to review specific relevant documents and interview parties involved in the case, as well as other persons having significant information relating to the child, to the same extent as any other officer of the court appointed to investigate proceedings on behalf of the court.

### Qualifications/Training

#### Welf. & Inst. Code §§ 102; 103; Cal. Rules of Ct. Rule 5.660(d)(1)-(3)

The Judicial Council shall require an initial and ongoing training program to all persons acting as a CASA, including, but not limited to, the following:

- Dynamics of child abuse and neglect
- Court structure, including juvenile court laws regarding dependency
- Social service systems
- Child development
- Cultural competency and sensitivity relating to, and best practices for, providing adequate care to lesbian, gay, bisexual, and transgender youth
- Interview techniques
- Report writing

- Roles and responsibilities of a CASA
- Rules of evidence and discovery procedures
- Problems associated with verifying reports

The Judicial Council, through its CASA Advisory Committee, shall adopt guidelines for screening CASA volunteers that shall include personal interviews, reference checks, checks for records of sex offenses and other criminal records, information from the Department of Motor Vehicles, and other information the Judicial Council deems appropriate.

Persons acting as CASAs shall be individuals who have demonstrated an interest in children and their welfare. Each CASA shall participate in ongoing training and supervision throughout his or her involvement in the program. Each CASA shall be evaluated before and after initial training to determine his or her fitness for these responsibilities. Ongoing training shall be provided at least monthly.

Each CASA shall commit a minimum of 1 year of service to a child until a permanent placement is achieved for the child or until relieved by the court, whichever is first. At the end of each year of service, the CASA, with the approval of the court, may recommit for an additional year.

A CASA shall have no associations that create a conflict of interest with his or her duties as a CASA.

*In court rules:* 'Competent counsel' means an attorney who is a member in good standing of the State Bar of California, who has participated in training in the law of juvenile dependency, and who demonstrates adequate forensic skills, knowledge, and comprehension of the statutory scheme, the purposes and goals of dependency proceedings, the specific statutes, rules of court, and cases relevant to such proceedings, and procedures for filing petitions for extraordinary writs.

Only those attorneys who have completed a minimum of 8 hours of training or education in the area of juvenile dependency, or who have sufficient recent experience in dependency proceedings in which the attorney has demonstrated competency, may be appointed to represent parties. In addition to a summary of dependency law and related statutes and cases, training and education for attorneys must include information on child development, child abuse and neglect, substance abuse, domestic violence, family reunification and preservation, and reasonable efforts. Within every 3 years attorneys must complete at least 8 hours of continuing education related to dependency proceedings.

### **Specific Duties**

#### **Welf. & Inst. Code §§ 102; 104; 317(e)**

A CASA shall do all of the following in the cases to which he or she is appointed:

- Provide independent, factual information to the court
- Represent the best interests of the children involved and consider the best interests of the family
- At the request of the judge, monitor cases to ensure that the court's orders have been fulfilled

The court shall determine the extent of the CASA's duties in each case. These duties may include an independent investigation of the circumstances surrounding a case to which he or she has been appointed, interviewing and observing the child and other appropriate individuals, and the reviewing of appropriate records and reports.

The CASA shall report the results of the investigation to the court, follow the direction and orders of the court, and provide information specifically requested by the court.

The counsel for the child shall be charged in general with the representation of the child's interests. To that end, the counsel shall make or cause to have made any further investigations that he or she deems in good faith to be reasonably necessary to ascertain the facts, including interviewing witnesses, and he or she shall examine and cross-examine witnesses in both the adjudicatory and dispositional hearings. Counsel may also introduce and examine his or her own witnesses, make recommendations to the court concerning the child's welfare, and participate further in the proceedings to the degree necessary to adequately represent the child. When counsel is appointed to represent a nonminor dependent, counsel is charged with representing the wishes of the nonminor dependent except when advocating for those wishes conflicts with the protection or safety of the nonminor dependent. If the court finds that a nonminor dependent is not competent to direct counsel, the court shall appoint a GAL for the nonminor dependent.

If the child is age 4 or older, counsel shall interview the child to determine the child's wishes and to assess the child's well-being and shall advise the court of the child's wishes.

## **How the Representative Is Compensated** **Welf. & Inst. Code § 317(g)**

In a county of the third class, if counsel is to be provided to a child at the county's expense other than by counsel for the agency, the court shall first use the services of the public defender before appointing private counsel. Nothing in this subdivision shall be construed to require the appointment of the public defender in any case in which the public defender has a conflict of interest. In the interest of justice, a court may depart from that portion of the procedure requiring appointment of the public defender after making a finding of good cause and stating the reasons therefor on the record.

## **Colorado**

### **Making the Appointment**

**Rev. Stat. §§ 19-1-111; 19-1-111.5; 19-3-203**

The court shall appoint a guardian ad litem (GAL) for the child in all dependency or neglect cases under this title.

The court may appoint a court-appointed special advocate (CASA) volunteer if the court finds that the appointment would be in the best interests of the child. The court may direct the manner in which a CASA volunteer and any GAL appointed in a case shall collaborate.

Upon the filing of a petition under § 19-3-502 that alleges abuse or neglect of a minor child, the court shall appoint a GAL. Nothing in this section shall limit the power of the court to appoint a GAL prior to the filing of a petition for good cause.

### **The Use of Court-Appointed Special Advocates (CASAs)**

**Rev. Stat. §§ 19-1-206; 19-1-207**

Any judge or magistrate may appoint a CASA volunteer in any action brought pursuant to titles 14, 15, and 19, when, in the opinion of the judge or magistrate, a child who may be affected by such action requires services that a CASA volunteer can provide. At the discretion of the judge or magistrate, a CASA volunteer may be a party to the action if so provided for in the memorandum of understanding.

A CASA volunteer shall be appointed at the earliest stages of an action pursuant to a court order that gives him or her the authority to review all relevant documents and interview all parties involved in the case, including parents, other parties in interest, and any other persons having significant information relating to the child.

The CASA volunteer's appointment shall conclude:

- When the court's jurisdiction over the child terminates
- Upon discharge by the court on its own motion or at the request of the program director of the CASA program to which the CASA volunteer is assigned

A CASA volunteer shall not:

- Accept any compensation for the duties and responsibilities of his or her appointment
- Have any association that creates a conflict of interest with his or her duties
- Be related to any party or attorney involved in a case
- Be employed in a position that could result in a conflict of interest or give rise to the appearance of a conflict
- Use the CASA volunteer position to seek or accept gifts or special privileges

### **Qualifications/Training**

**Rev. Stat. §§ 13-91-103; 19-1-204; 19-1-205; Colo. Chief Justice Directive 04-06(V)(A)(1), (2)**

A GAL who is appointed to represent a child in a dependency or neglect proceeding shall be an attorney-at-law licensed to practice in Colorado.

All CASA volunteers shall participate fully in preservice training, including instruction on recognizing child abuse and neglect, cultural awareness, child development, the juvenile court process, permanency planning, volunteer roles and responsibilities, advocacy, information gathering, and documentation. Volunteers shall be required to participate in observation of court proceedings prior to appointment.

All volunteers shall receive training manuals that shall include guidelines for their service and duties.

Each CASA program shall provide a minimum of 10 hours of inservice training per year to CASA volunteers

The minimum qualifications for any prospective volunteer are that he or she shall:

- Be at least age 21 and have demonstrated an interest in children and their welfare
- Be willing to commit to the court for a minimum of 1 year of service to a child
- Complete an application, including providing background information required below
- Participate in a screening interview
- Participate in the required training
- Meet other qualifications as determined by the CASA program director and the chief judge of the judicial district

A prospective volunteer's application shall include:

- A copy of any criminal history record and motor vehicle record
- Written authorization for the CASA program to obtain information contained in any records or reports of child abuse or neglect concerning the prospective volunteer
- At least three references of people who can address his or her character, judgment, and suitability for the position
- Records from any other jurisdictions in which he or she resided during the 1-year time period prior to the date of the application if the prospective volunteer has resided in Colorado for less than 12 months

*In court rules:* Attorneys appointed as GALs, child's representatives, or counsel for children shall possess the knowledge, expertise, and training necessary to perform the court appointment. In addition, GALs, child's representatives, and counsel for children shall obtain 10 hours of the required continuing legal education courses or any other modified training requirements established by subsequent Chief Justice Directive practice standards, rule, or statute that are relevant to the appointment and that enhance the attorney's knowledge of the issues in best interests and child client-directed representation. These requirements should be met prior to the attorney's first appointment and per legal education reporting period. The attorney shall provide the Office of the Child's Representative (OCR) with proof of compliance with this requirement with his or her application to provide attorney services or contract renewal for the OCR.

### **Specific Duties**

#### **Rev. Stat. §§19-3-203; 19-1-208**

The GAL shall represent the child's interests. To that end, he or she shall:

- Investigate as necessary to ascertain the facts
- Talk with or observe the child involved
- Examine and cross-examine witnesses in both the adjudicatory and dispositional hearings
- Introduce and examine his or her own witnesses
- Make recommendations to the court concerning the child's welfare
- Appeal matters to the Court of Appeals or the Supreme Court
- Participate in further proceedings as needed

In addition, the GAL, if in the best interests of the child, shall seek to ensure that reasonable efforts are made to prevent unnecessary placement of the child out of the home and to facilitate reunification of the child with the child's family or, if reunification is not possible, to find another safe and permanent living arrangement for the child. In determining whether reasonable efforts are made with respect to a child, the child's health and safety shall be the paramount concern.

Upon appointment, a CASA volunteer may:

- Conduct an independent investigation regarding the best interests of the child to provide factual information to the court regarding the child and the child's family, including:
  - » Interview and observe of the child
  - » Interview other appropriate individuals
  - » Review relevant records and reports
- Determine whether an appropriate treatment plan has been created for the child and family, appropriate services are being provided, and treatment is progressing in a timely manner
- Make recommendations consistent with the best interests of the child regarding placement, visitation, and appropriate services
- Prepare written reports to be distributed to the parties of the action
- Monitor the case to ensure that the child's essential needs are met and that the terms of the court's orders are fulfilled

### **How the Representative Is Compensated** **Rev. Stat. § 13-91-105; 13-91-106**

The OCR shall establish fair and realistic State rates by which to compensate State-appointed GALs that will take into consideration the caseload limitations placed on GALs and that will be sufficient to attract and retain high-quality, experienced attorneys to serve as GALs.

There is hereby created in the State treasury the Guardian ad Litem Fund. The money in the fund shall be subject to annual appropriation by the general assembly to the State Judicial Department for allocation to the OCR for the provision of GAL services in Colorado.

There is also created in the State treasury the Court-Appointed Special Advocate Fund. The money in the fund shall be subject to annual appropriation by the general assembly to the State Judicial Department for allocation to the OCR for the purposes of funding the CASA programs established in each judicial district or in adjacent judicial districts, and the work of the OCR relating to the enhancement of CASA programs.

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## **Connecticut**

### **Making the Appointment** **Gen. Stat. § 46b-129a**

In proceedings in the Superior Court for a neglected, uncared-for, or dependent child under § 46b-129, the child shall be represented by counsel knowledgeable about representing such children who shall be assigned to represent the child by the office of Chief Public Defender, or appointed by the court if there is an immediate need for the appointment of counsel during a court proceeding. The court shall give the parties prior notice of such assignment or appointment. Counsel for the child shall act solely as attorney for the child.

If a child requiring assignment of counsel in a dependency proceeding is represented by an attorney for a minor child in an ongoing probate or family matter proceeding, the court may appoint the attorney to represent the child in the dependency proceeding provided that the counsel is knowledgeable about representing such children, and the court notifies the office of Chief Public Defender of the appointment. Any child who is subject to an ongoing probate or family matters proceeding who has been appointed a guardian ad litem (GAL) in such proceeding shall be assigned a separate GAL in a dependency proceeding if it is deemed necessary.

### **The Use of Court-Appointed Special Advocates (CASAs)**

This issue is not addressed in the statutes reviewed.

### **Qualifications/Training** **Gen. Stat. § 51-296**

The Division of Public Defender Services shall provide legal services and GALs to children, youth, and indigent respondents:

- In family relations matters in which the State has been ordered to pay the cost of such legal services
- In proceedings before the superior court for juvenile matters

To carry out these requirements, the office of Chief Public Defender may contract with:

- Appropriate not-for-profit legal services agencies
- Individual lawyers or law firms for the delivery of legal services to represent children
- Mental health professionals as GALs in family relations matters

Any contract entered into pursuant to this subsection may include terms encouraging or requiring the use of a multidisciplinary agency model of legal representation.

The division shall establish a system to ensure that attorneys providing legal services are assigned to cases in a manner that will avoid conflicts of interest, as defined by the Rules of Professional Conduct.

The division shall establish training, practice, and caseload standards for the representation of children. The standards shall apply to each attorney who represents children and shall be designed to ensure high-quality legal representation. The training standards for attorneys required by this subdivision shall be designed to ensure proficiency in the procedural and substantive law related to such matters and to establish a minimum level of proficiency in relevant subject areas including, but not limited to, family violence, child development, behavioral health, educational disabilities, and cultural competence.

## Specific Duties

### Gen. Stat. § 46b-129a

The primary role of any counsel for the child shall be to advocate for the child in accordance with the Rules of Professional Conduct, except that if the child is incapable of expressing the child's wishes to the child's counsel because of age or other incapacity, the counsel for the child shall advocate for the best interests of the child.

If the court, based on evidence before it, or counsel for the child, determines that the child cannot act adequately in his or her own best interests, and the child's wishes, as determined by counsel, if followed, could lead to substantial physical, financial, or other harm to the child unless protective action is taken, counsel may request and the court may order that a separate GAL be assigned for the child. In that case the court shall either appoint a GAL to serve on a voluntary basis or notify the office of Chief Public Defender who shall assign a separate GAL for the child. The GAL shall conduct an independent investigation of the case and may present information that is pertinent to the court's determination of the best interests of the child at any hearing. The GAL shall be subject to cross-examination upon the request of opposing counsel.

The GAL is not required to be an attorney-at-law but shall be knowledgeable about the needs and protection of children and relevant court procedures. If a separate GAL is assigned, the person previously serving as counsel for the child shall continue to serve as counsel for the child and a different person shall be assigned as GAL, unless the court for good cause shown also determines that a different person should serve as counsel for the child, in which case the court shall notify the office of Chief Public Defender who shall assign a different person as counsel for the child. No person who has served as both counsel and GAL for a child shall thereafter serve solely as the child's GAL.

## How the Representative Is Compensated

### Gen. Stat. §§ 46b-129a; 51-291

The counsel and GAL's fees, if any, shall be paid by the office of Chief Public Defender unless the parents, guardian, or the estate of the child are able to pay, in which case the court shall assess the rate the parent or guardian is able to pay and the office of Chief Public Defender may seek reimbursement for the costs of representation from the parents, guardian, or estate of the child.

The Chief Public Defender shall:

- Maintain one or more lists of trial lawyers who may be available to represent parents or guardians and children in child protection and family relations matters from which lawyers shall be selected by a judge of the court before which the matter is to be heard
- Establish compensation for lawyers assigned to these cases for their services, to be paid from the budget of the Public Defender Services Commission

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## Delaware

### Making the Appointment

#### Ann. Code Tit. 29, § 9007A; Tit. 31, §§ 3605; 3607

In determining whether to represent an abused, neglected or dependent child, the Office of the Child Advocate may communicate with any child at issue and may have access to all information relating to that child held or maintained by the department and/or the Family Court. If the Office determines that a child needs guardian ad litem (GAL) representation, the court shall sign an order appointing the designated attorney as attorney GAL.

In the event that the Family Court judge determines that an attorney GAL should be appointed, the judge shall make the appointment. The appointment shall last until the attorney GAL is released from responsibility by order of the court, or until the attorney GAL's commitment to the court ends.

In the event that the Family Court judge determines that a court-appointed special advocate (CASA) should be appointed, the Family Court judge shall sign an order appointing the CASA as GAL.

For the purposes of a Child Abuse Prevention and Treatment Act [42 U.S.C. § 5106, et seq.] grant to the State under Public Law 93-247 or any related State or Federal legislation, the CASA shall be deemed a GAL to represent the best interests of the minor in proceedings before the court. No bond shall be required from any CASA who serves as a GAL under this chapter.

### **The Use of Court-Appointed Special Advocates (CASAs)**

#### **Ann. Code Tit. 31, §§ 3603; 3605**

There is hereby established a Court-Appointed Special Advocate Program within the Family Court. The program will include coordinators who will be members of the staff of the Family Court. The coordinators will be responsible for the day-to-day operations of the program and will provide direct supervision to the CASAs.

The program will include contract attorneys who will provide legal representation and advice for the CASAs and for the CASA Program. The program attorneys will be selected by the chief judge of the Family Court.

The program will include volunteers to serve as CASAs at the pleasure of the chief judge of the Family Court. The CASA may be appointed in child welfare proceedings or any other proceeding, as deemed appropriate by a Family Court judge.

The CASA shall have the authority to review all documents and interview all pertinent persons having significant information relating to the child and the child's life circumstances.

The appointment shall last until the CASA is released from responsibility by order of the court, or until the CASA's commitment to the court ends.

The CASA shall be a party to any child welfare proceeding or any other proceeding to which the CASA has been appointed and the child is the subject, and shall possess all the procedural and substantive rights of a party.

#### **Qualifications/Training**

#### **Ann. Code Tit. 29, § 9007A; Tit. 31, § 3604**

The attorney GAL shall be trained by the Office of the Child Advocate or complete a course approved by the office prior to representing any child before the court. The attorney GAL shall be required to participate in ongoing training regarding child welfare.

CASAs shall be individuals who have demonstrated an interest in children and their welfare. CASAs must be willing to participate in a training course conducted by the Family Court and in ongoing training and supervision throughout their involvement in the program. Additionally, applicants to become CASAs must submit to background checks and participate in interviews to determine their fitness for these responsibilities. Upon recommendation of the CASA coordinator, the chief judge of the Family Court will make a final determination regarding a person's participation in the program.

The CASA must be willing to commit to the court for 1 year of service. At the end of each year of service, the CASA, with the approval of the coordinator, may recommit for another year.

CASAs will have no associations that would create a conflict of interest with their duties as CASAs.

Qualified adults shall not be discriminated against based upon sex, socioeconomic, religious, racial, ethnic, or age factors.

#### **Specific Duties**

#### **Ann. Code Tit. 29, § 9007A**

The attorney GAL's duty is to the child and to represent the child's best interests. As such, the attorney GAL shall:

- Represent the best interests of the child in all child welfare proceedings
- Conduct an independent investigation of the circumstances of the case that shall include, but not be limited to, interviews and/or observations of the child and relevant individuals, as well as a review of all relevant records and reports
- Present evidence to the court
- Receive notice of every court proceeding and receive copies of every pleading
- Participate in all depositions, negotiations, discovery, pretrial conferences, hearings, and appeals
- Have access to all records regarding the child and his or her family maintained by the Division of Family Services
- Monitor cases to ensure that the terms of the court's orders are fulfilled and permanency for the child is achieved
- Receive reasonable notice from the division of changes in placement, school, or any other change of circumstances affecting the child
- Receive reasonable notice from the division of any founded complaint involving:
  - » The child when the child is the alleged victim
  - » The residence in which the child lives
  - » The home-based daycare that the child attends
- Request a hearing before the court when the plan on behalf of the child is not implemented, is not meeting the child's needs, or upon completion of an investigation

- Request any appropriate relief from the court on behalf of the child
- Ascertain the wishes of the child and make the child's wishes known to the court

If the attorney GAL concludes that the child's wishes differ from the position of the attorney GAL, he or she will notify the court of the conflict.

### **How the Representative Is Compensated**

#### **Ann. Code Tit. 29, § 9007A**

The attorney shall be employed, contracted, and/or appointed by the Office of the Child Advocate.

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## **District of Columbia**

### **Making the Appointment**

#### **Ann. Code § 16-2304**

In every case involving a neglected child that results in a judicial proceeding, including the termination of the parent and child relationship, the Superior Court shall appoint a guardian ad litem (GAL) who is an attorney to represent the child in the proceedings.

### **The Use of Court-Appointed Special Advocates (CASAs)**

This issue is not addressed in the statutes reviewed.

### **Qualifications/Training**

#### **Ann. Code § 16-2304; D.C. Sup. Ct. CAN Appx., Att. Prac. Stds., Rules A-2 and A-3**

The GAL shall be an attorney.

*In court rules:* Attorneys who wish to serve as GALs will be required to complete a minimum of 16 hours of training in the following categories:

- Statutory law and rules regarding neglect and abuse cases in the District of Columbia
- The role of the GAL
- Permanency options and related guardianship, adoption, and custody cases
- Ethics related to representing parties in the abuse and neglect system
- Basic trial skills
- Courtroom observation of at least one initial hearing

As part of the training process, new attorneys are assigned to experienced attorney mentors and strongly encouraged to seek the advice and input of these more experienced lawyers who have represented parties in child abuse and neglect cases in family court.

All attorneys appearing before the Superior Court in an abuse or neglect case shall be familiar with relevant Federal and D.C. laws, regulations, and policies affecting child welfare. Counsel shall only accept an appointment or otherwise appear in child abuse and neglect proceedings if they are knowledgeable of substantive and procedural child abuse and neglect laws and have participated in the required training programs.

All child abuse and neglect attorneys are required to complete a minimum of 12 hours of continuing legal education annually. At least 1 hour shall be devoted to trial, evidence, and ethics and at least 1 hour shall be multidisciplinary training (i.e., sessions on interviewing children, understanding different types of therapy, developmental stages of children, understanding substance abuse and mental illness, developmental disabilities, etc).

Appropriate training topics may include, but are not limited to, relevant legal topics as well as specific child welfare topics such as:

- Federal and D.C. neglect law
- Professional ethics
- Termination of parental rights law
- Evidence and trial procedure
- Rules of civil procedure
- Legal permanency options
- Adoption and guardianship subsidies
- Custody and child support
- Developmental psychology and disabilities
- Communicating with clients in developmentally appropriate language

- Medical issues and medical evidence in child abuse and neglect cases
- Understanding mental illnesses
- Issues arising from substance abuse
- The impact of domestic violence on children and families
- Cultural, ethnic, and socioeconomic issues
- Available services and resources for families
- Immigration law issues that relate to child welfare
- Education laws and resources

### Specific Duties

#### Ann. Code § 16-2304; D.C. Sup. Ct. CAN Appx., Att. Prac. Stds., Rules B-2 and C-1

The GAL shall in general be charged with the representation of the child's best interests.

*In court rules:* If the GAL's assessment of the child's best interests conflicts with the views of the child, the GAL shall notify the court of the child's views and in some circumstances, an attorney may be appointed to represent the child's expressed interests. The new attorney for the child will represent the child's expressed interests, while the GAL will make recommendations to the court with regard to the child's best interests.

The GAL must counsel the child client and help the child understand the legal process and the GAL's assessment of the child's situation. If the client, after thorough and informed discussions with the GAL, continues to disagree with the GAL about the direction of the case, the GAL should inform the court of the conflict.

A GAL fulfills a dual role, as an independent fact finder and as zealous advocate for the child's best interests. The GAL should always be mindful of the child's safety, well-being, and permanency interests and ensure these issues are raised at every hearing. Further, the GAL should take all steps to promote speedy permanence for the child, including:

- Attempting to reduce case delay
- Ensuring the issue of reasonable efforts is raised and addressed at all hearings
- Working with the agency responsible for the care of the child to identify and provide appropriate services to the family and find the child a permanent home

The criteria for determining what is in the child's best interests should include, but not be limited to:

- Interviews, observations, and/or discussions with the child, based on the child's developmental stage in an environment familiar to the child
- A full and independent investigation to assess the child's circumstances, including interviews and consultation with the child's caregivers, relatives, therapists, teachers, doctors, social workers, and other service providers
- A careful investigation of available kin interested in being a placement option
- An inquiry into all available placement and visitation alternatives (including siblings)

As part of the GAL's duty to determine and represent the child's best interests, the GAL may during the course of the case advocate for services for other parties that the GAL believes is in the child's best interests for that party to receive. For example, the GAL may advocate for a parent to receive drug treatment or assistance with housing.

### How the Representative Is Compensated

#### Ann. Code § 16-2326.01

An attorney who is appointed to serve as GAL for a child who is the subject of a neglect proceeding shall, at the end of the representation or at the end of a segment of the representation, be compensated at a rate not less than the hourly rates established in D.C. Code § 11-2604. The attorney may also make a claim for expenses reasonably incurred during the course of the representation.

Compensation shall be subject to the following limitations:

- For all proceedings from initial hearing through disposition, the maximum compensation shall be \$1,600.
- For all subsequent proceedings other than termination of parental rights, the maximum compensation shall be \$1,600 per year.
- For proceedings to terminate parental rights, the maximum compensation shall be \$2,200.

A separate claim for compensation and reimbursement shall be made to the Superior Court of the District of Columbia for representation before that court, and to the Court of Appeals for representation before the Court of Appeals. Each claim shall be

supported by a sworn written statement specifying the time expended, services rendered, and expenses incurred while the case was pending before the court, and the compensation and reimbursement applied for or received in the same case from any other source. The Superior Court or Court of Appeals shall fix the compensation and reimbursement to be paid to the attorney.

## Florida

### Making the Appointment

#### Ann. Stat. §§ 39.822; 39.820; 39.4085, Fla. R. Juv. P. Rule 8.217(a)

A guardian ad litem (GAL) shall be appointed by the court at the earliest possible time to represent the child in any child abuse, abandonment, or neglect judicial proceeding, whether civil or criminal.

A GAL can be any of the following:

- A certified GAL program member
- A duly certified volunteer
- A staff attorney, contract attorney, or certified pro bono attorney working on behalf of a GAL program
- A staff member of a program office
- A court-appointed attorney
- A responsible adult who is appointed by the court to represent the best interests of a child involved in a proceeding

The legislature establishes the following goals for children in shelter or foster care: to have a GAL appointed to represent, within reason, their best interests and, where appropriate, an attorney ad litem appointed to represent their legal interests.

*In court rules:* At any stage of the proceedings, any party may request or the court may consider whether an attorney ad litem is necessary to represent any child alleged or found to be dependent, if one has not already been appointed.

### The Use of Court-Appointed Special Advocates (CASAs)

This issue is not addressed in the statutes reviewed.

### Qualifications/Training

#### Ann. Stat. §§ 39.821; 39.8296; 39.0139(4)(a)

The Guardian Ad Litem Program shall conduct a security background investigation before certifying a volunteer to serve. A security background investigation must include, but need not be limited to:

- Employment history checks
- Checks of references
- Local criminal records checks through local law enforcement agencies
- Statewide criminal records checks through the Department of Law Enforcement

A security background investigation conducted under this section must ensure that a person is not certified as a GAL if the person has an arrest awaiting final disposition for, been convicted of (regardless of adjudication), entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any offense prohibited under § 435.04.

All applicants certified on or after July 1, 2010, must undergo a level 2 background screening pursuant to chapter 435 before being certified to serve as a GAL.

In analyzing and evaluating the information obtained in the security background investigation, the program must give particular emphasis to activities involving children, including, but not limited to, child-related criminal offenses or child abuse.

This section does not apply to a GAL who was certified before October 1, 1995, an attorney who is a member in good standing of the Florida Bar, or a licensed professional who has undergone a comparable security background investigation as a condition of licensure within 5 years of applying for certification as a GAL.

A training program shall be developed by the Statewide Guardian Ad Litem Office.

Attorneys ad litem appointed pursuant to the Keeping Children Safe Act, specifically pertaining to sexual abuse, shall have special training in the dynamics of child sexual abuse.

### **Specific Duties**

#### **Ann. Stat. § 39.822**

The GAL shall be allowed to inspect and copy any records related to the best interests of the child who is the subject of the appointment including, but not limited to, confidential records. These records include, but are not limited to, medical, mental health, substance abuse, child care, education, law enforcement, court, social services, and financial records.

The GAL shall review all disposition recommendations and changes in placements, and he or she must be present at all critical stages of the dependency proceeding or submit a written report of recommendations to the court. Written reports must be filed with the court and served on all parties whose whereabouts are known at least 72 hours prior to the hearing.

### **How the Representative Is Compensated**

#### **Ann. Stat. § 39.822(2)**

In cases in which the parents are financially able, the parent or parents of the child shall reimburse the court, in part or in whole, for the cost of provision of GAL services. Reimbursement to the individual providing GAL services shall not be contingent upon successful collection by the court from the parent or parents.

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## **Georgia**

### **Making the Appointment**

#### **Ann. Code §§ 15-11-103; 15-11-104**

A child shall have the right to an attorney at all stages of a dependency proceeding under this article. The court shall appoint an attorney for an alleged dependent child. The appointment shall be made as soon as practicable to ensure adequate representation of the child and, in any event, before the first court hearing that may substantially affect the interests of such child.

If an attorney has been appointed to represent a child in a prior proceeding under this chapter, the court, when possible, shall appoint the same attorney to represent such child in any subsequent proceeding. An attorney appointed to represent a child in a dependency proceeding shall continue the representation in any subsequent appeals unless excused by the court.

The court shall appoint a guardian ad litem (GAL) for an alleged dependent child. An attorney for an alleged dependent child may serve as such child's GAL unless or until there is conflict of interest between the attorney's duty to the child as the child's attorney and the attorney's considered opinion of the child's best interests as GAL.

A party to the proceeding, the employee or representative of a party to the proceeding, or any other individual with a conflict of interest shall not be appointed as GAL.

### **The Use of Court-Appointed Special Advocates (CASAs)**

#### **Ann. Code §§ 15-11-2(16); 15-11-104; 15-11-106**

'Court-appointed special advocate' or 'CASA' means a community volunteer who:

- Has been screened and trained regarding child abuse and neglect, child development, and juvenile court proceedings
- Has met all the requirements of an affiliate CASA program
- Is being actively supervised by an affiliate CASA program
- Has been sworn in by a judge of the juvenile court in the court or circuit in which he or she wishes to serve

A court shall appoint a CASA to act as GAL whenever possible, and a CASA may be appointed in addition to an attorney who is serving as a GAL. A lay guardian shall not engage in activities that could reasonably be construed as the practice of law.

Before executing duties as a CASA, and upon completion of all the requirements of an affiliate CASA program, a CASA shall be sworn in by a judge of the juvenile court in the court or circuit in which he or she wishes to serve. A CASA shall not be assigned a case prior to being sworn in by a juvenile court judge.

If a juvenile court judge determines that a child involved in a dependency proceeding needs a CASA, the judge shall have the authority to appoint a CASA, and in such circumstance shall sign an order appointing a CASA at the earliest possible stage of the proceedings. Such order shall impose on a CASA all the duties, rights, and responsibilities set forth in this section and §§ 15-11-104 and 15-11-105.

The role of a CASA in juvenile court dependency proceedings shall be to advocate for the best interests of the child.

**Qualifications/Training****Ann. Code § 15-11-104**

Before the appointment as a GAL, a person shall have received training appropriate to the role as GAL that is administered or approved by the Office of the Child Advocate for the Protection of Children. For attorneys, preappointment GAL training shall be satisfied within the attorney's existing continuing legal education obligations and shall not require the attorney to complete additional training hours in addition to the hours required by the State Bar of Georgia.

**Specific Duties****Ann. Code §§ 15-11-103; 15-11-105**

A child's attorney owes to his or her client the duties imposed by the law of this State in an attorney-client relationship.

A GAL shall advocate for a child's best interests in the proceeding for which the GAL has been appointed. In determining a child's best interests, a GAL shall consider and evaluate all of the factors affecting the best interests of a child in the context of a child's age and developmental needs. Such factors include:

- The physical safety and welfare of the child
- The mental and physical health of all individuals involved
- Evidence of domestic violence in the child's home
- The child's familial, cultural, and religious background and ties
- The child's sense of attachments, including his or her sense of security and familiarity
- The least disruptive placement alternative for the child
- The child's wishes and long-term goals
- The child's community ties, including church, school, and friends
- The child's need for permanence, stability, and continuity of relationships
- The risks attendant to being in substitute care
- The preferences of the persons available to care for the child
- Any other factors considered by the GAL to be relevant to his or her determination

Unless a child's circumstances make the following duties and responsibilities unreasonable, a GAL shall at a minimum:

- Maintain regular in-person contact with the child and, in a manner appropriate to his or her developmental level, meet with and interview the child prior to all hearings
- In a manner appropriate to the child's developmental level, ascertain the child's needs, circumstances, and views
- Conduct an independent assessment to determine the facts and circumstances of the case
- Consult with the child's attorney, if applicable, regarding the issues in the case
- Communicate with health-care, mental health care, and other professionals involved with the child's case
- Review case study and educational, medical, psychological, and other relevant reports
- Review all court-related documents
- Attend all court hearings and other proceedings to advocate for the child's best interests
- Advocate for timely court hearings to obtain permanency for the child
- Protect the cultural needs of the child
- Contact the child prior to and after any change in the child's placement
- Request and attend a judicial citizen review panel or judicial review of the case
- Provide written reports to the court on the child's best interests
- When appropriate, encourage the use of any alternative forms of dispute resolution and participate in such processes to the extent permitted
- Monitor compliance with the case plan and all court orders

Upon appointment, the GAL shall have access to all records and information relevant to a child's case.

**How the Representative Is Compensated****Ann. Code § 15-11-8**

This issue is not addressed in the statutes reviewed.

## Guam

### Making the Appointment

#### Ann. Code Tit. 19, §§ 13101; 13308

A guardian ad litem (GAL) is a person appointed by the court whose role is to protect and promote the needs and interests of the child.

The court shall appoint a GAL for the child to serve throughout the pendency of the child protective proceeding. A GAL's appointment shall terminate automatically upon an award of permanent custody of the child by the court, unless otherwise ordered by the court.

If the child's expressed wishes are not in agreement with the GAL's determination of the child's best interests, the court shall evaluate the necessity for appointing special counsel for the child to serve as the child's legal advocate concerning those issues and during the proceedings as the court deems to be in the best interests of the child.

### The Use of Court-Appointed Special Advocates (CASAs)

This issue is not addressed in the statutes reviewed.

### Qualifications/Training

This issue is not addressed in the statutes reviewed.

### Specific Duties

#### Ann. Code Tit. 19, § 13308

The GAL shall report to the court in writing at 6-month intervals, or as otherwise ordered by the court, regarding his or her activities on behalf of the child and offer recommendations concerning the manner in which the court should proceed in the best interests of the child. In addition, the GAL shall make face-to-face contact with the child in the child's family or foster home at least once every 3 months. The GAL shall also inform the court of the child's perceived interests if they differ from those being advocated by the child's GAL.

A GAL shall:

- Be allowed access to the child by the caregivers of the child whether the caregivers are individuals, authorized agencies, or health-care providers
- Have the authority to inspect and receive copies of any records, notes, and electronic recordings concerning the child that are relevant to the child protection proceedings without the consent of the child or individuals and authorized agencies who have control of the child
- Be given notice of all hearings and proceedings, civil or criminal (including, but not limited to, grand juries) involving the child and shall protect the best interests of the child at those proceedings or hearings, unless otherwise ordered by the court

### How the Representative Is Compensated

#### Ann. Code Tit. 19, § 13308

The GAL or counsel shall be paid for by the court. The court may order the appropriate parties to pay reimbursement to the court for the costs and fees of the GAL and other counsel appointed for the child.

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## Hawaii

### Making the Appointment

#### Rev. Stat. § 587A-16

The court shall appoint a guardian ad litem (GAL) to serve the child throughout the pendency of the child protective proceedings. If the child's opinions and requests differ from those being advocated by the GAL, the court shall evaluate and determine whether it is in the child's best interests to appoint an attorney to serve as the child's legal advocate concerning such issues and during the proceedings as the court deems to be in the best interests of the child.

### The Use of Court-Appointed Special Advocates (CASAs)

This issue is not addressed in the statutes reviewed.

### Qualifications/Training

This issue is not addressed in the statutes reviewed.

### Specific Duties

#### Rev. Stat. § 587A-16

A GAL shall, unless otherwise ordered by the court:

- Have access to the child
- Have the authority to inspect and receive copies of any records, notes, and electronic recordings concerning the child that are relevant to the case
- Be given notice of all hearings and proceedings involving the child, whether civil or criminal, including grand juries, and shall protect the best interests of the child
- Make face-to-face contact with the child in the child's family home or resource family home at least once every 3 months
- Report to the court and all parties in writing at 6-month intervals, or as ordered by the court, regarding actions taken to ensure the child's best interests, and recommend how the court should proceed in the best interests of that child
- Inform the court of the child's opinions and requests

The authority to inspect and receive copies of records shall exist even without the consent of the child or individuals and authorized agencies that have control of the child, except that nothing in this section shall override any attorney-client or attorney work-product privilege.

### How the Representative Is Compensated

#### Rev. Stat. §§ 587A-16; 571-87

The fees and costs of a GAL appointed pursuant to this section may be paid by the court unless the party for whom counsel is appointed has an independent estate sufficient to pay such fees and costs. The court may order the appropriate parties to pay or reimburse the fees and costs of the GAL and any attorney appointed for the child.

Appointed counsel and the GAL shall receive reasonable compensation for necessary expenses, including travel, the amount of which shall be determined by the court, and reasonable fees. All of these expenses and fees shall be certified by the court and paid upon vouchers approved by the judiciary and warrants drawn by the comptroller.

The court shall determine the amount of reasonable compensation paid to appointed counsel and GAL, based on the following rates:

- \$90 an hour for in-court services provided by an attorney licensed to practice law in the State
- \$60 an hour for:
  - » Out-of-court services provided by a licensed attorney
  - » All services provided by a person who is not a licensed attorney, whether performed in court or out of court

The maximum allowable fee shall not exceed the following schedule:

- Predisposition: \$3,000
- Postdisposition review hearing: \$1,000

Payments in excess of any maximum provided for above may be made when the court in which the representation was rendered certifies, based upon representations of extraordinary circumstances attested to by the applicant, that the amount of the excess payment is necessary to provide fair compensation in light of those circumstances, and the payment is approved by the administrative judge of that court.

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## Idaho

### Making the Appointment

#### Ann. Code § 16-1614

In any child protection proceeding for a child under age 12, the court shall appoint a guardian ad litem (GAL) for the child or children and shall appoint counsel to represent the GAL, unless the GAL is already represented by counsel. If a court does not have available to it a GAL program or a sufficient number of GALs, the court shall appoint counsel for the child. In appropriate cases, the court may appoint a GAL for the child and counsel to represent the GAL and may, in addition, appoint counsel to represent the child.

In any child protection proceeding for a child age 12 or older, the court:

- Shall appoint counsel to represent the child and may, in addition, appoint a GAL
- When appointment of counsel is not practicable or not appropriate, may appoint a GAL for the child and shall appoint counsel to represent the GAL, unless the GAL is already represented by counsel

### **The Use of Court-Appointed Special Advocates (CASAs)**

This issue is not addressed in the statutes reviewed.

### **Qualifications/Training**

#### **Ann. Code § 16-1632**

Under rules, policies, and procedures adopted by the Idaho Supreme Court, a judicial district may establish, maintain, and coordinate a districtwide GAL program that will:

- Furnish administrative and staffing services
- Act as a coordinator for providing GALs for children needing them
- Establish a program for attorneys to represent GALs
- To the extent possible, establish a districtwide program to recruit volunteer GALs sufficient to provide services in each county of the judicial district
- Develop uniform criteria to screen, select, train, and remove GALs
- Establish a priority list of the proceedings in which a GAL shall be appointed in districts where there are insufficient numbers of GALs

The coordinators and staff members of any GAL program and any persons volunteering to serve as GALs shall submit to a fingerprint-based criminal history check through any law enforcement office in the State providing such service. The criminal history check shall include a statewide Criminal Identification Bureau check, Federal Bureau of Investigation criminal history check, and statewide sex offender registry check. A record of all background checks shall be maintained in the Office of the Supreme Court with a copy going to the applicant.

### **Specific Duties**

#### **Ann. Code §§ 16-1633; 16-1634**

The GAL shall advocate for the best interests of the child and shall have the following duties:

- To conduct an independent investigation of the circumstances of the child
- To file with the court prior to any hearing a written report of the results of the investigation, the GAL's recommendations, and any other information the court may require
- To act as an advocate for the child
- To participate fully in the proceedings
- To confer with the child, the child's siblings and parents, and any other person having information relevant to the case
- To monitor the circumstances of a child and to ensure that the terms of the court's orders are fulfilled and remain in the best interests of the child
- To maintain the confidentiality of all information regarding the case
- Other duties as ordered by the court

In all postadjudicatory reports, the GAL shall inquire of any child capable of expressing his or her wishes regarding permanency and, when applicable, the transition from foster care to independent living and include the child's express wishes in the report to the court. The GAL's written report shall be delivered to the court, with copies to all parties to the case, at least 5 days before the date of the hearing. The report submitted prior to the adjudicatory hearing shall not be admitted into evidence at the hearing and shall be used by the court only for disposition of the child.

If represented by counsel, the GAL may file pleadings, motions, memoranda, and briefs on behalf of the child, and shall have all of the rights of a party. All parties to the case shall promptly notify the GAL and the GAL's attorney of all hearings, staffings, investigations, depositions, and significant changes of circumstances of the child.

Except as prohibited by Federal or State law, any person or agency shall permit the GAL to inspect and copy pertinent records relating to the child and parent without consent of the child or parents.

### **How the Representative Is Compensated**

#### **Ann. Code §§ 16-1614; 16-1638**

Counsel appointed for the child shall be paid for by the county unless the party for whom counsel is appointed has an independent estate sufficient to pay such costs.

There shall be a GAL account in the agency asset fund in the State Treasury. The account shall consist of:

- Moneys appropriated to the account
- Donations, gifts, and grants to the account from any source
- Any other moneys that may hereafter be provided by law

Moneys in the account may be expended for the purposes provided in §§ 16-1632 through 16-1638. Interest earned on the investment of idle money in the GAL account shall be returned to the GAL account.

Disbursements of moneys from the account shall be by appropriation from the legislature to the Supreme Court. The moneys shall be used for the payment of grants to qualified recipients and for expenses incurred for carrying out the provisions of this chapter.

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## **Illinois**

### **Making the Appointment**

#### **Comp. Law Ch. 705, §§ 405/2-17; 405/1-5**

Immediately upon the filing of a petition alleging that the child is an abused, neglected, or dependent minor, the court shall appoint a guardian ad litem (GAL) for the child.

The court may appoint a GAL for the child when it finds that there may be a conflict of interest between the child and his or her parents or other custodian or that it is otherwise in the child's best interests to do so.

A GAL shall be appointed to represent the best interests of the child. Unless the GAL is an attorney, he or she shall be represented in the performance of his or her duties by counsel.

If a GAL has been appointed for the minor under § 2-17 of this act, and the GAL is a licensed attorney of this State, or in the event that a court-appointed special advocate (CASA) has been appointed as GAL and counsel has been appointed to represent the CASA, the court may not require the appointment of counsel to represent the minor unless the court finds that the minor's interests are in conflict with what the GAL determines to be in the best interests of the minor.

### **The Use of Court-Appointed Special Advocates (CASAs)**

#### **Comp. Law Ch. 705, § 405/2-17.1**

The court may appoint a special advocate upon the filing of a petition alleging child abuse or neglect or at any time during the pendency of a proceeding resulting from this petition. Except in counties with a population over 3 million, the CASA may also serve as GAL.

The CASA shall act as a monitor and shall be notified of all administrative case reviews pertaining to the child and work with the parties' attorneys, the GAL, and others assigned to the child's case to protect the child's health, safety, and best interests and ensure the proper delivery of child welfare services. The court may consider, at its discretion, testimony of the CASA pertaining to the well-being of the child.

CASAs shall serve as volunteers without compensation and shall receive training consistent with nationally developed standards. No person convicted of a criminal offense as specified in Section 4.2 of the Child Care Act of 1969 [225 ILCS 10/4.2] and no person identified as a perpetrator of an act of child abuse or neglect as reflected in the Department of Children and Family Services State Central Register shall serve as a CASA.

The court may remove the CASA or the GAL from a case upon finding that the CASA or the GAL has acted in a manner contrary to the child's best interests or if the court otherwise deems continued service is unwanted or unnecessary.

### **Qualifications/Training**

#### **Comp. Law Ch. 705, § 405/2-17**

In counties with a population of 100,000 or more but less than 3 million, each GAL must successfully complete a training program approved by the Department of Children and Family Services. The department shall provide training materials and documents to GALs who are not mandated to attend the training program.

The department shall develop and distribute to all GALs a bibliography containing information, including, but not limited, to the juvenile court process, termination of parental rights, child development, medical aspects of child abuse, and the child's need for safety and permanence.

### **Specific Duties**

#### **Comp. Law Ch. 705, § 405/2-17**

The GAL shall represent the best interests of the minor and shall present recommendations to the court consistent with that duty. The GAL shall receive copies of any and all classified reports of child abuse and neglect about the child he or she has been appointed to represent.

The GAL shall remain the child's GAL throughout the entire juvenile trial court proceedings, including permanency hearings and termination of parental rights proceedings, unless there is a substitution entered by order of the court.

The GAL or an agent of the GAL shall have a minimum of one in-person contact with the child and one contact with one of the current foster parents or caregivers, as follows:

- Prior to the adjudicatory hearing
- After the adjudicatory hearing but prior to the first permanency hearing
- Each subsequent year that the child remains in care

For good cause shown, the judge may excuse face-to-face interviews required in this subsection.

### **How the Representative Is Compensated**

#### **Comp. Law Ch. 705, §§ 405/2-17; 405/2-17.1**

The reasonable fees of a GAL shall be fixed by the court and charged to the parents of the child to the extent they are able to pay. If the parents are unable to pay those fees, they shall be paid from the general fund of the county.

All costs associated with the appointment and duties of the CASA shall be paid by the CASA or an organization of CASAs. In no event shall the CASA be liable for any costs of services provided to the child.

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## **Indiana**

### **Making the Appointment**

#### **Ann. Stat. §§ 31-32-3-1; 31-9-2-43.2; 31-32-3-2; 31-32-3-3; 31-32-3-4; 31-34-10-3**

The juvenile court may appoint a guardian ad litem (GAL) or court-appointed special advocate (CASA), or both, for the child at any time.

The juvenile court may appoint an early intervention advocate for a child who is participating in a preventative program for at-risk children that has been established by the court. An 'early intervention advocate' is a volunteer or staff member of a preventative program who is appointed by the court as an officer of the court to assist, represent, and protect the interests of at-risk children.

A court may not appoint a party to the proceedings, an employee of a party to the proceedings, or a representative of a party to the proceedings as the GAL or CASA for a child involved in the proceedings.

A GAL or CASA need not be an attorney, but the attorney representing the child may be appointed the child's GAL or CASA.

The GAL or CASA may be represented by an attorney.

Before complying with the other requirements of this chapter, the juvenile court shall first determine whether the following conditions make it appropriate to appoint a GAL or CASA, or both, for the child:

- The child is alleged to be a child in need of services due to abuse, neglect, or abandonment.
- The parent, guardian, or custodian of a child denies the allegations of a child in need of services petition.

### **The Use of Court-Appointed Special Advocates (CASAs)**

#### **Ann. Stat. § 31-9-2-28**

A CASA is a community volunteer who:

- Has completed a training program approved by the court
- Has been appointed by a court to represent and protect the best interests of a child
- May research, examine, advocate, facilitate, and monitor a child's situation

A CASA is a community volunteer who has completed a training program approved by the court that includes training in the identification and treatment of child abuse and neglect and early childhood, child, and adolescent development.

### **Qualifications/Training**

#### **Ann. Stat. § 31-9-2-50**

A GAL is an attorney, a volunteer, or an employee of a county program designated under § 33-24-6-4 who has completed training appropriate for the person's role, including training in the identification and treatment of child abuse and neglect and early childhood, child, and adolescent development, as required by 42 U.S.C. 5106a(b)(2)(B)(xiii).

A GAL who is not an attorney must complete the same court-approved training program that is required for a CASA.

### **Specific Duties**

#### **Ann. Stat. §§ 31-9-2-50; 31-32-3-6; 31-32-3-7; 31-32-3-8**

A GAL is an attorney, a volunteer, or an employee of a county program who is appointed by a court to:

- Represent and protect the best interests of a child
- Provide the child with services requested by the court, including researching, examining, advocating, facilitating, and monitoring the child's situation

A GAL or CASA shall represent and protect the best interests of the child. The GAL or CASA, or both, shall be considered officers of the court for the purpose of representing the child's interests.

A GAL or CASA serves until the juvenile court enters an order for discharge.

### **How the Representative Is Compensated**

#### **Ann. Stat. §§ 31-40-3-1; 31-40-3-2; 31-40-3-3**

A juvenile court may order the parent or guardian of the estate of any child for whom a GAL or CASA is appointed to pay to the Probation Department a user fee of not more than \$100 for deposit in:

- The GAL fund if a GAL has been appointed
- The CASA fund if a CASA has been appointed

The fiscal body of the county shall appropriate money from the GAL fund or the CASA fund to the juvenile courts to provide GAL or CASA services and the costs of representation for the GALs or CASAs.

Money remaining in the GAL fund or CASA fund at the end of the county's fiscal year does not revert to any other fund but continues in the GAL fund or CASA fund.

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## **Iowa**

### **Making the Appointment**

#### **Ann. Stat. §§ 232.71C; 232.89**

In every case involving child abuse that results in a child protective judicial proceeding, whether or not the proceeding arises under this chapter, a guardian ad litem (GAL) shall be appointed by the court to represent the child in the proceedings. A court-appointed special advocate (CASA) may be appointed to act as GAL.

### **The Use of Court-Appointed Special Advocates (CASAs)**

#### **Ann. Stat. §§ 232.2(9); 232.126; 232.89**

A CASA is a person duly certified by the child advocacy board created in § 237.16 for participation in the CASA program and appointed by the court to represent the interests of a child in any judicial proceeding to which the child is a party or is called as a witness or relating to any dispositional order involving the child resulting from such proceeding.

The court may appoint a CASA to act as GAL. The CASA shall receive notice of and may attend all depositions, hearings, and trial proceedings to support the child and advocate for the protection of the child. The CASA shall not be allowed to introduce evidence separately or to examine or cross-examine witnesses directly.

The CASA shall submit a written report to the court and to each of the parties to the proceedings containing results of the CASA's initial investigation of the child's case, including, but not limited to, recommendations regarding placement of the child and other recommendations based on the best interests of the child. The CASA shall submit subsequent reports to the court and parties

as needed, detailing the continuing situation of the child's case as long as the child remains under the jurisdiction of the court. In addition, the CASA shall file other reports to the court as required by the court.

### **Qualifications/Training**

This issue is not addressed in the statutes reviewed.

### **Specific Duties**

#### **Ann. Stat. § 232.2(22)**

The GAL is appointed by the court to represent the interests of a child in any judicial proceeding to which the child is a party. The duties of a GAL with respect to a child shall include the following:

- Conducting in-person interviews with the child, if the child's age is appropriate, and interviewing each parent, guardian, or other person having custody of the child, if authorized by counsel
- Visiting the home, residence, or both home and residence of the child and any prospective home or residence of the child, including each time placement is changed
- Interviewing any person providing medical, mental health, social, educational, or other services to the child
- Obtaining firsthand knowledge, if possible, of the facts, circumstances, and parties involved in the case
- Attending any hearings pertaining to the case
- If the child is required to have a transition plan developed in accordance with the child's case permanency plan, assisting the transition committee in development of the transition plan

The order appointing the GAL shall grant authorization to the GAL to interview any relevant person and inspect and copy any records relevant to the proceedings, if not prohibited by Federal law. The GAL may also attend any departmental staff meeting, case conference, or meeting with medical or mental health providers, service providers, organizations, or educational institutions regarding the child, if deemed necessary by the GAL.

### **How the Representative Is Compensated**

#### **Ann. Stat. § 232.71C**

Before a GAL is appointed, the court shall require the person responsible for the care of the child to complete, under oath, a detailed financial statement. If, on the basis of that financial statement, the court determines that the person responsible for the care of the child is able to bear the cost of the GAL, the court shall so order. In cases where the person responsible for the care of the child is unable to bear the cost of the GAL, the expense shall be paid out of the county treasury.

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## **Kansas**

### **Making the Appointment**

#### **Ann. Stat. § 38-2205**

Upon the filing of a petition, the court shall appoint an attorney to serve as guardian ad litem (GAL) for a child who is the subject of the proceedings. When the child's position is not consistent with the determination of the GAL as to the child's best interests, a second attorney may be appointed to serve as attorney for the child.

### **The Use of Court-Appointed Special Advocates (CASAs)**

#### **Ann. Stat. § 38-2206**

The court at any stage of a proceeding may appoint a special advocate for the child who shall serve until discharged by the court and whose primary duties shall be to advocate the best interests of the child and assist the child in obtaining a permanent, safe, and homelike placement. The court-appointed special advocate (CASA) shall have such qualifications and perform such specific duties and responsibilities as prescribed by rule of the Supreme Court.

### **Qualifications/Training**

#### **Ann. Stat. § 38-2205; KS Sup. Ct. Admin. Order 100**

The GAL shall be an attorney.

*In court rules:* A GAL should participate in prerequisite education prior to appointment. Areas of education should include:

- Dynamics of abuse and neglect
- Roles and responsibilities

- Cultural awareness
- Communication and communication with children skills
- Information gathering and investigatory techniques
- Advocacy skills
- Child development
- Mental health and substance abuse issues
- Permanence and the law
- Community resources
- Professional responsibility
- Special education and school law
- The code for the care of children

### **Specific Duties**

#### **Ann. Stat. § 38-2205**

The GAL shall make an independent investigation of the facts upon which the petition is based and shall appear for and represent the best interests of the child. When the child's position is not consistent with the determination of the GAL as to the child's best interests, the GAL shall inform the court of the disagreement. The GAL or the child may request the court to appoint a second attorney to serve as attorney for the child, and the court, on good cause shown, may appoint such second attorney. The attorney for the child shall allow the child and the GAL to communicate with one another but may require such communications to occur in the attorney's presence.

A GAL appointed to represent the best interests of a child or a second attorney appointed for a child shall continue to represent the child at all subsequent hearings in the proceedings, including any appellate proceedings, unless relieved by the court upon a showing of good cause or upon transfer of venue.

### **How the Representative Is Compensated**

#### **Ann. Stat. §§ 38-2205; 38-2215(b)**

An attorney appointed pursuant to this section shall be allowed a reasonable fee for services that may be assessed as an expense in the proceedings.

The expenses for proceedings under this code, including fees and expenses approved by the court for appointed attorneys, shall be paid by the board of county commissioners from the general fund of the county.

## **Kentucky**

### **Making the Appointment**

#### **Rev. Stat. § 620.100**

If the court determines, as a result of a temporary removal hearing, that further proceedings are required, the court shall advise the child and his or her parent or other person exercising custodial control or supervision of his or her right to appointment of separate counsel.

The court shall appoint counsel for the child to be paid for by the Finance and Administration Cabinet. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for Health and Family Services, of the order appointing counsel.

The court may, in the interest of justice, appoint a court-appointed special advocate (CASA) volunteer to represent the best interests of the child. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet of Health and Family Services, of the order appointing the CASA volunteer.

### **The Use of Court-Appointed Special Advocates (CASAs)**

#### **Rev. Stat. § 620.505**

Local CASA programs shall comply with the National CASA Association and Kentucky CASA Association Standards for Programs. Local programs shall ensure that CASA volunteers are adequately supervised by providing at least one supervisory staff person for every 30 CASA volunteers appointed by the court. Program requirements include:

- CASA volunteers shall, as far as practicable, represent the socioeconomic, racial, and ethnic composition of the area served.

- CASA volunteers may be removed by the court for nonparticipation or other cause.
- All written CASA reports shall become part of the record of the child maintained by the Cabinet of Health and Family Services.
- Employees of the cabinet shall not become volunteers or employees of the CASA program.
- Each CASA volunteer shall take an oath, administered by a member of the Court of Justice, to keep confidential all information related to the appointed case except in conferring with or reports to the court, parties to the case, the cabinet, the Citizen Foster Care Review Board, others designated by the court, and as provided by law.
- CASA volunteers shall be appointed by the presiding judge to represent the best interests of the child, subject to judicial discretion, and only after confirmation from the director of the local CASA program that the CASA volunteer has been properly screened and trained.

### **Qualifications/Training**

#### **Rev. Stat. §§ 620.100; 620.515**

Counsel for the child shall document participation in training on the role of counsel that includes training in early childhood, child, and adolescent development.

A CASA volunteer shall meet the following minimum requirements:

- Be at least age 21
- Be of good moral character
- Complete a written application providing the names of at least three references
- Submit to a personal interview with program staff
- Submit to a criminal record check
- Submit to a check of the child abuse and adult protection registry maintained by the Cabinet of Health and Family Services

If found acceptable, the applicant shall receive a minimum of 30 hours of initial training and take an oath of confidentiality administered by a family court judge or a district judge.

### **Specific Duties**

#### **Rev. Stat. § 620.525**

The CASA volunteer shall:

- Attend all court hearings
- Submit a written report and recommendation to the judge for consideration in determining the best interests of the child at the dispositional hearing, dispositional review hearings, other hearings as requested by the court, and at least one report every 6 months for as long as the case is assigned to the CASA volunteer
- Monitor the case by visiting the child as often as necessary to observe whether the child's essential needs are being met and whether court orders are actually being carried out
- Participate in any treatment planning conferences and reviews involving the child to assess whether reasonable efforts are being made to provide services to the child and family and determine the appropriateness and progress of the child's permanent plan
- Advocate a prompt, thorough review of the case if the child's circumstances warrant the attention of the court
- Interview parties involved in the case, including interviewing and observing the child
- Maintain complete written records about the case
- Report any incidents of child or adult abuse or neglect to the appropriate authorities and to the program director
- Remain actively involved in the case until dismissed from the case by the program director or judge with competent jurisdiction, or when an adoption proceeding is finalized
- Return all case-related materials, including, but not limited to, written notes, court reports, and agency documents, to the program director upon the request of the program director
- Work with the cabinet representatives to advocate the best interests of the child

### **How the Representative Is Compensated**

#### **Rev. Stat. § 620.100**

Counsel for the child shall be paid for by the Finance and Administration Cabinet. The fee to be fixed by the court shall not exceed \$500. However, if the action has final disposition in the District Court, the fee shall not exceed \$250.

## Louisiana

### Making the Appointment

#### Children's Code Art. 607; 424.1

The court shall appoint the program designated for the jurisdiction by the Louisiana Supreme Court to provide qualified, independent counsel for the child at the time the order setting the first court hearing is signed. Neither the child nor anyone purporting to act on his or her behalf may be permitted to waive this right.

The court is authorized in child in need of care proceedings to appoint a court-appointed special advocate (CASA) program to assist the court in fulfilling its duties and responsibilities to children brought into court.

Upon appointment, the CASA program shall designate the individual CASA volunteer for assignment to the child. The CASA volunteer shall have as his or her special duty and responsibility the advocacy of the best interests of the child involved in the juvenile proceeding to which he or she is assigned.

### The Use of Court-Appointed Special Advocates (CASAs)

#### Children's Code Art. 424.2; 424.1

To accomplish the assignment of a CASA volunteer, the court shall issue an order of assignment that shall grant the CASA volunteer the authority to review all relevant documents pursuant to Article 424.6 and to interview all parties and witnesses involved in the proceeding in which he or she is appointed.

Except as otherwise ordered by the court, the appointment of a CASA program for a child shall include subsequent proceedings through permanent placement of the child, including families in need of services or delinquency proceedings.

### Qualifications/Training

#### Children's Code Art. 116; 424.1; La. Sup. Ct. Rule XXXIII

A CASA program is established in compliance with National CASA Association standards. A CASA volunteer has been trained in accordance with National CASA Association standards and is under the supervision of a CASA program.

The judge of the court will first satisfy himself or herself of the volunteer's qualifications, training, and ability to serve as a CASA volunteer, including his or her ability to represent and advocate the best interests of children assigned to him or her. No volunteer shall be assigned until a comprehensive criminal background check has been conducted.

All CASA volunteers shall:

- Be sworn in by a judge of the court
- Swear or affirm to abide by all laws, regulations, and orders of the court
- Swear or affirm to advocate what he or she perceives to be in the best interests of the child for whom he or she is assigned in all matters pending before the court

*In court rules:* Prior to appointment as counsel for children in child abuse and neglect proceedings, an attorney shall have the following qualifications:

- The attorney shall have completed within the past 2 years a minimum of 8 hours of training or education relevant to child abuse and neglect cases, and/or shall have sufficient knowledge to satisfy the court of the attorney's qualifications.
- The attorney shall complete a minimum of 6 hours of approved continuing legal education each calendar year, and shall submit to the Supreme Court documentation of compliance no later than January 31 of the following calendar year.
- The requisite education shall include relevant law and jurisprudence, child development, child abuse and neglect, and the roles, responsibilities, and duties of independent counsel for children, including the Standards for Representation of Children.

### Specific Duties

#### Children's Code Art. 607; 424; 424.3; 424.4; 424.6; La. Sup. Ct. Rule XXXIII

The child shall be a party to the proceedings, and the attorney for the child shall have the authority to represent the child at all stages of the proceedings. The attorney for the child shall have the authority to take actions, including, but not limited to the following:

- Accompany the child and be present for all court appearances, school hearings, and other meetings related to the child
- View and copy the child's medical, dental, psychological, psychiatric, educational, or counseling records

The purpose of the CASA is to advocate for timely placement of children in permanent, safe, and stable homes.

Under the supervision of the CASA program, it shall be the duty of a CASA volunteer to:

- Provide independent, factual information to the court regarding the children and cases to which they are assigned
- Advocate on behalf of the children involved in the cases to which they are assigned what they perceive to be in the best interests of the children
- Monitor proceedings in cases to which they have been assigned and advise and assist the court in its determination of the best interests of the children involved

Regarding any case to which he or she has been assigned, the CASA volunteer:

- Shall be notified by the court of all court proceedings and hearings of any kind pertaining to the child
- Shall be notified by the department of all administrative review hearings
- Shall be entitled to attend all court proceedings and hearings of any kind pertaining to the child
- May be called as a witness in the proceedings by any party or by the court and may request of the court the opportunity to appear as a witness
- Shall be given access to all portions of the court record relating to proceedings pertaining to the child and the child's family

*In court rules:* Counsel for a child should:

- Obtain copies of all pleadings and notices
- Participate in discovery, negotiations, conferences, and hearings
- Inform other parties and counsel of the attorney's representation and expectation of reasonable notice of any conferences and hearings and of any changes in circumstances affecting the child and the child's family
- Avoid creating and attempt to reduce delays in the proceedings and advocate for timely permanence for the child
- Advise the child about the case, the child's rights, the court system, the proceedings, counsel's role, expectations of the legal process, the risks and benefits of possible courses of action, and other relief
- Determine the client's desires and preferences in a developmentally appropriate and culturally sensitive manner
- Advocate for the desires and expressed preferences of the child and follow the child's direction throughout the case in a developmentally appropriate manner
- Develop a theory and strategy for hearings
- Identify appropriate resources for the child

#### **How the Representative Is Compensated Children's Code Art. 607; 424.1**

If the court finds that the parents of the child are financially able, it may order the parents to pay some or all of the costs of the child's representation by independent counsel.

CASA volunteers serve without compensation and at the pleasure of the court exercising juvenile jurisdiction.

## **Maine**

### **Making the Appointment Rev. Stat. Tit. 22, § 4005**

In every child protection proceeding except a request for a preliminary protection order under § 4034 or a petition for a medical treatment order under § 4071, but including hearings on those orders, the court shall appoint a guardian ad litem (GAL) for the child. The appointment must be made as soon as possible after the proceeding is initiated. The term GAL is inclusive of lay court-appointed special advocates (CASA).

The GAL or the child may request the court to appoint legal counsel for the child.

### **The Use of Court-Appointed Special Advocates (CASAs) Rev. Stat. Tit. 4, §§ 1501; 1503**

There is established within the Administrative Office of the Courts of the Judicial Department the Court Appointed Special Advocate Program to provide volunteer lay persons to serve as CASAs or GALs in child abuse and neglect cases.

The director of the Court Appointed Special Advocate Program shall recruit the services of qualified persons to serve as volunteer CASAs.

**Qualifications/Training****Rev. Stat. Tit. 22, § 4005**

GALs appointed on or after March 1, 2000, must meet the qualifications established by the Supreme Judicial Court.

**Specific Duties****Rev. Stat. Tit. 22, § 4005**

The GAL shall act in pursuit of the best interests of the child. He or she must be given access to all reports and records relevant to the case and investigate to ascertain the facts. The investigation must include, when possible and appropriate, the following:

- Review of relevant mental health records and materials
- Review of relevant medical records
- Review of relevant school records and other pertinent materials
- Interviews with the child with or without other persons present
- Interviews with parents, foster parents, teachers, caseworkers, and other persons who have been involved in caring for or treating the child

The GAL shall have face-to-face contact with the child in the child's home or foster home within 7 days of appointment and at least once every 3 months thereafter. The GAL shall report to the court and all parties in writing at 6-month intervals regarding his or her activities on behalf of the child and recommendations concerning the manner in which the court should proceed in the best interests of the child. The court may provide an opportunity for the child to address the court personally if the child requests to do so or if the GAL believes it is in the child's best interests.

The GAL:

- May subpoena, examine, and cross-examine witnesses and shall make a recommendation to the court
- Shall make a written report of the investigation, findings, and recommendations and shall provide a copy of the report to each of the parties reasonably in advance of the hearing and to the court
- Shall make the wishes of the child known to the court if the child has expressed his or her wishes, regardless of the recommendation of the GAL

The GAL or the child may request the court to appoint legal counsel for the child. The District Court shall pay reasonable costs and expenses of the child's legal counsel.

**How the Representative Is Compensated****Rev. Stat. Tit. 22, § 4005; Tit. 4, § 1503**

The GAL's reasonable costs and expenses must be paid by the District Court.

The volunteer CASAs are considered employees of the State only for the purposes of the Maine Tort Claims Act and are not entitled to receive compensation, but are reimbursed for their actual, necessary, and reasonable expenses incurred in the performance of their duties, consistent with policies established by the Administrative Office of the Courts.

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**Maryland****Making the Appointment****Courts & Jud. Proc. § 3-813**

A child who is the subject of a child in need of assistance (CINA) petition shall be represented by an attorney counsel.

Unless the court finds that it would not be in the best interests of the child, the court shall:

- Appoint an attorney with whom the Department of Human Resources has contracted to provide those services, in accordance with the terms of the contract
- If another attorney has previously been appointed, strike the appearance of that attorney

**The Use of Court-Appointed Special Advocates (CASAs)****Courts & Jud. Proc. § 3-813**

In addition to, but not instead of, the appointment of an attorney, the court, in any action, may appoint an individual provided by a Court-Appointed Special Advocate (CASA) Program created under § 3-830.

## Qualifications/Training

### MD Guidelines for Attys Rep CINA, F2

Lawyers who seek to represent children in these proceedings are encouraged to seek training and education in such subjects as:

- The role of child's counsel
- Assessing considered judgment
- Basic interviewing techniques
- Child development, including cognitive, emotional, and mental stages
- Federal and State statutes, regulations, rules, and case law
- Overview of the court process and key personnel in child-related litigation
- Applicable guidelines and standards of representation
- Family dynamics and dysfunction, including substance abuse and mental illness
- Related issues such as domestic violence, special education, mental health, developmental disability systems, and adult guardianships
- Social service agencies, child welfare programs, and medical, educational, and mental health resources for the child and family
- Written materials, including related motions, court orders, pleadings, and training manuals

## Specific Duties

### Courts & Jud. Proc. § 3-830

The CASA program is created in a county with the support of the court for that county to provide trained volunteers whom the court may appoint to:

- Provide the court with background information to aid it in making decisions in the child's best interests
- Ensure that the child is provided appropriate case planning and services

## How the Representative Is Compensated

### Courts & Jud. Proc. § 3-813

The court may assess against any party reasonable compensation for the services of an attorney appointed to represent a child in an action under this subtitle.

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## Massachusetts

### Making the Appointment

#### Ann. Law Ch. 119, § 39F

When an application for assistance stating that a child and family are in need of assistance is initiated, the child shall be informed that he or she has a right to counsel at all hearings. If the child is not able to retain counsel, the court shall appoint counsel for the child.

### The Use of Court-Appointed Special Advocates (CASAs)

This issue is not addressed in the statutes reviewed.

## Qualifications/Training

### Committee for Public Counsel Services (CPCS) Pol. and Proc. Man., Ch. 3

Attorneys who wish to accept assignments for child protection cases must (1) apply for admission to the Children and Family Law (CAFL) trial panel, (2) successfully complete all required trainings, (3) work with a mentor assigned by CAFL, and (4) attend 8 hours of CAFL-approved continuing legal education each fiscal year.

Attorneys seeking certification must submit an application for the CAFL trial panel certification program. Preference is given to attorneys with an established practice, experience working with families, and litigation skills.

Attorneys accepted into the training program must attend a 5-day seminar, 'Children and Family Law Trial Panel Certification Training Program.' Newly-certified CAFL trial panel attorneys must attend a 4-hour seminar, 'Medical Treatment Decisions for Children in DCF Custody,' within 2 years of the completion of the certification training. Trial panel attorneys must complete 8 hours of CAFL-approved continuing legal education each fiscal year. To maintain certification, attorneys must regularly accept appointments to represent parents and children.

Attorneys who are not currently certified to accept CAFL assignments and wish to accept assignments to represent children in Child in Need of Services (CHINS) matters must (1) apply for admission to the CHINS Child Only (CHINS-CO) panel, (2) successfully complete all required trainings, (3) work with a mentor assigned by CAFL, and (4) attend 4 hours of CAFL-approved continuing legal education each fiscal year.

### **Specific Duties**

#### **Committee for Public Counsel Services (CPCS) Pol. and Proc. Man., Ch. 3**

Attorneys who accept CAFL and CHINS cases must represent their clients at all trial proceedings. Trial counsel is responsible for appellate proceedings until such time as appellate counsel is assigned by the Committee for Public Counsel Services (CPCS) and enters an appearance. By accepting assignments on these cases attorneys agree to abide by the CPCS Performance Standards Governing Representation of Children and Parents in State Intervention and Parental Rights Termination Cases.

### **How the Representative Is Compensated**

#### **Ann. Law Ch. 119, § 39F**

The court shall determine whether the parent or guardian of a child alleged to be in need of services is indigent. If the court determines that the parent or guardian is not indigent, the court shall assess a \$300 fee against the parent or guardian to pay for the cost of appointed counsel. If the parent is determined to be indigent but is still able to contribute toward the payment of some of said costs, the court shall order the parent to pay a reasonable amount toward the cost of appointed counsel.

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## **Michigan**

### **Making the Appointment**

#### **Comp. Laws. §§ 722.630; 712A.17d**

In each case filed under the child protection act in which judicial proceedings are necessary, the court shall appoint a lawyer-guardian ad litem (GAL) to represent the child. A lawyer-GAL represents the child and has powers and duties in relation to that representation as set forth in § 712A.17d.

If, after discussion between the child and his or her lawyer-GAL, the lawyer-GAL determines that the child's interests as identified by the child are inconsistent with the lawyer-GAL's determination of the child's best interests, the lawyer-GAL shall communicate the child's position to the court. If the court considers the appointment appropriate considering the child's age and maturity and the nature of the inconsistency between the child's and the lawyer-GAL's identification of the child's interests, the court may appoint an attorney for the child. An attorney appointed under this subsection serves in addition to the child's lawyer-GAL.

### **The Use of Court-Appointed Special Advocates (CASAs)**

This issue is not addressed in the statutes reviewed.

### **Qualifications/Training**

#### **Comp. Laws § 712A.17d**

The lawyer-GAL shall participate in training in early childhood, child, and adolescent development.

### **Specific Duties**

#### **Comp. Laws § 712A.17d**

A lawyer-GAL's duty is to the child and not the court. The lawyer-GAL's powers and duties include at least the following:

- To serve as the independent representative for the child's best interests and be entitled to full and active participation in all aspects of the litigation and access to all relevant information regarding the child
- To determine the facts of the case by conducting an independent investigation, including, but not limited to, interviewing the child, social workers, family members, and others as necessary, and reviewing relevant reports and other information
- To meet with or observe the child and assess the child's needs and wishes with regard to the representation and the issues in the case before all hearings
- To explain to the child, taking into account the child's ability to understand the proceedings, the lawyer-GAL's role
- To file all necessary pleadings and papers and independently call witnesses on the child's behalf
- To attend all hearings and substitute representation for the child only with court approval

- To make a determination regarding the child's best interests and advocate for those best interests, regardless of whether the lawyer-GAL's determination reflects the child's wishes
- To inform the court of the child's wishes and preferences
- To monitor the implementation of case plans and court orders and determine whether services the court ordered for the child or the child's family are being provided in a timely manner and are accomplishing their purpose
- To identify common interests among the parties and, to the extent possible, promote a cooperative resolution of the matter through consultation with the child's parent, foster care provider, guardian, and caseworker
- To request authorization by the court to pursue issues on the child's behalf that do not arise specifically from the court appointment

The agency case file shall be reviewed before disposition and before the hearing for termination of parental rights. Updated materials shall be reviewed as provided to the court and parties. The supervising agency shall provide documentation of progress relating to all aspects of the last court-ordered treatment plan, including copies of evaluations and therapy reports and verification of parenting time not later than 5 business days before the scheduled hearing.

The child's wishes are relevant to the lawyer-GAL's determination of the child's best interests, and the lawyer-GAL shall weigh the child's wishes according to the child's competence and maturity. Consistent with the law governing attorney-client privilege, the lawyer-GAL shall inform the court as to the child's wishes and preferences.

The lawyer-GAL shall inform the court if services are not being provided in a timely manner, if the family fails to take advantage of services, or if the services provided are not accomplishing their intended purpose.

#### **How the Representative Is Compensated** **Comp. Laws § 712A.18(5)**

If the court appoints an attorney to represent a juvenile, parent, guardian, or custodian, the court may require in an order entered under this section that the juvenile, parent, guardian, or custodian reimburse the court for attorney fees.

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## **Minnesota**

### **Making the Appointment** **Ann. Stat. § 260C.163, Subd. 3 & 5**

The child, parent, guardian, or custodian has the right to effective assistance of counsel in connection with a proceeding in juvenile court as provided in this subdivision.

If the child, parent, guardian, or custodian desires counsel but is unable to employ it, the court shall appoint counsel to represent the child who is age 10 or older, or the parent, guardian, or custodian in any case in which it feels that such an appointment is appropriate if the person would be financially unable to obtain counsel.

Counsel for the child shall not also act as the child's guardian ad litem (GAL).

The court shall appoint a GAL to protect the interests of the minor when it appears, at any stage of the proceedings, that the minor is without a parent or guardian, the minor's parent is a minor or incompetent, or the parent or guardian is indifferent or hostile to the minor's interests, and in every proceeding alleging a child's need for protection or services under § 260C.007, subd. 6. In any other case the court may appoint a GAL to protect the interests of the minor when the court feels that such an appointment is desirable. The court shall appoint the GAL on its own motion or in the manner provided for the appointment of a GAL in the district court. The court may appoint separate counsel for the GAL if necessary.

### **The Use of Court-Appointed Special Advocates (CASAs)**

This issue is not addressed in the statutes reviewed.

### **Qualifications/Training** **Ann. Stat. §§ 260C.163, Subd. 5; 518.165, Subd. 4**

Counsel retained by the county must meet the qualifications established by the Judicial Council in at least one of the following: (1) has a minimum of 2 years' experience handling child protection cases; (2) has training in handling child protection cases from a course or courses approved by the Judicial Council; or (3) is supervised by an attorney who meets the minimum qualifications under clause (1) or (2).

When appointing a GAL in a case involving an Indian or minority child, the court must consider whether a person is available who is the same racial or ethnic heritage as the child or, if that is not possible, whether a person is available who knows and appreciates the child's racial or ethnic heritage.

The court shall initiate a background study through the Commissioner of Human Services under § 245C.32 on every GAL appointed under this section if a background study has not been completed on the GAL within the past 3 years. The background study must be completed before the court appoints the GAL, unless the court determines that it is in the best interests of the child to appoint a GAL before a background study can be completed. A subsequent background study must be completed once every 3 years after the GAL has been appointed as long as the individual continues to serve as a GAL.

The background study must include criminal history data from the Bureau of Criminal Apprehension, other criminal history data held by the Commissioner of Human Services, and data regarding whether the person has been a perpetrator of substantiated maltreatment of a minor or a vulnerable adult. When information from the Bureau of Criminal Apprehension indicates that the subject of a study is a multistate offender or that the subject's multistate offender status is undetermined, the court shall require a search of the National Criminal Records Repository and shall provide the commissioner a set of classifiable fingerprints of the subject of the study.

### **Specific Duties**

#### **Ann. Stat. § 260C.163, Subd. 5**

A GAL shall carry out the following responsibilities:

- Conduct an independent investigation to determine the facts relevant to the situation of the child and the family, including, unless specifically excluded by the court, reviewing relevant documents; meeting with and observing the child in the home setting and considering the child's wishes, as appropriate; and interviewing parents, caregivers, and others with knowledge relevant to the case
- Advocate for the child's best interests by participating in appropriate aspects of the case and advocating for appropriate community services when necessary
- Maintain the confidentiality of information related to a case, with the exception of sharing information as permitted by law to promote cooperative solutions that are in the best interests of the child
- Monitor the child's best interests throughout the judicial proceeding
- Present written reports on the child's best interests that include conclusions and recommendations and the facts upon which they are based

### **How the Representative Is Compensated**

#### **Ann. Stat. § 260C.331, Subd. 3, 5, & 6**

Reasonable compensation for an attorney appointed by the court to serve as counsel shall be paid by the county in which proceedings are held.

The State Guardian Ad Litem Board shall pay for GAL expenses and reasonable compensation for an attorney to serve as counsel for a GAL, if necessary. In no event may the court order that GAL expenses or compensation for an attorney serving as counsel for a GAL be charged to a county.

In proceedings in which the court has appointed counsel pursuant to § 260C.163, subd. 3 and § 611.14(4), for a minor unable to employ counsel, the court may inquire into the ability of the parents to pay for the counsel's services and, after giving the parents a reasonable opportunity to be heard, may order the parents to pay attorney fees.

In proceedings in which the court appoints a GAL pursuant to § 260C.163, subd. 5, the court may inquire into the ability of the parents to pay for the GAL's services and, after giving the parents a reasonable opportunity to be heard, may order the parents to pay GAL fees.

In each fiscal year, the Commissioner of Management and Budget shall deposit GAL reimbursements in the special revenue fund and credit them to a separate account with the State Guardian Ad Litem Board. The balance of this account is appropriated to the State Guardian Ad Litem Board and does not cancel but is available until expended. Revenue from this account must be spent in the judicial district in which the reimbursement is collected.

## Mississippi

### Making the Appointment

#### Ann. Code §§ 43-21-121; 43-21-201

A guardian ad litem (GAL) shall be appointed for the child. In cases where the court appoints a layman as GAL, the court shall also appoint an attorney to represent the child.

The youth court shall appoint a GAL for the child:

- When a child has no parent, guardian, or custodian
- When the youth court cannot acquire personal jurisdiction over a parent, guardian, or custodian
- When the parent is a minor or a person of unsound mind
- When the parent is indifferent to the interests of the child or if the interests of the child and the parent, considered in the context of the case, appear to conflict
- In every case involving an abused or neglected child that results in a judicial proceeding
- In any other instance where the youth court finds appointment of a GAL to be in the best interests of the child

The GAL shall be appointed by the court when custody is ordered or at the first judicial hearing regarding the case, whichever occurs first.

Each party shall have the right to be represented by counsel at all stages of the proceedings, including, but not limited to, detention, adjudicatory and disposition hearings, and postdisposition matters. If indigent, the child shall have the right to have counsel appointed for him or her by the youth court.

### The Use of Court-Appointed Special Advocates (CASAs)

#### Ann. Code § 43-21-121

The court, in its discretion, may appoint a trained, volunteer layperson to assist children subject to the provisions of this section in addition to the appointment of a GAL.

### Qualifications/Training

#### Ann. Code § 43-21-121

The GAL shall be a competent person who has no adverse interests to the child. The court shall ensure that the GAL is adequately instructed on the proper performance of his or her duties.

The court may appoint either a suitable attorney or a suitable layperson as a GAL. From and after January 1, 1999, in order to be eligible for an appointment as a GAL, such attorney or layperson must have received child protection and juvenile justice training provided by or approved by the Mississippi Judicial College within the year immediately preceding such appointment. The Mississippi Judicial College shall determine the amount of child protection and juvenile justice training that shall satisfy the requirements of this section. The Administrative Office of Courts shall maintain a roll of all attorneys and laypersons eligible to be appointed as a GAL.

### Specific Duties

#### Ann. Code §§ 43-21-121; 43-21-201(4)

In addition to all other duties required by law, a GAL shall have the duty to protect the interests of a child for whom he or she has been appointed GAL. The GAL shall investigate, make recommendations to the court, or enter reports as necessary to hold paramount the child's best interests. The GAL is not an adversary party, and the court shall ensure that GALs perform their duties properly and in the best interests of their wards.

Upon appointment of a GAL, the youth court shall continue any pending proceedings for a reasonable time to allow the GAL to familiarize himself or herself with the matter, consult with counsel, and prepare his or her participation in the case.

The child's attorney shall owe the same duties of undivided loyalty, confidentiality, and competent representation to the child or minor as is due an adult client pursuant to the Mississippi Rules of Professional Conduct.

## How the Representative Is Compensated

### Ann. Code § 43-21-121

Upon order of the youth court, the GAL shall be paid a reasonable fee as determined by the youth court judge or referee out of the county general fund. To be eligible for this fee, the GAL shall submit an accounting of the time spent in performance of his or her duties to the court.

## Missouri

### Making the Appointment

#### Ann. Stat. § 210.160

In every case involving an abused or neglected child that results in a judicial proceeding, the judge shall appoint a guardian ad litem (GAL) to appear for and represent:

- A child who is the subject of the proceedings
- A parent who is a minor or who is a mentally ill person or otherwise incompetent, and whose child is the subject of the proceedings

The appointing judge shall require the GAL to faithfully discharge his or her duties, and should the GAL fail to do so, the court shall discharge the GAL and appoint another.

The judge, in making appointments pursuant to this section, shall give preference to persons who served as GAL for the child in an earlier proceeding, unless there is a reason on the record for not giving such preference.

### The Use of Court-Appointed Special Advocates (CASAs)

#### Ann. Stat. § 210.160

The court may designate volunteer advocates, who may or may not be attorneys licensed to practice law, to assist in the performance of the GAL duties for the court. Nonattorney volunteer advocates shall not provide legal representation. The court shall have the authority to examine the general and criminal background of persons designated as volunteer advocates, including utilization of the family care safety registry, to ensure the safety and welfare of the children such persons are designated to represent. The volunteer advocate shall be provided with all reports relevant to the case made to or by any agency or person, shall have access to all records of such agencies or persons relating to the child or such child's family members or placements of the child, and upon designation by the court to a case, shall be informed of and have the right to attend any and all family support team meetings involving the child.

### Qualifications/Training

#### Ann. Stat. § 210.160; Mo. Sup. Ct. Stds. for GAL 1.0

The appointing judge shall have the authority to examine the general and criminal background of persons appointed as GALs, including utilization of the family care safety registry, to ensure the safety and welfare of the children such persons are appointed to represent.

Any person appointed to perform GAL duties shall have completed a training program in permanency planning and shall advocate for timely court hearings whenever possible to attain permanency for a child as expeditiously as possible to reduce the effects that prolonged foster care may have on a child. A nonattorney volunteer advocate shall have access to a court-appointed attorney GAL if the circumstances of the particular case so require.

*In court rules:* When appointing a GAL for a child, the court shall only appoint a lawyer licensed by the Supreme Court who has completed the training required by court standards.

The court may designate a court-appointed special advocate volunteer to assist in the performance of the GAL duties for the court as provided by law.

### Specific Duties

#### Ann. Stat. § 210.160; Mo. Sup. Ct. Stds. for GAL 3.0

The GAL shall be provided with all reports relevant to the case made to or by any agency or person, shall have access to all records of such agencies or persons relating to the child or the child's family members or placements of the child, and upon appointment by the court to a case, shall be informed of and have the right to attend any and all family support team meetings involving the child. Employees of the Children's Division, officers of the court, and employees of any agency involved shall fully inform the GAL of all aspects of the case of which they have knowledge or belief.

The appointing judge shall require the GAL to faithfully discharge his or her duties, and upon failure to do so shall discharge the GAL and appoint another.

*In court rules:* A GAL shall be guided by the best interests of the child and shall exercise independent judgment on behalf of the child in all matters. The roles of a GAL and a lawyer for the child are different and must be clearly distinguished. A GAL is not the lawyer for the child and, therefore, advocates the best interests of the child rather than merely representing the child's preferences.

### **How the Representative Is Compensated**

#### **Ann. Stat. § 210.160**

The GAL may be awarded a reasonable fee to be set by the court. The court, in its discretion, may award fees as a judgment to be paid by any party to the proceedings or from public funds. However, no fees as a judgment shall be taxed against a party or parties that have not been found to have abused or neglected a child or children. Such an award of guardian fees shall constitute a final judgment in favor of the GAL.

A volunteer advocate shall receive no compensation from public funds. This shall not preclude reimbursement for reasonable expenses.

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## **Montana**

### **Making the Appointment**

#### **Ann. Code §§ 41-3-112; 41-3-425**

In every judicial proceeding, the court shall appoint a guardian ad litem (GAL) for any child alleged to be abused or neglected.

Any party involved in a petition filed pursuant to § 41-3-422 has the right to counsel in all proceedings held pursuant to the petition.

Except as provided below, the court shall immediately appoint the Office of State Public Defender to assign counsel for:

- Any indigent parent, guardian, or other person having legal custody of a child or youth in a removal, placement, or termination proceeding pursuant to § 41-3-422, pending a determination of eligibility pursuant to § 47-1-111
- Any child or youth involved in a proceeding under a petition filed pursuant to § 41-3-422 when a GAL is not appointed for the child or youth
- Any party entitled to counsel at public expense under the Federal Indian Child Welfare Act

When appropriate, the court may appoint the Office of State Public Defender to assign counsel for any child or youth involved in a proceeding under a petition filed pursuant to § 41-3-422 when a GAL is appointed for the child or youth.

When appropriate and in accordance with judicial branch policy, the court may assign counsel at the court's expense for a GAL or a court-appointed special advocate (CASA) involved in a proceeding under a petition filed pursuant to § 41-3-422.

### **The Use of Court-Appointed Special Advocates (CASAs)**

#### **Ann. Code § 41-3-1013**

Upon its own motion or upon the request of the Department of Public Health and Human Services, the citizen review board, or any interested party, the district court may appoint an attorney or other person as special advocate to represent or appear on behalf of the child. Subject to the direction of the district court, the CASA shall:

- Investigate all relevant information about the case
- Advocate for the child, ensuring that all relevant facts are brought before the court
- Facilitate and negotiate to ensure that the district court, the department, and the child's attorney fulfill their obligations to the child in a timely fashion
- Monitor all district court orders to ensure compliance and to bring to the district court's attention any change in circumstance that may require modification of the district court's order

### **Qualifications/Training**

#### **Ann. Code § 41-3-112**

The Department of Public Health and Human Services or any member of its staff who has a direct conflict of interest may not be appointed as the GAL in a judicial proceeding under this title.

The GAL must have received appropriate training that is specifically related to serving as a child's court-appointed representative.

Any party may petition the court for the removal and replacement of the GAL if the GAL fails to perform the duties of the appointment.

## Specific Duties

### Ann. Code § 41-3-112

The GAL is charged with the representation of the child's best interests and shall perform the following general duties:

- To conduct investigations to ascertain the facts constituting the alleged abuse or neglect
- To interview or observe the child who is the subject of the proceeding
- To have access to court, medical, psychological, law enforcement, social services, and school records pertaining to the child and the child's siblings and parents or custodians
- To make written reports to the court concerning the child's welfare
- To appear and participate in all proceedings to the degree necessary to adequately represent the child and make recommendations to the court concerning the child's welfare
- To perform other duties as directed by the court
- If the GAL is an attorney, to file motions, including, but not limited to, filing to expedite proceedings or otherwise assert the child's rights

Information contained in a report filed by the GAL or testimony regarding a report filed by the GAL is not hearsay when it is used to form the basis of the GAL's opinion as to the best interests of the child.

## How the Representative Is Compensated

### Ann. Code §§ 41-3-112; 3-5-901

When necessary, the GAL may serve at public expense.

A State-funded district court program under the judicial branch shall fund all district court costs. These costs include expenses associated with appointment of a GAL or child advocate for the youth.

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## Nebraska

### Making the Appointment

#### Rev. Stat. §§ 43-272; 43-3710

The court, on its own motion or upon application of a party to the proceedings, shall appoint a guardian ad litem (GAL) when a child is removed from his or her surroundings due to serious endangerment pursuant to § 43-248(3) or (4). If removal has not occurred, a GAL shall be appointed at the commencement of all cases brought under § 43-247(3)(a) or (8) [neglect, abandonment, or voluntary relinquishment of a child] and § 28-707 [child abuse].

A judge may appoint a court-appointed special advocate (CASA) volunteer in any proceeding when, in the opinion of the judge, a child who may be affected by such proceeding requires services that a volunteer can provide, and the court finds that the appointment is in the best interests of the child.

### The Use of Court-Appointed Special Advocates (CASAs)

#### Rev. Stat. §§ 43-3710; 43-3711

A CASA volunteer shall be appointed pursuant to a court order. The court order shall specify the volunteer as a friend of the court acting on the authority of the judge. The volunteer acting as a friend of the court may offer as evidence a written report with recommendations consistent with the best interests of the child, subject to all pertinent objections.

A memorandum of understanding between a court and a CASA program is required in any county where a program is established and shall set forth the roles and responsibilities of the CASA volunteer.

The volunteer's appointment shall conclude:

- When the court's jurisdiction over the child terminates
- Upon discharge by the court on its own motion
- With the approval of the court, at the request of the program director of the CASA program to which the volunteer is assigned
- Upon successful motion of a party to the action for the removal of the volunteer because the party believes the volunteer has acted inappropriately, is unqualified, or is unsuitable for the appointment

A CASA volunteer shall not:

- Accept any compensation for the duties and responsibilities of his or her appointment
- Have any association that creates a conflict of interest with his or her duties

- Be related to any party or attorney involved in a case
- Be employed in a position that could result in a conflict of interest or give rise to the appearance of a conflict
- Use the position to seek or accept gifts or special privileges

**Qualifications/Training****Rev. Stat. §§ 43-272; 43-3708; 43-3709; Neb. Ct. R. § 4-401**

If the judge determines that an attorney with the requisite training is unavailable within the county, he or she may appoint an attorney without such training.

All CASA volunteers shall participate fully in preservice training, including, but not limited to, instruction on recognizing child abuse and neglect, cultural awareness, socioeconomic issues, child development, the juvenile court process, permanency planning, volunteer roles and responsibilities, advocacy, information gathering, and documentation. Volunteers shall be required to participate in observation of court proceedings prior to appointment. Each CASA program shall provide a minimum of 10 hours of inservice training per year to volunteers.

The minimum qualifications for any prospective CASA volunteer are that he or she shall:

- Be at least age 21 and have demonstrated an interest in children and their welfare
- Be willing to commit to the court for a minimum of 1 year of service to a child
- Complete an application, including providing background information required below
- Participate in a screening interview
- Participate in the required training

For the required background screening, the program director shall obtain the following information regarding a volunteer applicant:

- A check of the applicant's criminal history record information maintained by the Federal Bureau of Investigation through the Nebraska State Patrol
- A check of his or her record with the central registry of child protection cases
- A check of his or her driving record
- At least three references of people who will attest to the applicant's character, judgment, and suitability for the position of a CASA volunteer

If the applicant has lived in Nebraska for less than 12 months, the program director shall obtain the records required above from all other jurisdictions in which the applicant has lived during the preceding year.

*In court rules:* The court shall appoint an appropriately trained attorney as a GAL. This includes 6 hours of specialized training provided by the Administrative Office of the Nebraska Supreme Court. In order to maintain eligibility to be appointed and to serve as a GAL, an attorney shall complete 3 hours of specialized training per year as provided by the Administrative Office of the Court.

**Specific Duties****Rev. Stat. §§ 43-272.01; 43-3712**

The GAL:

- Shall be present at all hearings unless expressly excused by the court
- Is not appointed to defend the parents or other custodian of the child but shall defend the legal and social interests of the child
- May at any time move the court to provide medical or psychological treatment or evaluation
- Shall make every reasonable effort to become familiar with the needs of the child, including consulting with the child within 2 weeks after the appointment and once every 6 months thereafter
- May present evidence and witnesses and cross-examine witnesses at all evidentiary hearings
- Shall be responsible for making recommendations to the court regarding the temporary and permanent placement of the child and shall submit a written report to the court at every dispositional or review hearing
- Shall consider other information that is warranted by the nature and circumstances of a particular case
- May file a petition in the juvenile court on behalf of the juvenile

A CASA shall:

- Conduct an independent examination regarding the best interests of the child that will provide factual information to the court regarding the child and the child's family

- Determine whether an appropriate permanency plan has been created for the child, whether appropriate services are being provided to the child and the child's family, and whether the treatment plan is progressing in a timely manner
- With the support and supervision of the CASA program staff, make recommendations consistent with the best interests of the child regarding placement, visitation, and appropriate services for the child and the child's family
- Prepare a written report to be distributed to the court and the parties to the proceeding
- Monitor the case to ensure that the child's essential needs are being met
- Make every effort to attend all hearings, meetings, and any other proceeding concerning the case

### **How the Representative Is Compensated**

#### **Rev. Stat. §§ 43-272.01; 43-273**

The court may order the expense of the GAL's consultation, if any, to be paid by the county in which the juvenile court action is brought, or the court may, after notice and hearing, assess the cost of such consultation, if any, in whole or in part to the parents of the child. The ability of the parents to pay and the amount of the payment shall be determined by the court by appropriate examination.

Counsel and GALs appointed as provided in § 43-272 shall apply to the court that handled the proceedings for fees for services performed. The court upon hearing the application shall fix reasonable fees. The county board of the county wherein the proceedings were heard shall allow the account, bill, or claim presented by any attorney or GAL for services performed in the amount determined by the court. No such account, bill, or claim shall be allowed by the county board until the amount has been determined by the court.

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## **Nevada**

### **Making the Appointment**

#### **Rev. Stat. §§ 432B.500; 432B.420**

After a petition is filed that a child is in need of protection pursuant to § 432B.490, the court shall appoint a guardian ad litem (GAL) for the child.

The child may be represented by an attorney at all stages of any proceedings held pursuant to §§ 432B.410 to 432B.590, inclusive. If the child is represented by an attorney, the attorney has the same authority and rights as an attorney representing a party to the proceedings.

If the court determines that the parent of an Indian child for whom protective custody is sought is indigent, the court:

- Shall appoint an attorney to represent the parent
- May appoint an attorney to represent the Indian child
- May apply to the Secretary of the Interior for the payment of the fees and expenses of such an attorney, as provided in the Indian Child Welfare Act

### **The Use of Court-Appointed Special Advocates (CASAs)**

#### **Rev. Stat. § 432B.505**

To qualify for appointment as a GAL in a judicial district that does not include a county whose population is less than 100,000, a special advocate must be qualified pursuant to the standards for training of the National Court Appointed Special Advocate Association or its successor. If such an association ceases to exist, the court shall determine the standards for training.

### **Qualifications/Training**

#### **Rev. Stat. §§ 432B.500; 432B.505**

The person appointed as a GAL:

- Must meet the requirements of § 432B.505 or, if such a person is not available, a representative of an agency that provides child welfare services, a juvenile probation officer, an officer of the court, or another volunteer
- Must not be a parent or other person responsible for the child's welfare

To qualify for appointment as a GAL in a judicial district that includes a county whose population is less than 100,000, a special advocate must be a volunteer from the community who completes an initial 12 hours of specialized training and, annually thereafter, completes 6 hours of specialized training. The training must be approved by the court and include information regarding:

- The dynamics of abuse and neglect of children

- Factors to consider in determining the best interests of a child, including planning for the permanent placement of the child
- The interrelationships of the family system, legal process, and child welfare system
- Skills in mediation and negotiation
- Federal, State, and local laws affecting children
- Cultural, ethnic, and gender-specific issues
- Domestic violence
- Resources and services available in the community for children in need of protection
- Child development
- Standards for GALs
- Confidentiality issues
- Other topics the court deems appropriate

### **Specific Duties**

#### **Rev. Stat. § 432B.500**

A GAL appointed pursuant to this section shall:

- Represent and protect the best interests of the child until excused by the court
- Thoroughly research and ascertain the relevant facts of each case for which he or she is appointed, and ensure that the court receives an independent, objective account of those facts
- Meet with the child wherever the child is placed as often as necessary to determine that the child is safe and to ascertain the best interests of the child
- Explain to the child the role of the GAL and, when appropriate, the nature and purpose of each proceeding in his or her case
- Participate in the development and negotiation of any plans for and orders regarding the child, and monitor the implementation of those plans and orders to determine whether services are being provided in an appropriate and timely manner
- Appear at all proceedings regarding the child
- Inform the court of the desires of the child, but exercise his or her independent judgment regarding the best interests of the child
- Present recommendations to the court and provide reasons in support of those recommendations
- Request the court to enter orders that are clear and specific, and, when appropriate, include periods for compliance
- Review the progress of each case for which he or she is appointed, and advocate for the expedient completion of the case
- Perform other duties the court orders

### **How the Representative Is Compensated**

#### **Rev. Stat. § 432B.500; 432B.420**

No compensation may be allowed a person serving as a GAL.

Each attorney, other than a public defender, who is appointed to represent a child, is entitled to the same compensation and payment for expenses from the county as provided in §§ 7.125 and 7.135 for an attorney appointed to represent a person charged with a crime. Except as otherwise provided in § 432B.500, an attorney appointed to represent a child may also be appointed as the GAL for the child. He or she may not receive any compensation for his or her services as a GAL.

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## **New Hampshire**

### **Making the Appointment**

#### **Rev. Stat. § 169-C:10**

In cases involving a neglected or abused child, the court shall appoint a court-appointed special advocate (CASA) or other approved program guardian ad litem (GAL) for the child. If a CASA or other approved program GAL is unavailable for appointment, the court may then appoint an attorney or other GAL for the child. The court shall not appoint an attorney for any GAL appointed for the child. The CASA or other approved program GAL shall have the same authority and access to information as any other GAL. For purposes of this paragraph, 'unavailable for appointment' means that there is no CASA or other approved program GAL available for appointment by the court following a finding of reasonable cause at the preliminary hearing held under § 169-C:15 so that the child's interests may be represented effectively in preparation for and at an adjudicatory hearing.

In cases involving a neglected or abused child, when the child's expressed interests conflict with the recommendation for dispositional orders of the GAL, the court may appoint an attorney to represent the interests of the child.

In any case of neglect or abuse brought pursuant to this chapter, the court shall appoint an attorney to represent an indigent parent alleged to have neglected or abused his or her child. In addition, the court may appoint an attorney to represent an indigent parent not alleged to have neglected or abused his or her child if the parent is a household member and such independent legal representation is necessary to protect the parent's interests. The court shall not appoint an attorney to represent any other persons involved in a case brought under this chapter.

#### **The Use of Court-Appointed Special Advocates (CASAs)**

**Rev. Stat §§ 169-C:10; 490-C:6**

The CASA-GAL shall have the same authority and access to information as any other GAL.

Court Appointed Special Advocates of New Hampshire shall be accountable to the Guardian ad Litem Board for complying with the training requirements established by the board under § 490-C:5 and for the actions of its volunteer members who are appointed by the court as GALs.

#### **Qualifications/Training**

**Rev. Stat. § 490-C:5-a**

To be eligible for initial certification, recertification, reinstatement, or renewal of certification as a GAL, an applicant shall be of good character and shall meet such criteria or requirements as may be established by the Guardian ad Litem Board.

Certification issued by the board shall be valid for 3 years from the date of issuance, and shall expire 3 years from the date of issuance, unless renewed or reissued pursuant to rules adopted by, and upon payment of fees established in, the rules of the board. If timely and sufficient application has been made in accordance with board rules for renewal of certification, the existing certification shall not expire until the board has taken final action on the application for renewal.

Conditional or temporary certification as a GAL shall be according to the criteria, terms, requirements, procedures, and duration established by the board.

#### **Specific Duties**

**Rev. Stat. § 169-C:10**

When an attorney is appointed as counsel for a child, representation may include counsel and investigative, expert, and other services, including process to compel the attendance of witnesses, as may be necessary to protect the rights of the child.

The New Hampshire Supreme Court shall adopt rules regarding the duties and responsibilities of the CASA-GAL or other GAL appointed for the child.

#### **How the Representative Is Compensated**

This issue is not addressed in the statutes reviewed.

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### **New Jersey**

#### **Making the Appointment**

**Ann. Stat. § 9:6-8.23**

Any minor who is the subject of a child abuse or neglect proceeding must be represented by a law guardian. The Superior Court, Chancery Division, Family Part, on its own motion, will make appointments of law guardians.

#### **The Use of Court-Appointed Special Advocates (CASAs)**

This issue is not addressed in the statutes reviewed.

#### **Qualifications/Training**

**Ann. Stat. § 9:6-8.21**

The law guardian must be an attorney admitted to the practice of law in this State, regularly employed by the Office of the Public Defender or appointed by the court, and designated under P.L.1974, c.119 to represent minors in alleged cases of child abuse or neglect and in termination of parental rights proceedings.

**Specific Duties****Ann. Stat. § 9:6-8.23**

The duty of the law guardian is to help protect the interests of the child and to help the child express his or her wishes to the court.

**How the Representative Is Compensated**

This issue is not addressed in the statutes reviewed.

**New Mexico****Making the Appointment****Ann. Stat. § 32A-4-10**

At the inception of an abuse and neglect proceeding, the court shall appoint a guardian ad litem (GAL) for a child younger than age 14. If the child is age 14 or older, the court shall appoint an attorney for the child.

When a child reaches age 14, the child's GAL shall continue as the child's attorney. The court shall appoint a different attorney for the child if:

- The child requests a different attorney.
- The GAL requests to be removed.
- The court determines that the appointment of a different attorney is appropriate.

**The Use of Court-Appointed Special Advocates (CASAs)****Ann. Stat. § 32A-1-4**

A court-appointed special advocate (CASA) is a person who, pursuant to the provisions of the Children's Court Rules, assists the court in determining the best interests of the child by investigating the case and submitting a report to the court.

**Qualifications/Training****Ann. Stat. §§ 32A-1-4; 32A-4-10; 32A-18-1**

A GAL shall be an attorney appointed by the Children's Court to represent and protect the best interests of the child in a court proceeding. No party or employee or representative of a party to the proceeding shall be appointed to serve as a GAL.

No officer or employee of an agency that is vested with the legal custody of the child shall be appointed as GAL or attorney for the child. Only an attorney with appropriate experience shall be appointed as GAL or attorney for the child.

When reasonable and appropriate, the court shall appoint a GAL or attorney who is knowledgeable about the child's particular cultural background. Attorneys and attorney GALs may receive periodic training on a child's psychological and physical development as well as the impact of ethnicity on the child's needs.

**Specific Duties****Ann. Stat. § 32A-1-7**

A GAL shall zealously represent the child's best interests in the proceeding for which the GAL has been appointed and in any subsequent appeals. After consultation with the child, a GAL shall convey the child's declared position to the court at every hearing. Unless a child's circumstances render the following duties and responsibilities unreasonable, a GAL shall:

- Meet with and interview the child prior to custody hearings, adjudicatory hearings, dispositional hearings, judicial reviews, and any other hearings scheduled in accordance with the Children's Code
- Communicate with health-care, mental health care, and other professionals involved with the child's case
- Review medical and psychological reports relating to the child and the respondents
- Contact the child prior to any proposed change in the child's placement
- Contact the child after changes in the child's placement
- Attend local substitute care review board hearings concerning the child and, if unable to attend the hearings, forward to the board a letter setting forth the child's status during the period since the last board review and include an assessment of the Children, Youth and Families Department's permanency and treatment plans
- Report to the court on the child's adjustment to placement, the department's and respondent's compliance with prior court orders and treatment plans, and the child's degree of participation during visitations
- Represent and protect the cultural needs of the child

A GAL shall receive notices, pleadings, or other documents required to be provided to or served upon a party. A GAL may file motions and other pleadings and take other actions consistent with the GAL's powers and duties.

### **How the Representative Is Compensated**

#### **Ann. Stat. § 32A-1-19**

Reasonable compensation for services and related expenses of a GAL or a child's attorney shall be a charge upon the funds of the court upon their certification by the court.

The court may order the parent or other person legally obligated to care for and support a child to pay all or part of the costs and expenses of a GAL or attorney when:

- The child has been found to be an abused or neglected child.
- The parent or other person legally obligated to care for and support a child is given notice and a hearing to determine the parent or person's financial ability to pay the costs and expenses.
- The court finds that the parent or person is able to pay all or part of the costs and expenses.

Unless otherwise ordered, payment shall be made to the court for remittance to those to whom compensation is due or, if costs and expenses have been paid by the court, to the court for remittance to the State. The court may prescribe the manner of payment.

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## **New York**

### **Making the Appointment**

#### **Family Court Act § 1016**

The court shall appoint an attorney to represent a child who has been allegedly abused or neglected upon the earliest occurrence of any of the following:

- The court receiving notice of the emergency removal of the child
- An application for an order for removal of the child prior to the filing of a petition
- The filing of a petition alleging abuse or neglect

### **The Use of Court-Appointed Special Advocates (CASAs)**

This issue is not addressed in the statutes reviewed.

### **Qualifications/Training**

#### **Family Court Act § 242**

The term 'attorney for the child' refers to an attorney admitted to practice law in the State of New York who has been designated to represent a minor.

### **Specific Duties**

#### **Family Court Act §§ 1016; 1075; NY Ct. Rules § 7.2**

Whenever an attorney has been appointed by the family court to represent a child, the appointment shall continue without further court order or appointment during an order of disposition issued by the court directing supervision, protection, or suspending judgment, or any extension thereof; an adjournment in contemplation of dismissal; or the pendency of the foster care placement. All notices and reports required by law shall be provided to the attorney for the child. Such appointment shall terminate upon the expiration of the order, unless another appointment of an attorney has been made by the court or unless the attorney makes application to the court to be relieved of his or her appointment. Upon approval of an application to be relieved, the court shall immediately appoint another attorney for the child to whom all notices and reports required by law shall be provided.

In addition to all other duties and responsibilities necessary to the representation of a child, an attorney for the child shall upon receipt of a report from a child protective agency, review the information contained therein and make a determination as to whether there is reasonable cause to suspect that the child is at risk of further abuse or neglect or that there has been a substantive violation of a court order. When the attorney makes such a determination, he or she shall apply to the court for appropriate relief. Nothing contained in this section shall relieve a child protective agency or social services official of its duties pursuant to this act or the social services law.

*In court rules:* In proceedings in which the child is the subject, the attorney must zealously advocate for the child's position. The attorney must ascertain the child's position by consulting with the child in a manner consistent with the child's capacities, and by gaining a thorough knowledge of the child's circumstances. If the child is capable of knowing, voluntary, and considered judgment,

the attorney for the child should be directed by the wishes of the child, even if this conflicts with the attorney's belief that what the child wants is not in the child's best interests. The attorney should fully explain the options available to the child, and may recommend a course of action that in the attorney's view would best promote the child's interests.

When the attorney for the child is convinced either that the child lacks the capacity for knowing, voluntary, and considered judgment, or that following the child's wishes is likely to result in a substantial risk of imminent, serious harm to the child, the attorney for the child would be justified in advocating a position that is contrary to the child's wishes. In these circumstances, the attorney for the child must inform the court of the child's articulated wishes if the child wants the attorney to do so, notwithstanding the attorney's position.

### **How the Representative Is Compensated Family Court Act § 1016**

An attorney for the child shall be entitled to compensation pursuant to applicable provisions of law for services rendered up to and including disposition of the petition. The attorney shall, by separate application, be entitled to compensation for services rendered subsequent to the disposition of the petition.

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## **North Carolina**

### **Making the Appointment Gen. Stat. § 7B-601**

When a petition alleges that a child is abused, neglected, or dependent, the court shall appoint a guardian ad litem (GAL) to represent the child.

In every case where a nonattorney is appointed as a GAL, an attorney shall be appointed in the case in order to ensure protection of the child's legal rights throughout the proceeding.

### **The Use of Court-Appointed Special Advocates (CASAs)**

This issue is not addressed in the statutes reviewed.

### **Qualifications/Training Gen. Stat. § 7B-1200**

The Office of Guardian ad Litem Services is established in the Administrative Office of the Courts to provide services in accordance with § 7B-601 to abused, neglected, or dependent children involved in judicial proceedings and to ensure that all participants in these proceedings are adequately trained to carry out their responsibilities. Each local program shall consist of volunteer GALs, at least one program attorney, a program coordinator who is a paid State employee, and any clerical staff the Administrative Office of the Courts, in consultation with the local program, deems necessary. The Administrative Office of the Courts shall adopt rules and regulations necessary and appropriate for the administration of the program.

### **Specific Duties Gen. Stat. § 7B-601**

The GAL and attorney advocate have standing to represent the child in all actions to which they have been appointed. The appointment shall terminate when the permanent plan has been achieved for the child and approved by the court. The court may reappoint the GAL pursuant to a showing of good cause upon motion of any party, including the GAL or the court.

The duties of the GAL program shall be:

- To make an investigation to determine the facts, the needs of the child, and the available resources within the family and community to meet those needs
- To facilitate, when appropriate, the settlement of disputed issues
- To offer evidence and examine witnesses at adjudication
- To explore options with the court at the dispositional hearing
- To conduct follow-up investigations to ensure that the orders of the court are executed properly
- To report to the court when the needs of the child are not met
- To protect and promote the best interests of the child until formally relieved of the responsibility by the court

The court may authorize the GAL to accompany the juvenile to court in any criminal action wherein the juvenile may be called on to testify in a matter relating to abuse.

The GAL has the authority to obtain any information or reports, whether or not confidential, that may in the GAL's opinion be relevant to the case. No privilege other than the attorney-client privilege may be invoked to prevent the GAL and the court from obtaining such information. The confidentiality of the information or reports shall be respected by the GAL, and no disclosure of any information or reports shall be made to anyone except by order of the court or unless otherwise provided by law.

### **How the Representative Is Compensated**

#### **Gen. Stat. § 7B-603**

An attorney or GAL shall be paid a reasonable fee fixed by the court or by direct engagement for specialized GAL services through the Administrative Office of the Courts.

The court may require payment of the fee for an attorney or GAL from a person other than the child. In no event shall the parent or guardian be required to pay the fees for a court-appointed attorney or GAL in an abuse, neglect, or dependency proceeding unless the child has been adjudicated to be abused, neglected, or dependent or, in a proceeding to terminate parental rights, unless the parent's rights have been terminated. If the party is ordered to reimburse the State for attorney or GAL fees and fails to comply with the order at the time of disposition, the court shall file a judgment against the party for the amount due the State.

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## **North Dakota**

### **Making the Appointment**

#### **Cent. Code § 50-25.1-08; ND R. Ct. 8.7**

The court shall appoint a guardian ad litem (GAL) to represent the child in every case involving an abused or neglected child that results in a judicial proceeding.

*In court rules:* A GAL must be appointed if the court finds an appointment is necessary to protect the best interests of the child involved. In determining whether to appoint a GAL, the court shall consider, among other factors, whether:

- There is an allegation of sexual abuse.
- There is an allegation of domestic violence resulting in serious bodily injury or involving the use of a dangerous weapon.
- There is an allegation of a pattern of domestic violence occurring within a reasonable time proximate to the proceeding resulting in a reasonable fear for the safety of a party or the minor child.
- The child has special needs.
- The child has, at any time, been placed in foster care or in the home of a third party.
- There is an allegation the child is in an unstable environment.
- There has been repeated post decree litigation involving custody or visitation issues.
- The interests of the child and either or both parents are in substantial conflict.
- A GAL could provide the court with significant information not otherwise available or likely to be presented by the parents.
- There are any other areas of special concern that may impact the best interests of the child.

### **The Use of Court-Appointed Special Advocates (CASAs)**

This issue is not addressed in the statutes reviewed.

### **Qualifications/Training**

#### **ND R. Ct. 8.7(c)**

To be eligible for appointment as a GAL, an attorney must have completed 18 hours of GAL-related training. To remain eligible to be appointed as GAL, an individual shall complete an additional 18 hours of GAL-related training every 3 years.

### **Specific Duties**

#### **ND R. Ct. 8.7(d)**

A GAL shall advocate the best interests of the child as to legal custody, physical placement, visitation, and support. A GAL shall function independently, in the same manner as an attorney for a party to the action, and, consistent with the Rules of Professional Conduct, shall consider, but not be bound by, the wishes of the child or others as to the best interests of the child.

After appointment, a GAL shall:

- Work with a custody investigator, if appointed, to coordinate investigation activities and avoid duplicating services
- Interview and observe the child to ascertain the facts relevant to custody, the child's wishes, the need for independent evaluation, and the need for and appropriateness of interim judicial relief

- Advise the child and the child's parents of the role and responsibilities of the GAL
- Interview potential witnesses, lay and expert, with relevant knowledge of the child or parties
- Participate in meetings impacting the life of the child, including permanency planning meetings and other activities that may be directed by the court

A GAL may apply for a court order to protect the child, to obtain temporary relief, to determine custody, or to determine visitation. A GAL shall participate whenever any party requests an interim court order that may affect the child. He or she also may request an independent court-ordered evaluation or study, including a custody investigation.

The GAL shall also participate in all pretrial procedures and negotiations and endeavor to resolve the case without the need for a trial. The GAL may not disclose or participate in the disclosure of information to any person who is not a party to the case, except as necessary to perform the GAL duties or as may be specifically provided by law.

### **How the Representative Is Compensated**

#### **Cent. Code § 27-20-49**

The supreme court shall pay reasonable compensation for a GAL. If, after due notice to the parents or other persons legally obligated to care for and support the child, and to a child older than age 18, and after affording them an opportunity to be heard, the court finds that they are financially able to pay all or part of the costs and expenses payable by the supreme court, the court may order them to pay the same and prescribe the manner of payment.

Unless it finds that there is no likelihood that the party is or will be able to pay attorney's fees and expenses, the court shall order the parents (or other persons legally obligated to care for and support the child) and the child, if older than age 18, to reimburse the presumed amount of indigent defense costs and expenses, as determined by the Commission on Legal Counsel for Indigents, and the court shall notify the party of the right to a hearing on the reimbursement amount. If the party or the State requests a hearing within 30 days of receiving notice, the court shall schedule a hearing at which the actual amount of attorney's fees and expenses must be shown. In determining the amount of reimbursement and method of payment, the court shall consider the financial resources of the party and the nature of the burden that reimbursement of costs and expenses will impose.

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## **Northern Mariana Islands**

### **Making the Appointment**

#### **Commonwealth Law Tit. 8, §§ 1982; 1983**

A guardian ad litem (GAL) is an officer of the court who reports directly to the court and who provides independent advice to the court (as compared to the attorneys advocating for one side or the other in the action) to bring balance to the decisionmaking process.

Because minor children cannot make legal decisions for themselves, in any legal proceeding in which the legal interests of a juvenile and the legal interests of the parents or other legal guardians of the juvenile are considered to be adverse or in conflict with each other, a GAL will be appointed for the juvenile by the court to provide an independent adult to act on behalf of the juvenile and to make certain that the interests and legal rights of the juvenile are given adequate consideration and are adequately protected in that process. The legal protective status of a GAL will exist only within the confines of the particular court case in which the appointment was made.

The Superior Court may, and in wardship cases shall, appoint a GAL for a juvenile, to serve until discharged by the court.

A GAL appointed pursuant to this section is an advocate for a juvenile whose welfare is a matter of concern for the court.

### **The Use of Court-Appointed Special Advocates (CASAs)**

#### **Commonwealth Law Tit. 8, § 1983**

The Superior Court may, at its discretion, establish a Guardian Ad Litem Program within the family court, to serve as a system to provide training and supervision to volunteers who serve as court-appointed special advocates for children in abuse and neglect proceedings within the family court.

### **Qualifications/Training**

#### **Commonwealth Law Tit. 8, § 1985**

No person may be appointed as a GAL for a juvenile, other minor or other legally incompetent individual in any proceeding if that person has a criminal history that poses a risk to children; these include but are not limited to:

- Violent felonies in which an individual threatens to cause, attempts to cause, or causes serious bodily injury
- Violent sexual offenses as defined by Commonwealth law or similar offenses in other jurisdictions
- A criminal sex offense against a minor as defined by Commonwealth law or similar offenses in other jurisdictions
- Child abuse or neglect as defined by Commonwealth law or similar offenses in other jurisdictions
- Violations of the Commonwealth Minor Children Firearms Control Act or similar offenses in other jurisdictions
- Distribution of a controlled substance to persons under age 18 as defined by Commonwealth law or similar offenses in other jurisdictions

All other criminal histories will be evaluated based on the nature and severity of the incident, the identity of the victim, the length of time since the incident, whether any specific pattern of criminal behavior exists, and specific efforts the individual has made towards rehabilitation.

### Specific Duties

#### Commonwealth Law Tit. 8, § 1984; 1986; 1987

The responsibilities and duties of a GAL are to:

- Represent the best interests of the juvenile
- Advocate for the welfare and rights of a juvenile alleged to be a victim in an abuse or neglect proceeding
- Conduct an independent assessment of the facts, the needs of the child, and the available resources within the family and community to meet those needs
- Provide the court with a written report or reports, including, without limitation, evaluation and assessment of the issues brought before the court, and recommendations for disposition of the case, and, if appropriate, the wishes of the juvenile
- Monitor compliance with court orders during the pendency of the court case
- Protect and promote the best interests of the juvenile until formally relieved of the responsibility by the court

The GAL may make, but shall not be required to, such motions as may be necessary to enforce court orders or to seek judicial review.

After appointment by the court to a case involving an abused or neglected juvenile, the GAL shall receive appropriate notice of all court hearings and proceedings regarding the juvenile. The GAL is authorized to:

- Conduct an independent assessment of the facts
- Confer with and observe the juvenile
- Interview persons involved in the case
- Participate in any evaluation team for the case on which the GAL has been appointed
- Make recommendations to the court concerning the child's welfare
- Make motions necessary to enforce any court orders, seek judicial review, or petition the court for relief on behalf of the child
- Exercise additional powers ordered by the court that may be appropriate in the circumstances of each case

The GAL is authorized, through counsel if appropriate, to introduce, examine, and cross-examine witnesses in any proceeding involving the juvenile and participate in the proceedings to any degree necessary to represent the juvenile adequately.

All reports made and information collected by the Department of Youth Services must be made available to the GAL. Upon proof of appointment as GAL and upon the GAL's request, access to information must be made available to the GAL by the appropriate medical and dental authorities and service providers, psychologists, psychiatrists, psychotherapists, social workers, counselors, schools, and any agency providing services to the juvenile to the extent authorized by Commonwealth and Federal law.

### How the Representative Is Compensated

This issue is not addressed in the statutes reviewed.

## Ohio

### Making the Appointment

#### Rev. Code § 2151.281; Ohio Sup. Rule 48

The court shall appoint a guardian ad litem (GAL), subject to rules adopted by the supreme court, to protect the interests of a child in any proceeding concerning an alleged abused or neglected child. The GAL shall not be the attorney responsible for presenting the evidence alleging that the child is an abused or neglected child and shall not be an employee of any party in the proceeding.

The court shall appoint a GAL to protect the interests of a child in any proceeding concerning an alleged dependent child if any of the following applies:

- The parent of the child appears to be mentally incompetent or is under age 18.
- There is a conflict of interest between the child and the child's parents, guardian, or custodian.
- The court believes that the parent of the child is not capable of representing the best interests of the child. The court may appoint a GAL to protect the interests of the child in any other proceeding concerning an alleged dependent child.

*In court rules:* Each court appointing a GAL under this rule shall enter an Order of Appointment that shall include:

- A statement regarding whether a person is being appointed as a GAL only or as a GAL and attorney for the child.
- A statement that the appointment shall remain in effect until discharged by order of the court, by the court filing a final order in the case, or by court rule.
- A statement that the GAL shall be given notice of all hearings and proceedings and shall be provided a copy of all pleadings, motions, notices and other documents filed in the case.

Whenever feasible, the same GAL shall be reappointed for a specific child in any subsequent case in any court relating to the best interests of the child.

### **The Use of Court-Appointed Special Advocates (CASAs)**

#### **Rev. Code § 2151.281**

When the court appoints a GAL, it shall appoint a qualified volunteer or court-appointed special advocate (CASA) whenever one is available and the appointment is appropriate. Upon request, the Department of Job and Family Services shall provide for the training of volunteer GALs.

#### **Qualifications/Training**

##### **Ohio Sup. R. Rule 48**

In order to serve as a GAL, an applicant shall, at a minimum, successfully complete a preservice training course to qualify for appointment and thereafter, successfully complete continuing education training in each succeeding calendar year to qualify for continued appointment. The preservice training course must be the 6 hour GAL preservice course provided by the Supreme Court of Ohio, the Ohio CASA/GAL Association's preservice training program, or with prior approval of the appointing court, be a course at least 6 hours in length that covers the topic areas listed below.

To meet the requirements of this rule, the preservice course shall include training on all the following topics:

- Human needs and child development
- Communication and diversity, including communication skills with children and adults, interviewing skills, methods of critical questioning, use of open-ended questions, understanding the perspective of the child, sensitivity, building trust, multicultural awareness, and confidentiality
- Preventing child abuse and neglect, including assessing risk and safety
- Family and child issues, including family dynamics, substance abuse and its effects, basic psychopathology for adults and children, and domestic violence and its effects
- Legal framework, including records checks; accessing, assessing, and appropriate protocol; a GAL's role in court; local resources and service practice; report content; and mediation and other types of dispute resolution

The continuing education course must be at least 3 hours in length and be provided by the Supreme Court of Ohio, by the Ohio CASA/GAL Association, or with prior approval of the appointing court, be a training that complies with requirements of this rule. The 3-hour continuing education course shall be specifically designed for continuing education. If a GAL fails to complete a 3-hour continuing education course within any calendar year, that person shall not be eligible to serve as a GAL until this continuing education requirement is satisfied. If the person's gap in continuing education is 3 calendar years or less, the person shall qualify to serve after completing a 3-hour continuing education course. If the gap in continuing education is more than 3 calendar years, that person must complete a 6-hour preservice education course to qualify to serve.

#### **Specific Duties**

##### **Rev. Code § 2151.281**

The GAL for a dependent child shall perform whatever functions are necessary to protect the best interests of the child, including, but not limited to, investigation, mediation, monitoring court proceedings, and monitoring the services provided the child by the

public or private children services agency that has temporary or permanent custody of the child, and shall file any motions and other court papers that are in the best interests of the child in accordance with rules adopted by the supreme court.

*In court rules:* A GAL shall perform, at a minimum, the responsibilities stated below, unless impracticable or inadvisable to do so:

- Represent the best interests of the child for whom he or she is appointed
- Maintain independence, objectivity, and fairness, as well as the appearance of fairness, in all dealings
- Appear and participate in any hearing
- File pleadings, motions, and other documents
- Make reasonable efforts to become informed about the facts of the case by doing the following tasks:
  - » Meet with and interview the child and observe the child with each parent, foster parent, guardian, or physical custodian
  - » Conduct at least one interview with the child where none of the above individuals is present
  - » Visit the child at his or her residence
  - » Ascertain the wishes of the child
  - » Meet with and interview the parties, foster parents, and other significant individuals who may have relevant knowledge about the case
  - » Review pleadings and other relevant court documents
  - » Review criminal, civil, educational, and administrative records pertaining to the child and the child's family
  - » Interview school personnel, medical and mental health providers, child protective services workers, and relevant court personnel and obtain copies of relevant records
  - » Recommend that the court order psychological evaluations, mental health and/or substance abuse assessments, or other evaluations or tests of the parties as the GAL deems necessary or helpful to the court
  - » Perform any other investigation necessary to make an informed recommendation regarding the best interests of the child

A nonattorney GAL must avoid engaging in conduct that constitutes the unauthorized practice of law, be vigilant in performing the GAL's duties, and request that the court appoint legal counsel, or otherwise employ the services of an attorney, to undertake appropriate legal actions on behalf of the GAL in the case.

When a court appoints an attorney to serve as both the GAL and attorney for a child, the attorney shall advocate for the child's best interests and the child's wishes in accord with the Rules of Professional Conduct. When a GAL determines that a conflict exists between the child's best interests and the child's wishes, the GAL shall, at the earliest practical time, request in writing that the court promptly resolve the conflict by entering appropriate orders.

### **How the Representative Is Compensated**

#### **Rev. Code § 2151.281**

The court may fix the compensation for the service of the GAL, which shall be paid from the treasury of the county, subject to rules adopted by the Supreme Court.

## **Oklahoma**

### **Making the Appointment**

#### **Ann. Stat. Tit. 10A, §§ 1-4-102; 1-4-306**

If, in any proceeding concerning child custody or visitation, the evidence indicates that a child has been subject to abuse or neglect, the court shall appoint an attorney to represent the child for that proceeding and any related proceedings and may appoint a guardian ad litem (GAL) for the child as permitted by law.

The court may appoint an attorney or GAL for the child when an emergency custody hearing is held provided that when a petition is filed alleging the child to be deprived, the court shall appoint a separate attorney for the child, who shall not be a district attorney, regardless of any attempted waiver by the parent, legal guardian, or custodian of the child of the right of the child to be represented by counsel. The child's attorney shall be independent of and not selected by the district attorney, the child's parent, legal guardian, or custodian.

The court shall ensure that the child is represented by independent counsel throughout the pendency of the deprived action.

After a petition is filed, the court shall appoint a GAL upon the request of the child or the attorney of the child, and may appoint a GAL on its own motion or upon the request of the Department of Human Services, a licensed child-placing agency, or another party to the action.

A GAL shall not be a district attorney, an employee of the office of the district attorney, the child's attorney, an employee of the court, an employee of a juvenile bureau, or an employee of any public agency having duties or responsibilities for the child.

### **The Use of Court-Appointed Special Advocates (CASAs)**

#### **Ann. Stat. Tit. 10A, §§ 1-1-105; 1-4-306**

A court-appointed special advocate (CASA) is a responsible adult volunteer who has been trained and is supervised by a CASA program recognized by the court, and when appointed by the court, serves as an officer of the court as a GAL.

A CASA program is an organized program, administered by either an independent, not-for-profit corporation; a dependent project of an independent, not-for-profit corporation; or a unit of local government that recruits, screens, trains, assigns, supervises, and supports volunteers to be available for appointment by the court as GALs.

When a CASA program is available to the court to provide a GAL, priority may be given to appointment of the CASA to serve as GAL for the child regardless of whether a GAL has been requested pursuant to the provisions of this subsection.

For purposes of the Oklahoma Children's Code, a CASA and a GAL shall have the same function except as otherwise provided by law. In like manner, a CASA, except as specifically otherwise provided by law or by the court, shall have the same power, duties, and responsibilities assigned to a GAL by law and shall have such other qualifications, duties, and responsibilities as may be prescribed by rule by the Supreme Court.

### **Qualifications/Training**

#### **Ann. Stat. Tit. 10A, § 1-4-306**

On or before December 31, 2009, the Administrative Director of the Courts shall develop a standard operating manual for GALs that shall include, but not be limited to, legal obligations and responsibilities, information concerning child abuse, child development, domestic abuse, sexual abuse, and parent and child behavioral health and management including best practices. After publication of the manual, all GALs shall certify to the court in which he or she is appointed as a GAL that the manual has been read and all provisions contained therein are understood. The GAL shall also certify that he or she agrees to follow the best practices described within the standard operating manual. The Administrative Director of the Courts shall provide public access to the standard operating manual and shall periodically review and revise the manual as deemed necessary.

### **Specific Duties**

#### **Ann. Stat. Tit. 10A, § 1-4-306**

The attorney appointed for the child shall make arrangements to meet with the child as soon as possible after receiving notification of the appointment. To the extent that a child is unable to express an interest, either because the child is preverbal, very young, or for any reason incapable of judgment and meaningful communication, the attorney shall substitute his or her judgment for that of the child and formulate and present a position that serves the best interests of the child. Such formulation must be accomplished through the use of objective criteria rather than solely the life experience or instinct of the attorney. The objective criteria shall include, but not be limited to:

- A determination of the circumstances of the child through a full and efficient investigation
- An assessment of the child at the time of the determination
- An examination of all options in light of the permanency plans available to the child
- Utilization of medical, mental health, and educational professionals; social workers; and other related experts

The attorney shall represent the child and any expressed interests of the child. The attorney shall make such further inquiry as the attorney deems necessary to ascertain the facts, to interview witnesses, examine and cross-examine witnesses, make recommendations to the court, and participate further in the proceedings to the degree appropriate for adequately representing the interests of the child.

The GAL shall be appointed to objectively advocate on behalf of the child and act as an officer of the court to investigate all matters concerning the best interests of the child. A GAL shall have the following responsibilities:

- Review documents, reports, records, and other information relevant to the case; meet with and observe the child in appropriate settings; and interview parents, foster parents, health-care providers, child protective services workers, and any other person with knowledge relevant to the case
- Advocate for the best interests of the child by participating in the case, attending any hearings in the matter, and advocating for appropriate services for the child when necessary
- Monitor the best interests of the child throughout any judicial proceeding

- Present written reports on the best interests of the child that include conclusions and recommendations and the facts upon which they are based

The GAL shall be given access to court and agency files and all documents, reports, records, and other information relevant to the case, including reports generated by service providers.

### **How the Representative Is Compensated**

#### **Ann. Stat. Tit. 10A, § 1-4-306**

If financially capable, the parent, legal guardian, or custodian shall reimburse the Court Fund for the services of a court-appointed attorney for the child. The attorney shall be allowed a reasonable fee for such services as determined by the court.

When an attorney is required to travel to more than one district court location in order to represent a child or children whom the attorney has been court-appointed to represent, the court may in its discretion allow the attorney a reasonable reimbursement for mileage.

A CASA shall serve without compensation.

## **Oregon**

### **Making the Appointment**

#### **Rev. Stat. §§ 419B.112; 419B.195**

For the purposes of a Child Abuse Prevention and Treatment Act (42 U.S.C. § 5101, et seq.) grant to this State under P.L. 93-247, or any related State or Federal legislation, a court-appointed special advocate (CASA) or other person appointed pursuant to this section is deemed a guardian ad litem to represent the interests of the child or ward in proceedings before the court.

If the child, parent, or guardian requests counsel for the child but is without sufficient financial means to employ suitable counsel possessing skills and experience commensurate with the nature of the petition and the complexity of the case, the court may appoint suitable counsel to represent the child at State expense if the child is determined to be financially eligible under the policies, procedures, standards, and guidelines of the Public Defense Services Commission. Whenever requested to do so, the court shall appoint counsel to represent the child in a case filed pursuant to § 419B.100. The court may not substitute one appointed counsel for another except pursuant to the policies, procedures, standards, and guidelines of the Public Defense Services Commission.

### **The Use of Court-Appointed Special Advocates (CASAs)**

#### **Rev. Stat. § 419B.112**

In every case under chapter 419B, the court shall appoint a court-appointed special advocate(CASA). The CASA is deemed a party in these proceedings and may be represented by counsel; file pleadings and request hearings; and subpoena, examine, and cross-examine witnesses.

If a juvenile court does not have a sufficient number of qualified CASAs available to it, the court may, in fulfillment of the requirements of this section, appoint a juvenile department employee or other suitable person to represent the child or ward's interest in court pursuant to § 419A.012 or 419B.195.

Upon presentation of the order of appointment by the CASA, any agency, hospital, school organization, division, office or department of the State, doctor, nurse or other health-care provider, psychologist, psychiatrist, police department, or mental health clinic shall permit the CASA to inspect and copy, and may consult with the CASA regarding, any records relating to the child or ward involved in the case, without the consent of the child, ward, or parents.

### **Qualifications/Training**

This issue is not addressed in the statutes reviewed.

### **Specific Duties**

#### **Rev. Stat. § 419B.112**

Subject to the direction of the court, the duties of the CASA are to:

- Investigate all relevant information about the case
- Advocate for the child or ward, ensuring that all relevant facts are brought before the court
- Facilitate and negotiate to ensure that the court, the Department of Human Services, if applicable, and the child or ward's attorney, if any, fulfill their obligations to the child or ward in a timely fashion

- Monitor all court orders to ensure compliance and to bring to the court's attention any change in circumstances that may require a modification of an order of the court

### **How the Representative Is Compensated**

#### **Rev. Stat. § 419B.112**

If the CASA is represented by counsel, counsel shall be paid from funds in the Court Appointed Special Advocate Fund established under § 458.584. Counsel representing a CASA may not be paid from moneys in the Public Defense Services Account, the Public Defense Services Commission, or from Judicial Department operating funds.

Whenever the court appoints a CASA or other person to represent the child, it may require a parent, if able, or guardian of the estate, if the estate is able, to pay, in whole or in part, the reasonable costs of CASA services, including reasonable attorney fees.

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## **Pennsylvania**

### **Making the Appointment**

#### **Cons. Stat. Tit. 42, §§ 6311; 6342**

When a proceeding has been initiated alleging that the child is a dependent child, the court shall appoint a guardian ad litem (GAL) to represent the legal interests and the best interests of the child.

The court may appoint or discharge a court-appointed special advocate (CASA) at any time during a proceeding or investigation regarding dependency.

### **The Use of Court-Appointed Special Advocates (CASAs)**

#### **Cons. Stat. Tit. 42, §§ 6302:01; 6342**

A CASA is an individual appointed by the court to participate as an advocate for a child who is dependent or alleged to be dependent. Following appointment by the court, the CASA shall:

- Have full access to and review all records, including child protective services records, relating to the child and other information, unless otherwise restricted by the court
- Interview the child and other appropriate persons as necessary to develop his or her recommendations
- Receive reasonable prior notice of all hearings, staff meetings, investigations, or other proceedings relating to the child
- Receive reasonable prior notice of the movement of the child from one placement to another placement, the return of a child to the home, the removal of a child from the home, or any action that materially affects the treatment of the child
- Submit written reports to the court to assist the court in determining the disposition best suited to the health, safety, and welfare of the child
- Submit copies of all written reports and recommendations to all parties and any attorney of a party

### **Qualifications/Training**

#### **Cons. Stat. Tit. 42, §§ 6311; 6342**

The GAL must be an attorney-at-law.

Prior to appointment, a CASA shall:

- Be age 21 or older
- Successfully pass screening requirements, including criminal history and child abuse background checks
- Successfully complete the training requirements established under § 6342(f) and by the court of common pleas of the county where the CASA will serve

The Juvenile Court Judges' Commission shall develop standards governing the qualifications and training of CASAs.

### **Specific Duties**

#### **Cons. Stat. Tit. 42, § 6311**

The GAL shall be charged with representation of the legal interests and the best interests of the child at every stage of the proceedings and shall do all of the following:

- Meet with the child as soon as possible following appointment and on a regular basis thereafter in a manner appropriate to the child's age and maturity
- On a timely basis, be given access to relevant court and county agency records, reports of examination of the parents or other custodian of the child, and medical, psychological, and school records

- Participate in all proceedings and administrative hearings and reviews to the degree necessary to adequately represent the child
- Conduct such further investigation necessary to ascertain the facts
- Interview potential witnesses, including the child's parents, caregivers, and foster parents; examine and cross-examine witnesses; and present witnesses and evidence necessary to protect the best interests of the child
- At the earliest possible date, be advised by the county agency having legal custody of the child of:
  - » Any plan to relocate the child or modify custody or visitation arrangements, and the reasons why, prior to the relocation or change in custody or visitation
  - » Any proceeding, investigation, or hearing directly affecting the child
- Make specific recommendations to the court relating to the appropriateness and safety of the child's placement and services necessary to address the child's needs and safety
- Explain the proceedings to the child as appropriate to the child's age and mental and emotional condition
- Advise the court of the child's wishes to the extent that they can be ascertained and present to the court whatever evidence exists to support the child's wishes

A difference between the child's wishes and the GAL's recommendations shall not be considered a conflict of interest for the GAL.

### **How the Representative Is Compensated**

This issue is not addressed in the statutes reviewed.

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## **Puerto Rico**

### **Making the Appointment**

#### **Ann. Laws Tit. 8, § 447a**

The interests of a child who has been declared to be the alleged victim of abuse, institutional abuse, neglect, and/or institutional neglect in court shall be represented by a family advocate.

### **The Use of Court-Appointed Special Advocates (CASAs)**

This issue is not addressed in the statutes reviewed.

### **Qualifications/Training**

This issue is not addressed in the statutes reviewed.

### **Specific Duties**

#### **Ann. Laws Tit. 8, § 447y**

Family advocates shall be entrusted with the task of prosecuting, on behalf of the Government of the Commonwealth of Puerto Rico, whatever actions may be in order as the result of investigations carried out on abuse, institutional abuse, neglect, and/or institutional neglect of children.

Insofar as it is possible, and taking into consideration the age and maturity of the children, family advocates shall keep them informed of the decisions that affect them.

### **How the Representative Is Compensated**

This issue is not addressed in the statutes reviewed.

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## **Rhode Island**

### **Making the Appointment**

#### **Gen. Laws § 40-11-14**

Any child who is alleged to be abused or neglected as a subject of a petition filed in family court shall have a guardian ad litem (GAL) and/or a court-appointed special advocate (CASA) appointed by the court to represent this child, all in the discretion of the court.

## **The Use of Court-Appointed Special Advocates (CASAs)**

### **Gen. Laws § 40-11-14**

The court may appoint a CASA to represent the child.

### **Qualifications/Training**

#### **Gen. Laws § 42-73-7**

The child advocate shall provide training and technical assistance to GALs and CASAs appointed by the family court to represent children in proceedings before that court.

### **Specific Duties**

This issue is not addressed in the statutes reviewed.

### **How the Representative Is Compensated**

This issue is not addressed in the statutes reviewed.

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## **South Carolina**

### **Making the Appointment**

#### **Ann. Code § 63-7-1620**

In all child abuse and neglect proceedings children must be appointed a guardian ad litem (GAL) by the family court. A GAL serving on behalf of the South Carolina Guardian ad Litem Program or Richland County Court Appointed Special Advocate Program must be represented by legal counsel in any judicial proceeding pursuant to § 63-11-530(C).

The family court may appoint legal counsel for the child. Counsel for the child may not be the same as counsel for:

- The parent, legal guardian, or other person subject to the proceeding
- Any government or social agency involved in the proceeding
- The child's GAL

### **The Use of Court-Appointed Special Advocates (CASAs)**

#### **Ann. Code § 63-11-500**

The Cass Elias McCarter Guardian ad Litem Program in South Carolina is a statewide system that provides training and supervision to volunteers who serve as court-appointed special advocates (CASAs) for children in abuse and neglect proceedings within the family court. This program must be administered by the Department of Administration.

Notwithstanding the provisions above, a county providing GAL services prior to June 3, 2010, may continue to provide such services, provided the county GAL program is a member of the National Court Appointed Special Advocate Association. However, a county GAL program operating pursuant to this subsection must comply with all State and Federal laws, even if compliance with State or Federal laws would result in the violation of a requirement for membership in the National Court Appointed Special Advocate Association.

### **Qualifications/Training**

#### **Ann. Code §§ 63-3-820; 63-11-520**

A GAL must be age 25 or older and possess a high school diploma or its equivalent. An attorney-GAL must annually complete a minimum of 6 hours of family law continuing legal education credit in the areas of custody and visitation; however, this requirement may be waived by the court.

For initial qualification, a lay GAL must have completed a minimum of 9 hours of continuing education in the areas of custody and visitation and 3 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. A lay GAL also must observe three contested custody merit hearings prior to serving as a GAL. The lay GAL 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. Lay GALs must complete annually 6 hours of continuing education courses in the areas of custody and visitation.

No person may be appointed as a GAL for a child in an abuse or neglect proceeding who has been convicted of any crime listed in Title 16, Chapter 3, Offenses Against the Person; Title 16, Chapter 15, Offenses Against Morality and Decency; Title 44, Chapter

53, Article 3, Narcotics and Controlled Substances; or for the crime of contributing to the delinquency of a minor, provided for in § 16-17-490.

### **Specific Duties**

#### **Ann. Code §§ 63-11-510; 63-11-530; 63-11-540**

The responsibilities and duties of a GAL are to:

- Represent the best interests of the child
- Advocate for the welfare and rights of the child
- Conduct an independent assessment of the facts, the needs of the child, and the available resources within the family and community to meet those needs
- Maintain accurate, written case records
- Provide the court with a written report that includes an evaluation and assessment of the issues brought before the court and recommendations for the case plan, the wishes of the child, if appropriate, and subsequent disposition of the case
- Monitor compliance with the orders of the court and to make the motions necessary to enforce the orders of the court or seek judicial review
- Protect and promote the best interests of the child until formally relieved of the responsibility by the court

The GAL shall receive appropriate notice of all court hearings and proceedings regarding the child. The obligation of the GAL to the court is a continuing one and continues until formally relieved by the court. The GAL is authorized to:

- Confer with and observe the child involved
- Interview persons involved in the case
- Participate on any multidisciplinary evaluation team for the case

The GAL is authorized through counsel to introduce, examine, and cross-examine witnesses in any proceeding involving the child and participate in the proceedings to any degree necessary to represent the child adequately.

All reports made and information about the case must be made available to the GAL by the Department of Social Services.

Upon proof of appointment as GAL and upon his or her request, access to information must be made available to the GAL by the appropriate medical and dental authorities, psychologists, social workers, counselors, schools, and any agency providing services to the child.

### **How the Representative Is Compensated**

This issue is not addressed in the statutes reviewed.

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## **South Dakota**

### **Making the Appointment**

#### **Ann. Stat. §§ 26-8A-18; 26-8A-20**

The court shall appoint an attorney for any child alleged to be abused or neglected in any judicial proceeding. The court may designate other persons, including a guardian ad litem (GAL) or special advocate to assist the attorney of the child in the performance of the attorney's duties.

If a child has been adjudicated an abused or neglected child and is removed from the home of the child's parents, guardian, or custodian, the court shall appoint a GAL or a special advocate to represent the best interests of the child and to assist the child's attorney.

### **The Use of Court-Appointed Special Advocates (CASAs)**

This issue is not addressed in the statutes reviewed.

### **Qualifications/Training**

#### **Ann. Stat. § 26-8A-18**

The GAL or special advocate may or may not be an attorney licensed to practice law.

### **Specific Duties**

#### **Ann. Stat. §§ 26-8A-18; 26-8A-20**

The attorney for the child shall represent the child's best interests and may not be the attorney for any other party involved in the judicial proceedings. A GAL or special advocate shall represent the best interests of the child and assist the child's attorney in the performance of the attorney's duties.

The GAL or special advocate is an officer of the court for the purpose of representing the child's best interests. The GAL or special advocate shall receive all reports concerning the child and may cause the case to be reviewed by the court.

### **How the Representative Is Compensated**

#### **Ann. Stat. §§ 26-8A-18; 26-8A-19; 26-7A-31**

Compensation and expense allowances for the child's attorney shall be determined and paid according to § 26-7A-31.

Reasonable and just compensation for services of a court-appointed attorney and for necessary expenses and costs incident to the proceedings shall be determined by the court within guidelines established by the presiding judge of the circuit court and shall be paid by the county in which the action is being conducted according to the manner prescribed by the court. If the court-appointed attorney is a party to a contract with the county to provide indigent counsel pursuant to § 23A-40-7(3), the compensation for that attorney shall be what the attorney would receive under the contract. This section does not preclude the court from appointing an attorney for a child as required by provisions of chapter 26-8A.

The Office of the State Treasurer shall maintain an Abused and Neglected Child Defense Fund. All moneys in the fund shall be annually distributed by the State treasurer to the counties on a pro rata basis. The State treasurer shall, within 60 days of the end of the fiscal year, determine and verify from receipts and expenditure records the total expenditures by all counties in the State for the representation of abused and neglected children. He or she shall then establish a percentage ratio between moneys collected in the fund for the past fiscal year and the total expenditures by counties for the representation of abused and neglected children. That percentage ratio shall then be applied to each county's expenditure for the representation of abused and neglected children to determine its respective payment from the fund.

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## **Tennessee**

### **Making the Appointment**

#### **Ann. Code §§ 37-1-149; 37-1-610**

In any proceeding resulting from a report of harm or an investigation report under §§ 37-1-401 to 37-1-411, the court shall appoint a guardian ad litem (GAL) for the child who was the subject of the report. A party to the proceeding or the party's employee or representative shall not be appointed. A court-appointed special advocate (CASA) may also be appointed.

A GAL shall be appointed to represent the child in any child sexual abuse proceeding.

### **The Use of Court-Appointed Special Advocates (CASAs)**

#### **Ann. Code § 37-1-149**

The court may also appoint a nonlawyer special advocate trained in accordance with that role and in accordance with the standards of the Tennessee Court Appointed Special Advocates Association to act in the best interests of a child before, during, and after court proceedings.

The CASA shall conduct such investigation and make such reports and recommendations pertaining to the welfare of a child as the court may order or direct.

### **Qualifications/Training**

#### **Ann. Code § 37-1-149**

Any GAL appointed by the court shall receive training appropriate to that role prior to such appointment. The training shall include, but is not limited to, training in early childhood, child, and adolescent development provided by a qualified professional.

### Specific Duties

#### Ann. Code § 37-1-602; TN Sup. Ct. Rule 40

A GAL is a responsible adult who is appointed by the court to represent the best interests of a child in a proceeding as provided for by law, who shall be a party to any judicial proceeding as a representative of the child, and who shall serve until discharged by the court.

*In court rules:* The GAL must investigate fully all of the circumstances relevant to the child's position, marshal every reasonable argument that could be made in favor of the child's position, identify all the factual support for the child's position, discuss fully with the child and make sure that the child understands the different options or positions that might be available, including the potential benefits and risks of each option or position, and the likelihood of prevailing on each option or position. In the event that the GAL disagrees with the position the child urges the GAL to take, the GAL may request that the court appoint another lawyer to serve as the GAL or advocate for both positions simultaneously.

### How the Representative Is Compensated

#### Ann. Code § 37-1-610

The court shall order the perpetrator in all cases, whether such person is a parent or other person, to fully reimburse the court for the cost of provision of GAL services. Reimbursement to the individual providing such services shall not be contingent upon successful collection by the court from the parent or parents.

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## Texas

### Making the Appointment

#### Family Code §§ 107.001; 107.011; 107.012

In a suit filed concerning alleged abuse or neglect of a child, the court shall appoint a guardian ad litem (GAL) to represent the best interests of the child immediately after the filing of the petition but before the full adversary hearing. The court shall also appoint an attorney ad litem to represent the interests of the child to ensure adequate representation of the child.

A GAL is a person appointed to represent the best interests of a child. The term includes:

- A volunteer advocate
- A professional, other than an attorney, who holds a relevant professional license and whose training relates to the determination of a child's best interests
- An adult having sufficient competence, training, and expertise to represent the best interests of the child
- An attorney ad litem appointed to serve in the dual role of attorney ad litem and GAL

The court may not appoint a GAL if an attorney is appointed in the dual role unless the court appoints another person to serve as GAL for the child and restricts the role of the attorney to acting as an attorney ad litem for the child. The court may appoint an attorney to serve as GAL for a child without appointing the attorney to serve in the dual role only if the attorney is specifically appointed to serve only in the role of GAL.

In order to comply with the mandatory appointment of a GAL and attorney ad litem, the court may appoint an attorney to serve in the dual role. If the court appoints an attorney to serve in the dual role, the court may at any time during the pendency of the suit appoint another person to serve as GAL for the child and restrict the attorney to acting as an attorney ad litem for the child.

### The Use of Court-Appointed Special Advocates (CASAs)

#### Family Code §§ 107.031; 264.601

In a suit alleging child abuse or neglect, the court may appoint a charitable organization composed of volunteer advocates whose charter mandates the provision of services to allegedly abused and neglected children or appoint an individual who has received the court's approved training regarding abused and neglected children and who has been certified by the court to appear at court hearings as a GAL for the child or as a volunteer advocate for the child.

A court-certified volunteer advocate appointed under this section may be assigned to act as a surrogate parent for the child, as provided by 20 U.S.C. § 1415(b), if:

- The child is in the conservatorship of the Department of Family and Protective Services.
- The volunteer advocate is serving as GAL for the child.
- A foster parent of the child is not acting as the child's parent under § 29.015, Education Code.

'Volunteer advocate program' means a volunteer-based, nonprofit program that:

- Provides advocacy services to abused or neglected children with the goal of obtaining a permanent placement for a child that is in the child's best interests
- Complies with recognized standards for volunteer advocate programs

### **Qualifications/Training**

#### **Family Code §§ 107.001; 107.003; 107.004**

An attorney ad litem provides legal services to a child. He or she owes the child undivided loyalty, confidentiality, and competent representation.

An attorney ad litem appointed to represent a child must be trained in child advocacy or have experience determined by the court to be equivalent to that training. The attorney ad litem shall, as appropriate, considering the nature of the appointment, become familiar with the American Bar Association's standards of practice for attorneys who represent children in abuse and neglect cases, the suggested amendments to those standards adopted by the National Association of Counsel for Children, and the American Bar Association's standards of practice for attorneys who represent children in custody cases.

An attorney ad litem appointed for a child shall complete at least 3 hours of continuing legal education relating to representing children in child protection cases as soon as practicable after the attorney ad litem is appointed. An attorney ad litem is not required to comply with this subsection if the court finds that the attorney ad litem has experience equivalent to the required education. An attorney who is on the list maintained by the court as being qualified for appointment as an attorney ad litem for a child in a child protection case must complete at least 3 hours of continuing legal education relating to the representation of a child each year before the anniversary date of the attorney's listing.

The required continuing legal education must be low-cost and available to persons throughout the State, including on the Internet provided through the State Bar of Texas and focus on the duties, procedures, and best practices in representing a child in a child protection.

### **Specific Duties**

#### **Family Code § 107.003; 107.004; 107.008**

An attorney ad litem shall:

- Interview:
  - » The child in a developmentally appropriate manner if the child is age 4 or older
  - » Each person who has significant knowledge of the child's history and condition, including any foster parent
  - » The parties to the suit
- Seek to elicit the child's expressed wishes
- Consider the impact on the child in presenting the child's wishes to the court
- Investigate the facts of the case
- Review copies of relevant records relating to the child
- Receive copies of pleadings and notices of hearings
- Participate in any agency staffing concerning the child
- Before each hearing:
  - » Review the medical care provided to the child
  - » In a developmentally appropriate manner, seek the child's opinion on the medical care provided
  - » For a child at least age 16, advise the child of his or her right to request the court to authorize the child to consent to his or her own medical care
  - » Determine whether the child's educational needs and goals have been identified and addressed

The attorney shall advise the child, represent the child's expressed wishes, and follow the child's wishes during the course of litigation if he or she determines that the child is competent to understand the nature of an attorney-client relationship. The attorney ad litem shall meet before each court hearing with the child if the child is at least age 4 or the person with whom the child ordinarily resides if the child is younger than age 4.

If the child is not present at the court hearing, the attorney must file a written statement with the court indicating that the attorney has met with the child as required. The meeting must take place:

- At a sufficient time before the hearing to allow the attorney to prepare for the hearing in accordance with the child's expressed objectives of representation

- In a private setting that allows for confidential communications between the attorney and the child or individual with whom the child ordinarily resides, as applicable

The attorney may determine that the child cannot meaningfully express his or his wishes because the child:

- Lacks sufficient maturity to understand and form an attorney-client relationship
- Despite appropriate counseling, continues to express wishes that would be seriously injurious to the child
- For any other reason is incapable of making reasonable judgments

When this is the case, the attorney may present to the court a position that he or she determines will serve the best interests of the child.

If a GAL has been appointed for the child, an attorney ad litem who determines that the child cannot meaningfully express his or her wishes:

- Shall consult with the GAL and present to the court the GAL's recommendations regarding the best interests of the child
- May present to the court a position that the attorney feels will serve the best interests of the child

### **How the Representative Is Compensated** **Family Code § 107.015**

An attorney appointed to serve as an attorney ad litem for a child or an attorney in a dual role is entitled to reasonable fees and expenses in the amount set by the court to be paid by the parents of the child unless the parents are indigent.

If the court determines that one or more of the parties are able to defray the fees and expenses of an attorney ad litem or GAL for the child as determined by the reasonable and customary fees for similar services in the county of jurisdiction, the fees and expenses may be ordered paid by one or more of those parties, or the court may order one or more of those parties, prior to final hearing, to pay the sums into the registry of the court or into an account authorized by the court for the use and benefit of the payee on order of the court. The sums may be taxed as costs to be assessed against one or more of the parties.

If indigence of the parents is shown, an attorney ad litem appointed to represent a child shall be paid from the general funds of the county according to the fee schedule. The court may not award attorney ad litem fees against the State, a State agency, or a political subdivision of the State except as provided by this subsection.

A person appointed as a GAL or attorney ad litem shall complete and submit to the court a voucher or claim for payment that lists the fees charged and hours worked by the GAL or attorney ad litem.

## **Utah**

### **Making the Appointment** **Ann. Code § 78A-6-902**

The court:

- May appoint an attorney guardian ad litem (GAL) to represent the best interests of a minor involved in any case before the court
- Shall consider the best interests of a child, consistent with the provisions of § 62A-4a-201, in determining whether to appoint a GAL

In all cases in which an attorney GAL is appointed, the court shall make a finding that establishes the necessity of the appointment.

An attorney GAL shall represent the best interests of each child who may become the subject of a petition alleging abuse, neglect, or dependency, from the day, whichever is earlier, that:

- The child is removed from the child's home by the division.
- The petition is filed.

### **The Use of Court-Appointed Special Advocates (CASAs)** **Ann. Code § 78A-6-902**

An attorney GAL may use trained volunteers, trained paralegals, and other trained staff to assist in investigation and preparation of information regarding the cases of individual minors before the court. The attorney GAL may not delegate the attorney's responsibilities described below.

All volunteers, paralegals, and staff utilized pursuant to this section shall be trained in and follow, at a minimum, the guidelines established by the Court Appointed Special Advocate Association.

The court may use trained volunteers to assist in investigation and preparation of information regarding the cases of individual minors within the jurisdiction.

When possible and appropriate, the court may use a volunteer who is a peer of the minor appearing before the court, in order to provide assistance to that minor, under the supervision of an attorney GAL or the attorney's trained volunteer, paralegal, or other trained staff.

### **Qualifications/Training**

#### **Ann. Code §§ 78A-6-901; 78A-6-902**

The Office of Guardian Ad Litem director shall establish policy and procedure for the management of a statewide GAL program, including, but not limited to:

- Managing the GAL program to ensure that minors receive qualified GAL services in abuse, neglect, and dependency proceedings in accordance with State and Federal law and policy
- Developing standards for contracts of employment and contracts with independent contractors to employ or contract with attorneys licensed to practice law in this State to act as attorney GALs
- Developing and providing training programs for attorney GALs and volunteers in accordance with National Court Appointed Special Advocates Association standards
- Developing a GAL manual, combining elements of the National Court Appointed Special Advocates Association manual with specific information about the law and policy of this State
- Developing and providing a library of materials for the continuing education of attorney GALs and volunteers
- Educating court personnel regarding the role and function of GALs

A contract of employment or independent contract shall provide that attorney GALs in the second, third, and fourth judicial districts devote their full time and attention to the role of attorney GAL, having no clients other than the minors whose interests they represent within the GAL program.

Prior to representing any minor before the court, the attorney GAL shall be trained in:

- Applicable statutory, regulatory, and case law
- Accordance with the National Court Appointed Special Advocates Association guidelines

### **Specific Duties**

#### **Ann. Code § 78A-6-902**

The attorney GAL shall:

- Represent the best interests of the minor in all proceedings
- Conduct an independent investigation to obtain firsthand a clear understanding of the situation and needs of the child
- Meet with the child, interview the child if he or she is old enough to communicate, determine the child's goals and concerns regarding placement, and assess the appropriateness and safety of each placement
- File written motions, responses, or objections at all stages of a proceeding when necessary
- Attend all administrative and foster care citizen review board hearings pertaining to the child's case
- Participate in all appeals unless excused by the court
- Be familiar with local experts who can provide consultation and testimony regarding the reasonableness and appropriateness of efforts made by the Division of Child and Family Services
- To the extent possible, unless it would be detrimental to the child, keep the child advised of:
  - » The status of his or her case
  - » All court and administrative proceedings
  - » Discussions with, and proposals made by, other parties
  - » Court actions
  - » The psychiatric, medical, or other treatment or services that are to be provided to the child
- Monitor implementation of a minor's child and family plan and any dispositional orders to determine whether services ordered by the court are actually provided, are provided in a timely manner, and are accomplishing the intended goal of the services

The GAL shall continue to represent the child until released by the court.

If the child's wishes differ from the GAL's determination of the child's best interests, the GAL shall communicate the child's wishes to the court in addition to presenting the GAL's determination of the child's best interests. A difference between the child's wishes and the GAL's determination of best interests may not be considered a conflict of interest for the GAL.

### **How the Representative Is Compensated**

#### **Ann. Code § 78A-6-902**

The juvenile court is responsible for:

- All costs resulting from the appointment of an attorney GAL
- The costs of volunteer, paralegal, and other staff appointment and training

The court shall use funds appropriated by the legislature for the GAL program to cover the costs described above.

When the court appoints an attorney GAL under this section, the court may assess all or part of the attorney fees, court costs, and paralegal, staff, and volunteer expenses against the child's parents, parent, or legal guardian in a proportion that the court determines to be just and appropriate, taking into consideration costs already borne by the parents, parent, or legal guardian, including:

- Private attorney fees
- Counseling for the child
- Counseling for the parent, if mandated by the court or recommended by the Division of Child and Family Services
- Any other cost the court determines to be relevant

The court may not assess those fees or costs against a legal guardian when that guardian is the State or a parent who is found to be impecunious. If a person claims to be impecunious, the court shall:

- Require that person to submit an affidavit of impecuniosity as provided in § 78A-2-302
- Follow the procedures and make the determinations as provided in § 78A-2-304

The child's parents, parent, or legal guardian may appeal the court's determination of fees, costs, and expenses.

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## **Vermont**

### **Making the Appointment**

#### **Ann. Stat. Tit. 33, § 5112**

An attorney shall be appointed for a child who is a party to a proceeding brought under the juvenile judicial proceedings chapters. In addition, a guardian ad litem (GAL) shall be appointed for a child who is a party to a proceeding brought under the juvenile judicial proceedings chapters.

### **The Use of Court-Appointed Special Advocates (CASAs)**

This issue is not addressed in the statutes reviewed.

### **Qualifications/Training**

#### **Ann. Stat. Tit. 33, § 5112**

In a delinquency proceeding, a parent, guardian, or custodian of the child may serve as a GAL for the child, providing his or her interests do not conflict with the interests of the child. The GAL appointed under this section shall not be a party to that proceeding or an employee or representative of such party.

### **Specific Duties**

#### **VT Rules Fam. Proc., Rule 6.1**

The GAL shall act as an independent advisor and advocate whose goal shall be to safeguard the respondent's best interests and legal rights. When the respondent can effectively communicate his or her wishes with respect to any aspect of the proceedings, the GAL's advocacy shall be consistent with the expressed wishes of the respondent, and the GAL shall state no fact nor disclose any opinion in regard to that aspect of the proceeding except with the express consent of the respondent.

Each GAL shall meet with the respondent, the respondent's attorney, and others who may be necessary for an understanding of the issues in the proceeding. The GAL shall not contact the court ex parte, nor disclose confidential or privileged information to opposing parties without the express consent of the respondent after consultation with counsel. The GAL shall be familiar with all pertinent pleadings, reports, and other documents. The GAL shall discuss with the respondent and the respondent's attorney all options that may be presented to the court and shall assist the attorney in advising the respondent regarding those options.

### **How the Representative Is Compensated**

This issue is not addressed in the statutes reviewed.

## Virgin Islands

### **Making the Appointment** **Ann. Code Tit. 5, § 2542**

In every case of child abuse or neglect, the court shall appoint counsel for the child to act in the role of guardian ad litem (GAL).

### **The Use of Court-Appointed Special Advocates (CASAs)** **Ann. Code Tit. 5, § 2555**

The court may appoint a person from a court-appointed special advocates (CASA) program to represent the interests of abused and neglected children in court proceedings. By court order, court rule, or other written agreement with a CASA program, the court will define the working relationship between the program and the court. The court may appoint a CASA program member to represent a child as a GAL.

### **Qualifications/Training** **Ann. Code Tit. 5, § 2542**

Such counsel shall be willing and competent by training or experience in representing the interests of a child in such proceedings.

### **Specific Duties** **Ann. Code Tit. 5, § 2542**

The GAL shall be given access to all reports relevant to the case and to any reports of examination of the child's parents, guardian, or custodian. The GAL shall be charged with the representation of the child's rights, welfare, interests, and well-being and to advocate the child's viewpoint. To these ends, the GAL shall make such further investigation as he or she deems necessary.

In addition, the GAL may interview witnesses, examine and cross-examine witnesses, introduce other evidence, make recommendations to the court, and participate in the proceedings to the degree appropriate for adequately representing the child.

### **How the Representative Is Compensated**

This issue is not addressed in the statutes reviewed.

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## Virginia

### **Making the Appointment** **Ann. Code §§ 16.1-266; 9.1-153**

Prior to the hearing by the court of any case involving a child who is alleged to be abused or neglected or who is the subject of an entrustment agreement or a petition seeking termination of residual parental rights or who is otherwise before the court pursuant to § 16.1-241(a)(4) or § 63.2-1230, the court shall appoint a discreet and competent attorney-at-law as guardian ad litem (GAL) to represent the child.

The director of the court-appointed special advocate (CASA) program shall assign an advocate to a child when requested to do so by the judge of the juvenile and domestic relations district court having jurisdiction over the proceedings. The advocate shall continue his or her association with each case to which he or she is assigned until relieved of his or her duties by the court or by the program director.

### **The Use of Court-Appointed Special Advocates (CASAs)** **Ann. Code §§ 9.1-151; 9.1-153**

The Department of Criminal Justice Services shall administer a CASA program. The program shall provide services to children who are subjects of judicial proceedings (i) involving allegations that the child is abused, neglected, in need of services, or in need of supervision or (ii) for the restoration of parental rights pursuant to § 16.1-283.2 and for whom the juvenile and domestic relations district court judge determines such services are appropriate. CASA volunteer appointments may continue for youth age 18 and older who are in foster care if the court has retained jurisdiction pursuant to § 16.1-242, and the juvenile and domestic relations district court judge determines such services are appropriate.

The program shall provide services to children who are subjects of judicial proceedings involving allegations that the child is abused, neglected, or in need of services, and for whom the juvenile and domestic relations district court judge determines such services are appropriate. Services in each local CASA program shall be provided by volunteer CASAs, hereinafter referred to as advocates.

## Qualifications/Training

### Ann. Code §§ 16.1-266.1; 9.1-153

The Judicial Council of Virginia, in conjunction with the Virginia State Bar and the Virginia Bar Association, shall adopt standards for attorneys appointed as GALs. The standards shall, as far as practicable, take into consideration the following criteria:

- License or permission to practice law in Virginia
- Current training in the roles, responsibilities, and duties of GAL representation
- Familiarity with the court system and general background in juvenile law
- Demonstrated proficiency in this area of the law

The Judicial Council shall maintain a list of attorneys who are qualified to serve as GALs based upon the standards and shall make the names available to the courts. If no attorney who is on the list is reasonably available, a judge in his or her discretion, may appoint any discreet and competent attorney who is admitted to practice law in Virginia.

The Department of Criminal Justice Services shall adopt regulations governing the qualifications of advocates who shall be deemed to be criminal justice employees. An advocate must be at least age 21, and the program director shall obtain a copy of the advocate's criminal history record and information from the central registry on child abuse and neglect to certify that no records are maintained on him or her.

An advocate shall have no associations that create a conflict of interest or the appearance of such a conflict with his or her duties as an advocate. No advocate shall be assigned to a case of a child whose family has a professional or personal relationship with the advocate.

No applicant shall be assigned as an advocate until successful completion of a program of training required by regulations. The department shall set standards for both basic and ongoing training.

## Specific Duties

### Ann. Code § 9.1-153; Va. Sup. Ct. Rule 8:6

The advocate's duties shall include:

- Investigating the case to which he or she is assigned to provide independent factual information to the court
- Submitting to the court a written report of his or her investigation in compliance with the provisions of § 16.1-274
- Upon request of the court, making recommendations as to the child's welfare
- Monitoring the case to ensure compliance with the court's orders
- Assisting any appointed GAL to represent the child in providing effective representation of the child's needs and best interests
- Reporting a suspected abused or neglected child pursuant to § 63.2-1509

The advocate is not a party to the case to which he or she is assigned and shall not call witnesses or examine witnesses. The advocate shall not, with respect to the case to which he or she is assigned, provide legal counsel or advice to any person, appear as counsel in court or in proceedings that are part of the judicial process, or engage in the unauthorized practice of law. The advocate may testify if called as a witness.

*In court rules:* The GAL shall vigorously represent the child fully protecting the child's interests and welfare. The GAL shall advise the court of the wishes of the child in any case where the wishes of the child conflict with the opinion of the GAL as to what is in the child's interests and welfare.

## How the Representative Is Compensated

### Ann. Code §§ 16.1-267; 9.1-152

When the court appoints counsel to represent a child and, after an investigation by the court services unit, finds that the parents are financially able to pay for the attorney and refuse to do so, the court shall assess costs against the parents for such legal services in the maximum amount of that awarded the attorney by the court under the circumstances of the case, considering such factors as the ability of the parents to pay and the nature and extent of the counsel's duties in the case. Such amount shall not exceed the maximum amount specified in § 19.2-163(1) if the action is in district court.

The Department of Criminal Justice Services shall provide a portion of any funding appropriated for this purpose to applicants seeking to establish and operate a local CASA program in their respective judicial districts. Only local programs operated in accordance with this article shall be eligible to receive State funds.

## Washington

### Making the Appointment

**Rev. Code §§ 26.44.053; 13.34.100**

In any judicial proceeding under this chapter or chapter 13.34 [dependency or termination of parental rights actions] in which it is alleged that a child has been subjected to child abuse or neglect, the court shall appoint a guardian ad litem (GAL) for the child. The requirement of a GAL may be deemed satisfied if the child is represented by counsel in the proceedings.

The court shall appoint a GAL for a child who is the subject of an action under this chapter, unless a court for good cause shown finds the appointment unnecessary. The requirement of a GAL may be deemed satisfied if the child is represented by an independent attorney. The court shall attempt to match a child with special needs with a GAL who has specific training or education related to the child's individual needs.

If the court does not have available to it a GAL program with a sufficient number of volunteers, the court may appoint a suitable person to act as GAL for the child.

The court must appoint an attorney for a child in a dependency proceeding 6 months after granting a petition to terminate a parent's parental rights and there is no remaining parent with parental rights.

The Department of Social and Health Services and the child's GAL shall notify a child age 12 or older of his or her right to request an attorney and shall ask the child whether he or she wishes to have an attorney. If the child requests legal counsel and is age 12 or older, or if the GAL or the court determines that the child needs to be independently represented by counsel, the court may appoint an attorney to represent the child's position.

### The Use of Court-Appointed Special Advocates (CASAs)

**Rev. Code §§ 13.34.100; 13.34.105**

When a court-appointed special advocate (CASA) or volunteer GAL is requested on a case, the program shall give the court the name of the person it recommends and the appointment shall be effective immediately. The court shall appoint the person recommended by the program. If a party in a case reasonably believes the CASA or volunteer GAL is inappropriate or unqualified, the party may request a review of the appointment by the program. The program must complete the review within 5 judicial days and remove any appointee for good cause. If the party seeking the review is not satisfied with the outcome of the review, the party may file a motion with the court for the removal of the CASA or GAL on the grounds the advocate or volunteer is inappropriate or unqualified.

CASAs and GALs may make recommendations based upon an independent investigation regarding the best interests of the child that the court may consider and weigh in conjunction with the recommendations of all of the parties.

### Qualifications/Training

**Rev. Code §§ 13.34.100; 13.34.102; 2.56.030(15)**

Each GAL program shall maintain a background information record for each GAL in the program. The background file shall include, but is not limited to, the following information:

- Level of formal education
- Training related to the guardian's duties
- Number of years of experience as a GAL
- Number of appointments as a GAL and the county or counties of appointment
- The names of any counties in which the person was removed from a GAL registry due to a grievance action
- Founded allegations of abuse or neglect
- The results of State and national criminal background checks
- Criminal history for the past 10 years

The background information report shall be updated annually. As a condition of appointment, the GAL's background information record shall be made available to the court. If the appointed GAL is not a member of a GAL program the person shall provide the background information to the court.

All GALs must comply with the training requirements established under § 2.56.030(15) prior to their appointment, except that volunteer GALs or CASAs may comply with alternative training requirements approved by the Administrative Office of the Courts that meet or exceed the statewide requirements.

The administrator for the courts shall, under the supervision and direction of the chief justice, develop a comprehensive statewide curriculum for persons who act as GALs. The curriculum shall include specialty sections on child development, child sexual abuse, child physical abuse, child neglect, domestic violence, clinical and forensic investigative and interviewing techniques, family reconciliation and mediation services, and relevant statutory and legal requirements. The curriculum shall be made available to all superior court judges, court personnel, and all persons who act as GALs.

### **Specific Duties**

#### **Rev. Code §§ 13.34.100; 13.34.105**

The appointment of the GAL shall remain in effect until the court discharges the appointment or no longer has jurisdiction, whichever comes first.

A GAL through an attorney, or as otherwise authorized by the court, shall have the right to present evidence, examine and cross-examine witnesses, and be present at all hearings. A GAL shall receive copies of all pleadings and other documents filed or submitted to the court, and notice of all hearings.

Unless otherwise directed by the court, the duties of the GAL include, but are not limited to, the following:

- To investigate, collect relevant information about the child's situation, and report to the court factual information regarding the best interests of the child
- To meet with, interview, or observe the child, depending on the child's age and developmental status, and report to the court any views or positions expressed by the child
- To monitor all court orders for compliance and to bring to the court's attention any change in circumstances that may require a modification of the court's order
- To report to the court information on the legal status of a child's membership in any Indian Tribe or band
- To make recommendations based upon an independent investigation regarding the best interests of the child that the court may consider and weigh in conjunction with the recommendations of all of the parties
- To represent and be an advocate for the best interests of the child
- To inform the child, if he or she is age 12 or older, of his or her right to request counsel and to ask the child whether he or she wishes to have counsel
- In the case of an Indian child, to know, understand, and advocate the best interests of the Indian child

The GAL shall have access to all information available to the State or agency on the case. Upon presentation of the order of appointment by the GAL, any agency, hospital, school organization, division or department of the State, doctor, nurse, or other health-care provider, psychologist, psychiatrist, police department, or mental health clinic shall permit the GAL to inspect and copy any records relating to the child or children involved in the case, without the consent of the parent or guardian of the child, or of the child if the child is under age 13, unless such access is otherwise specifically prohibited by law.

### **How the Representative Is Compensated**

#### **Rev. Code §§ 13.34.100(c); 13.34.108**

Subject to the availability of amounts appropriated for this specific purpose, the State shall pay the costs of legal services provided by an attorney appointed to represent a child whose parents' parental rights have been terminated if the legal services are provided in accordance with the standards of practice, voluntary training, and caseload limits developed and recommended by the statewide children's representation work group.

The court shall specify the hourly rate a GAL may charge for his or her services and shall specify the maximum amount the GAL may charge without additional court review and approval. The court shall specify rates and fees in the order of appointment or at the earliest date the court is able to determine the appropriate rates and fees and prior to the GAL billing for his or her services. This section shall apply except as provided by local court rule.

## **West Virginia**

### **Making the Appointment**

#### **Ann. Code § 49-6-2**

In any child abuse or neglect proceeding, the child shall have the right to be represented by counsel at every stage of the proceedings. Counsel of the child shall be appointed by the court in the initial order.

Under no circumstances may the same attorney represent both the child and the other party or parties. However, if more than one child from a family is involved in the proceeding, one attorney may represent all the children.

### **The Use of Court-Appointed Special Advocates (CASAs)**

This issue is not addressed in the statutes reviewed.

#### **Qualifications/Training**

##### **Ann. Code § 49-6-2**

Effective July 1, 2012, any attorney appointed pursuant to this section shall receive a minimum of 8 hours of continuing legal education training per reporting period on child abuse and neglect procedure and practice. In addition, after July 1, 2013, any attorney appointed to represent a child must first complete training on representation of children that is approved by the administrative office of the Supreme Court of Appeals. The Supreme Court of Appeals shall develop procedures for approval and certification of training required under this section by July 1, 2012. However, when no attorney who has completed this training is available for appointment, the court shall appoint a competent attorney with demonstrated knowledge of child welfare law to represent the parent or child.

#### **Specific Duties**

##### **Ann. Code § 49-6-2**

Any attorney appointed pursuant to this section shall perform all duties required as an attorney licensed to practice law in the State of West Virginia.

#### **How the Representative Is Compensated**

##### **Ann. Code § 49-6-2**

The court may allow to each attorney so appointed a fee in the same amount that appointed counsel can receive in felony cases.

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## **Wisconsin**

### **Making the Appointment**

#### **Ann. Stat. §§ 48.23; 48.235**

If a child is alleged to be in need of protection or services under § 48.13, the child may be represented by counsel at the discretion of the court. A child age 15 or older may waive counsel if the court is satisfied such waiver is knowingly and voluntarily made and the court accepts the waiver. The court may not place the child outside his or her home unless the child is represented by counsel. For a child younger than age 12, the judge may appoint a guardian ad litem (GAL) instead of counsel.

The court shall appoint a GAL, or extend the appointment of a GAL previously appointed for any child alleged or found to be in need of protection or services, if the court has ordered, or if a request or recommendation has been made that the court order, the child to be placed out of his or her home.

### **The Use of Court-Appointed Special Advocates (CASAs)**

#### **Ann. Stat. § 48.236**

In any proceeding under § 48.13 in which the court finds that providing the services of a court-appointed special advocate (CASA) would be in the best interests of the child, the court may request a CASA program to designate a person who meets the qualifications as a CASA to undertake the activities specified below.

A CASA does not become a party to the proceeding and, as a nonparty, may not make motions or call or cross-examine witnesses. A designation under this subsection terminates when the jurisdiction of the court over the child under § 48.13 terminates, unless the court discharges the CASA sooner.

#### **Qualifications/Training**

##### **Ann. Stat. §§ 48.235; 48.236; Wis. Sup. Ct. Rules 35.01; 35.03**

The GAL shall be an attorney admitted to practice in this State.

A CASA shall be a volunteer or employee of a CASA program who has been selected and trained as provided in the memorandum of understanding entered into under § 48.07(5)(a). No person who is a party in a proceeding, who appears as counsel or GAL in a

proceeding on behalf of any party, or who is a relative or representative of a party in a proceeding may be designated as a CASA in that proceeding.

*In court rules:* Commencing on July 1, 1999, a lawyer may not accept an appointment by a court as a GAL for a minor in an action or proceeding under chapter 48 unless one of the following conditions has been met:

- The lawyer has attended 30 hours of GAL education approved under SCR 35.03.
- The lawyer has attended 6 hours of approved GAL education during the current reporting period at the time he or she accepts an appointment and the immediately preceding reporting period.
- The appointing court has made a finding in writing or on the record that the action or proceeding presents exceptional or unusual circumstances for which the lawyer is otherwise qualified by experience or expertise to represent the best interests of the minor.

The Board of Bar Examiners shall approve courses of instruction at a law school in this State and continuing legal education activities that the board determines to be on the subject of the role and responsibilities of a GAL for a minor or on the subject matter of proceedings under applicable statutes and that are designed to increase the attendees professional competence to act as GAL for a minor in those proceedings.

### **Specific Duties**

#### **Ann. Stat. §§ 48.235; 48.236**

The GAL shall be an advocate for the best interests of the child for whom the appointment is made. The GAL shall function independently and shall consider, but shall not be bound by, the wishes of the child or the positions of others as to the best interests of the child. If the GAL determines that the best interests of the child are substantially inconsistent with the wishes of the child, the GAL shall so inform the court and the court may appoint counsel to represent the child.

The GAL shall do all of the following:

- Meet with the child and, if the child is old enough to communicate, interview the child to determine the child's goals and concerns regarding his or her placement
- Assess the appropriateness and safety of the child's environment
- Make clear and specific recommendations to the court concerning the best interests of the child at every stage of the proceeding

In a case involving a child in need of protection or services, the GAL may do any of the following:

- Participate in permanency planning
- Petition for a change in placement
- Petition for termination of parental rights or any other matter specified under § 48.14
- Petition for revision or extension of dispositional orders
- Petition for the appointment of a guardian, the revision of a guardianship order, or the removal of a guardian

A CASA may perform any of the following activities:

- Gather information and make observations about the child and the child's family and provide that information to the court in the form of written reports or, if requested by the court, oral testimony
- Maintain regular contact with the child; monitor the appropriateness and safety of the environment of the child; the extent to which the child and his or her family are complying with any consent decree, dispositional order, or permanency plan; and the extent to which any agency is providing required services
- Promote the best interests of the child

### **How the Representative Is Compensated**

#### **Ann. Stat. §§ 48.23; 48.235**

If a child has a right to be represented by counsel or is provided counsel at the discretion of the court and counsel is not knowingly and voluntarily waived, the court shall refer the child to the State public defender and counsel shall be appointed by the State public defender under § 977.08 without a determination of indigence.

A GAL shall be compensated at a rate that the court determines is reasonable, except that, if the court orders a county to pay the compensation of the GAL, the amount ordered may not exceed the compensation payable to a private attorney under § 977.08(4m)(b).

The court may order either or both of the parents of a child for whom a GAL is appointed to pay all or any part of the compensation of the GAL. In addition, upon motion by the GAL, the court may order either or both of the parents of the child to pay the fee for an expert witness used by the GAL, if the GAL shows that the use of the expert is necessary to assist the GAL in performing his or her functions or duties.

If one or both parents are indigent or if the court determines that it would be unfair to a parent to require him or her to pay, the court may order the county of venue to pay the compensation and fees, in whole or in part. If the court orders the county of venue to pay because a parent is indigent, the court may also order either or both of the parents to reimburse the county, in whole or in part, for the payment.

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## Wyoming

### **Making the Appointment**

#### **Ann. Stat. §§ 14-3-211; 14-6-216**

An attorney shall be appointed to represent the child. The attorney also shall serve as the child's guardian ad litem (GAL).

Counsel shall be appointed to represent any child in a court proceeding in which the child is alleged to be abused or neglected. Any attorney representing a child under this section shall also serve as the child's GAL unless a GAL has been appointed by the court.

The court shall appoint a GAL for a child who is a party to proceedings under this act if the child has no parent, guardian, or custodian appearing in his or her behalf or if the interests of the parents, guardian, or custodian are adverse to the best interests of the child. A party to the proceeding or employee or representative thereof shall not be appointed GAL for the child.

### **The Use of Court-Appointed Special Advocates (CASAs)**

This issue is not addressed in the statutes reviewed.

### **Qualifications/Training**

#### **Wy. Rules, 014-010, Ch. 2, §§ 4 & 5**

To be eligible for appointment as a GAL, an attorney must have completed, within the 2 years prior to applying for certification, initial training consisting of 10 or more hours of child-related training accredited by the Wyoming State Bar, or the attorney otherwise provides acceptable evidence that he or she has recent training, experience, or both, that is reasonably equivalent.

In order to remain eligible for appointments, the attorney GAL shall obtain 5 hours of continuing legal education per legal education reporting year. These 5 live hours shall be child-related training and relevant to an appointment in juvenile court proceedings. The director has the additional authority and discretion to require all GALs to obtain training in addition to the minimum 5 hours of continuing legal education when necessary. This paragraph does not apply to the law students supervised and practicing under faculty attorney supervisors at the University of Wyoming College of Law Clinics. It does apply to the faculty attorney supervisors.

All GALs, before assignment to any case, shall have training on their role as a GAL and specific training on child and adolescent development. The GAL must have sufficient knowledge in a wide range of subject areas, including, but not limited to:

- All relevant Federal and State laws, regulations, and policies
- Infant, young child, and adolescent development needs and abilities, including the impact of trauma, mental health disorders, and disability
- Developmentally appropriate interviewing and counseling skills
- The role of the GAL and his or her ethical responsibilities to the client
- Racial disproportionality within the child welfare system
- Other biases that operate within the child welfare system that could interfere with the ability of the GAL to successfully advocate for the child's preferences and best interests
- Cultural competency
- The types of experts who can consult with attorneys on various case issues
- Family dynamics and dysfunction such as domestic violence and substance abuse
- The use of relative and kinship care
- Child welfare services available in the community
- The role and authority of the Department of Family Services and both public and private organizations within the child welfare system

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- The role of the GAL and his or her ethical responsibilities to the client
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- Other biases that operate within the child welfare system that could interfere with the ability of the GAL to successfully advocate for the child's preferences and best interests
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- Family dynamics and dysfunction such as domestic violence and substance abuse
- The use of relative and kinship care
- Child welfare services available in the community
- The role and authority of the Department of Family Services and both public and private organizations within the child welfare system

Any attorney who has, while in law school, successfully completed the Children and the Law course at the University of Wyoming College of Law, or an equivalent course there or at another ABA accredited law school, will be deemed to have fulfilled the 10-hour initial training requirement.

Before an applicant is approved as a certified GAL, the applicant shall:

- Be an attorney in good standing with the Wyoming State Bar
- Have continuing legal education credits verified by the administrator and the Wyoming State Bar

### Specific Duties

#### Ann. Stat. § 14-3-211; Wy. Rules, 014-010, Ch. 2, §§ 2 & 3

The attorney or GAL shall be charged with representation of the child's best interests.

*In regulation:* Rather than taking direction from the client, the GAL is charged with forming the client's position by using his/her own judgment as to the child's best interests. The GAL is required to consider the child's wishes and preferences, but he or she is not bound by them. If the GAL determines that the child's expressed preference is not in the best interests of the child, both the child's wishes and the basis of the GAL's disagreement must be presented to the court. The GAL should elicit the child's preferences in a developmentally appropriate manner, advise the child, and provide guidance, including explaining to the child what recommendations the GAL is going to make and why he or she is making them.

The GAL shall specifically:

- Establish and maintain competence in the applicable legal and ethical standards, including relevant court rules, Federal and State law, case law, agency rules and regulations, and local practice
- Be familiar with recognized standards and best practice procedures in child welfare and protection
- Be familiar with the dynamics of domestic violence, the rate of co-occurrence between child abuse and domestic violence, the barriers to leaving a violent relationship, and how domestic violence may affect children and their parents or caregivers
- Conduct a full and independent case investigation in a timely manner that shall include at a minimum:
  - » Obtaining information about the child and the child's circumstances
  - » Obtaining copies of all pleadings and relevant notices
  - » Meeting with and observing the child's interaction with caregivers
- Insofar as is practical, counsel the child about the nature of the litigation, the attorney's role, the child's rights, the possible outcomes of each proceeding, and the consequences of the child's participation or lack of participation
- Prior to making a recommendation for out-of-home placement, research and consider alternative community programs, treatments, and family preservation services available to the family
- Independently identify and advocate for appropriate family and professional resources for the child
- Participate in all proceedings, including any hearings
- Independently verify and advocate for timely and permanent resolution of the case
- Make independent recommendations, taking into consideration cost impacts and savings of potential service options, with an emphasis on community services most likely to preserve families and avoid out-of-home placement, when appropriate

- Monitor and advocate for timely implementation of the case and/or permanency plan, the court's orders, and communicate with the responsible agencies

A GAL shall attend, in person, all pertinent multidisciplinary team meetings/hearings in the child's best interests.

### **How the Representative Is Compensated**

#### **Ann. Stat. § 14-3-434**

The following costs and expenses, when approved and certified by the court to the county treasurer, shall be a charge upon the funds of the county where the proceedings are held and shall be paid by the Board of County Commissioners of that county:

- Reasonable compensation for services and costs of counsel appointed by the court
- Reasonable compensation for services and costs of a GAL appointed by the court, unless the county participates in the GAL program pursuant to §§ 14-12-101 through 14-12-104 and the program was appointed to provide the GAL

In every case in which a GAL has been appointed to represent the child, or in which counsel has been appointed under this act to represent the child's parents, guardian, or custodian, the court shall determine whether the child's parents, guardian, custodian, or other person responsible for the child's support is able to pay part or all of the costs of representation and shall enter specific findings on the record. If the court determines that any of the parties is able to pay any amount as reimbursement for costs of representation, the court shall order reimbursement or shall state on the record the reasons why reimbursement was not ordered. The court may also in any case order that all or any part of the costs and expenses be reimbursed to the county by the child's parents or any person legally obligated for his or her support, or any of them jointly and severally, upon terms the court may direct.



U.S. Department of Health and Human Services  
Administration for Children and Families  
Administration on Children, Youth and Families  
Children's Bureau

