

MISSOURI

<p>Structure, organization, and delivery of Child Representation State-by-state, county-by-county, etc.</p>	<p>Each circuit organizes its own child representatives, but standards for GALs were promulgated by the State Supreme Court hand have been adopted statewide: Recognizing that Missouri children have a right to adequate and effective representation in child welfare cases, the September 17, 1996, Missouri supreme court standards for representation by guardians ad litem shall be updated and adopted statewide and each circuit shall devise a plan for implementation which takes into account the individual needs of their circuit as well as the negative impact that excessive caseloads have upon effectiveness of counsel. These plans shall be approved by the supreme court en banc and fully implemented by July 1, 2011 Mo. Ann. Stat. § 484.350; <i>see, e.g.</i>, 7th Judicial Circuit Implementation Plan; 11th Judicial Circuit Implementation Plan; 16th Judicial Circuit Implementation Plan; 25th Judicial Circuit Implementation Plan.</p>
<p>Funding Child Representation</p>	<p>6. Each county in every circuit in which a juvenile court employee becomes a state employee shall maintain each year in the local juvenile court budget an amount, defined as “maintenance of effort funding”, not less than the total amount budgeted for all employees of the juvenile court including any juvenile officer, deputy juvenile officer, or other juvenile court employees in calendar year 1997, minus the state reimbursements as described in this section received for the calendar year 1997 personnel costs for the salaries of all such juvenile court employees who become state employees. The juvenile court shall provide a proposed budget to the county commission each year. The budget shall contain a separate section specifying all funds to be expended in the juvenile court. Such funding may be used for contractual costs for detention services, guardians ad litem, transportation costs for those circuits without detention facilities to transport children to and from detention and hearings, short-term residential services, indebtedness for juvenile facilities, expanding existing detention facilities or services, continuation of services funded by public grants or subsidy, and enhancing the court's ability to provide prevention, probation, counseling and treatment services. The county commission may review such budget and may appeal the proposed budget to the judicial finance commission pursuant to section 50.640. Mo. Ann. Stat. § 211.393.</p> <p>4. Any moneys in the family services and justice fund not expended for salaries of commissioners, family court administrators and family court staff shall be used toward funding the enhanced services provided as a result of the establishment of a family court; however, it shall not replace or reduce the current and ongoing responsibilities of the counties to provide funding for the courts as required by law. Moneys collected for the family services and justice fund shall be expended for the benefit of litigants and recipients of services in the family court, with priority given to services such as guardians ad litem, mediation, counseling, home studies, psychological evaluation and other forms of alternative dispute-resolution services. Expenditures shall be made at the discretion of the presiding judge or family court administrative judge, as designated by the circuit and associate circuit judges en banc, for the implementation of the family court system as set forth in this section. No moneys from the family services and justice fund may be used to pay for mediation in any cause of action in which domestic violence is alleged. Mo. Ann. Stat. § 488.2300.</p>
<p>1. General Duties: Timely appointment, mandatory or discretionary, attorney or lay person, represent child’s</p>	<p>In every case involving an abused or neglected child which results in a judicial proceeding, the judge shall appoint a guardian ad litem to appear for and represent a child who is the subject of proceedings pursuant to sections 210.110 to 210.165, sections 210.700 to 210.760, sections 211.442 to 211.487, or sections 453.005 to 453.170. Mo. Ann. Stat. § 210.160(1).</p>

<p>interests, undertake basic obligations, address conflict situations, address special needs and disabilities, and accommodate client preferences.</p>	<p>The judge in making appointments pursuant to this section shall give preference to persons who served as guardian ad litem for the child in the earlier proceeding, unless there is a reason on the record for not giving such preference. Mo. Ann. Stat. § 210.160(3).</p> <p>The court may designate volunteer advocates, who may or may not be attorneys licensed to practice law, to assist in the performance of the guardian ad litem duties for the court. Non-attorney volunteer advocates shall not provide legal representation. Mo. Ann. Stat. § 210.160(5).</p> <p>1. In all actions to terminate parental rights, if not previously appointed pursuant to section 210.160, a guardian ad litem shall be appointed for the child as soon as practicable after the filing of the petition.</p> <p>...</p> <p>3. The guardian ad litem shall, during all stages of the proceedings:</p> <p>(1) Be the legal representative of the child, and may examine, cross-examine, subpoena witnesses and offer testimony. The guardian ad litem may also initiate an appeal of any disposition that he determines to be adverse to the best interests of the child;</p> <p>(2) Be an advocate for the child during the dispositional hearing and aid in securing a permanent placement plan for the child. To ascertain the child's wishes, feelings, attachments, and attitudes, he shall conduct all necessary interviews with persons, other than the parent, having contact with or knowledge of the child and, if appropriate, with the child;</p> <p>(3) Protect the rights, interest and welfare of a minor or incompetent parent by exercising the powers and duties enumerated in subdivisions (1) and (2) of this subsection. Mo. Ann. Stat. § 211.462.</p> <p>7. The child and his custodian may be represented by the same counsel except where a conflict of interest exists. Where it appears to the court that a conflict exists, it shall order that the child and his custodian be represented by separate counsel, and it shall appoint counsel if required by subsection 3 or 4 of this section. Mo. Ann. Stat. § 211.211.</p> <p>3.0 A guardian ad litem shall be guided by the best interests of the child and shall exercise independent judgment on behalf of the child in all matters.</p> <p>Comment: The guardian ad litem must recommend only what is in the best interests of the child on each issue and must maintain an objectivity that preserves a clear focus on the child's best interests.</p> <p>The roles of a guardian ad litem and a lawyer for the child are different and must be clearly distinguished. A guardian ad litem is not the lawyer for the child and, therefore, advocates the best interests of the child rather than merely representing the child's preferences.</p> <p>The participation of a lawyer in a matter in which the lawyer previously has served as guardian ad litem is governed by Rule 4-1.12. Standards with Comments for Guardians Ad Litem In Juvenile And Family Court Division Matters, Missouri Supreme Court.</p>
<p>2. Out of Court - Actions to be Taken: Meet with child, undertake an investigation,</p>	<p>The guardian ad litem 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 appointment by the court to a case, shall be informed of and have the right to attend any and all family</p>

<p>provide advice and counseling, file pleadings, request services, address special needs, negotiate settlements</p>	<p>support team meetings involving the child. Employees of the division, officers of the court, and employees of any agency involved shall fully inform the guardian ad litem of all aspects of the case of which they have knowledge or belief. Mo. Ann. Stat. § 210.160(2).</p> <p>The court may designate volunteer advocates, . . . 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. Mo. Ann. Stat. § 210.160(5).</p> <p>Comment to 4.0: Prior to the commencement of a hearing, the guardian ad litem should conduct all necessary interviews with persons having contact with or knowledge of the child in order to ascertain the child's wishes, feelings, attachments, and attitudes. The guardian ad litem should conduct interviews with the child except when the child is too young or some other legitimate circumstance prevents an interview.</p> <p>In conducting the interviews, the guardian ad litem should not communicate with a person the guardian ad litem knows to be represented by another lawyer in the matter unless the guardian ad litem has the consent of the other lawyer or is authorized to do so by law or by court order. See Rule 4-4.2.</p> <p>The guardian ad litem should relate to the child according to the child's stage of development and understand the child's sense of time in relation to the child's age. The guardian ad litem should conduct regular face-to-face meetings with the child, to the extent appropriate, to observe the child's physical, mental, social, educational, and familial well-being and to form opinions concerning the child's best interests. The guardian ad litem should not diagnose or work therapeutically with the child, but regular, face-to-face contact will ensure informed observations when conferring with other specialists. Standards with Comments for Guardians Ad Litem In Juvenile And Family Court Division Matters, Missouri Supreme Court.</p> <p>5.0 The guardian ad litem and the child shall have access to each other at reasonable times and places, and this access shall not be restricted or limited by any agency or person without good cause. To ensure proper access, the guardian ad litem has the obligation to ascertain the location of the child, to initiate communication with the child, and to provide the child with contact information for the guardian ad litem promptly. The child's legal custodian shall provide the guardian ad litem with timely information regarding the current residence of the child and shall notify the guardian ad litem promptly of any change in placement of the child.</p> <p>Comment: Establishing and maintaining a relationship with the child is the foundation of effective guardian ad litem representation. Frequent communication between the guardian ad litem and the child is an important part of promoting the relationship. It is essential that the child be readily accessible to the guardian ad litem to ensure frequent communication and in order for the guardian ad litem to fulfill his or her duties. The guardian ad litem should be excluded from access with the child only in rare and extreme circumstances.</p> <p>It is equally important that the guardian ad litem be easily accessible to the child. The child should be provided with the name, telephone number, and address of the guardian ad litem immediately upon the appointment of the guardian ad litem and the opportunity, at reasonable times, to initiate contact with the guardian ad litem. Standards with Comments for Guardians Ad Litem In Juvenile And Family Court Division Matters, Missouri Supreme Court.</p>
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	<p>Comment to 6.0: A key aspect of representing a child is to obtain and review all documents to be submitted to the court as well as relevant agency and party case files, educational records, medical records, mental health records, and law enforcement reports. The information contained in such records may provide a more complete context for the current problems experienced by the child and family, may suggest additional professional and lay witnesses that can provide testimony necessary to a full hearing of the issues before the court, and may reveal alternate potential placement resources. It is essential that the guardian ad litem personally review the available information rather than relying upon descriptions, summaries, or characterizations of the evidence provided by others. Standards with Comments for Guardians Ad Litem In Juvenile And Family Court Division Matters, Missouri Supreme Court.</p> <p>10.0: The guardian ad litem shall participate, when appropriate, in the development and negotiation of any service plans, parenting plans, proposed orders, and staffings that affect the best interests of the child as they relate to the case at hand. The guardian ad litem shall monitor implementation of service plans and court orders while the case is pending to determine whether services ordered by the court are being provided in a timely manner.</p> <p>Comment: The guardian ad litem should be present and actively participate in staffings and meetings including, but not limited to, family support team meetings and permanency planning review team meetings affecting the safety and well-being of the child and the accomplishment of any court approved permanency goal. Standards with Comments for Guardians Ad Litem In Juvenile And Family Court Division Matters, Missouri Supreme Court.</p>
<p>3. In Court – Active Participation in Hearings: Appear in court, explain proceedings to client, present evidence, ensure child is present, expand scope of representation into other needed areas, and undertake certain obligations post-disposition.</p>	<p>The guardian ad litem shall, during all stages of the proceedings:</p> <ol style="list-style-type: none"> (1) Be the legal representative of the child, and may examine, cross-examine, subpoena witnesses and offer testimony. The guardian ad litem may also initiate an appeal of any disposition that he determines to be adverse to the best interests of the child; (2) Be an advocate for the child during the dispositional hearing and aid in securing a permanent placement plan for the child. To ascertain the child's wishes, feelings, attachments, and attitudes, he shall conduct all necessary interviews with persons, other than the parent, having contact with or knowledge of the child and, if appropriate, with the child; (3) Protect the rights, interest and welfare of a minor or incompetent parent by exercising the powers and duties enumerated in subdivisions (1) and (2) of this subsection. Mo. Ann. Stat. § 211.462(3). <p>4.0 The guardian ad litem shall provide not only factual information to the court but also shall diligently advocate a position in the best interests of the child.</p> <p>The guardian ad litem shall be prepared to participate fully in any proceedings and not merely defer to the other parties. The guardian ad litem may examine, cross-examine, subpoena witnesses, and offer testimony.</p> <p>The guardian ad litem when appropriate to represent the best interests of the child shall file petitions, motions, parenting plans, responses, or objections. Standards with Comments for Guardians Ad Litem In Juvenile And Family Court Division Matters, Missouri Supreme Court.</p> <p>11.0: The guardian ad litem shall appear at all court proceedings in which the guardian ad litem is appointed. The guardian ad litem shall not waive the presence of the child at court proceedings without good cause. The guardian ad litem shall participate actively and fully in all court proceedings. The guardian ad litem shall present evidence, file pleadings, and call witnesses when appropriate to ensure all information relevant to the child's best interests is presented to the court for</p>

	<p>consideration.</p> <p>Comment: A guardian ad litem may testify to particular facts and issues before the court relating to the child’s best interests or the guardian ad litem’s recommendation, if any. Under such circumstances, the guardian ad litem may be subject to cross-examination. It is within the discretion of the court whether or not to receive testimony from the guardian ad litem in custody proceedings under section 452.490, RSMo.</p> <p>The guardian ad litem may attend other proceedings involving the child’s best interests.</p> <p>The guardian ad litem should ensure the court’s receipt of all information relevant to the child’s best interests. Standards with Comments for Guardians Ad Litem In Juvenile And Family Court Division Matters, Missouri Supreme Court.</p> <p>13.0: The guardian ad litem shall present a recommendation to the court when authorized by law or requested by the court on the basis of the evidence presented and consistent with the best interests of the child.</p> <p>During the proceedings, the guardian ad litem must inform the court of the child’s wishes and preferences even though different from the guardian ad litem’s recommendation.</p> <p>Comment: To make a recommendation to the court that serves the child’s best interests, the guardian ad litem should have knowledge of the child’s circumstances from all sources, which may include, but are not limited to, the parents, caseworker, deputy juvenile officers, teachers, treatment providers, and court appointed special advocate volunteers.</p> <p>If the guardian ad litem determines there is conflict between advocating for the best interests of the child and representation of the child’s preferences, the guardian ad litem shall continue to perform as the guardian ad litem for the child and may request that the court appoint another lawyer to represent the child’s preferences. Standards with Comments for Guardians Ad Litem In Juvenile And Family Court Division Matters, Missouri Supreme Court.</p>
<p>4. Post-Hearing: Review courts order, communicate order to child, and monitor implementation of orders</p>	<p>9.0: The guardian ad litem shall explain, when appropriate, the court process and the role of the guardian ad litem to the child. The guardian ad litem shall ensure that the child is informed of the purpose of each court proceeding.</p> <p>Comment: To decrease the trauma to the child, the guardian ad litem should explain to the child what is happening and what is expected of the child in all proceedings involving the child. All communications should be adapted to the child’s age, level of education, cognitive development, cultural background, and degree of language acquisition, using an interpreter if necessary. The guardian ad litem should make a diligent effort to ensure that the child understands the nature of the proceedings, the placement or services that may result, and the possibility of future modifications in placement or services. Older youth should be encouraged to attend hearings and should be aware of their role during proceedings. Older youth should be provided with information about their rights, services, and permanency options, including the possibility of remaining in care until their 21st birthday. The guardian ad litem will assure the child that the child’s opinion and feelings will be made known to the court even when not consistent with the recommendations of the guardian ad litem. Standards with Comments for Guardians Ad Litem In Juvenile And Family Court Division Matters, Missouri Supreme Court.</p>
<p>5. Appellate Advocacy: Decision to appeal, withdrawal, participation in appeal, conclusion by appeal.</p>	<p>A person for whom counsel is appointed shall be represented at every stage of the termination of parental rights proceeding, from his or her initial appearance after the filing of the termination of parental rights petition is filed through appeal, including ancillary matters appropriate to the proceedings. 13 Mo Code of St. Regs. 40- 30.020(1).</p>
<p>6. Cessation of Representation:</p>	<p>The appointing judge shall require the guardian ad litem to faithfully discharge such guardian ad litem's duties, and upon</p>

<p>Contacts post representation, if any</p>	<p>failure to do so shall discharge such guardian ad litem and appoint another. The judge in making appointments pursuant to this section shall give preference to persons who served as guardian ad litem for the child in the earlier proceeding, unless there is a reason on the record for not giving such preference. Mo. Ann. Stat. § 210.160(3).</p> <p>The guardian ad litem shall serve until the matter is concluded or as otherwise ordered by the court. Comment to Standard 1.0, Standards with Comments for Guardians Ad Litem In Juvenile And Family Court Division Matters, Missouri Supreme Court.</p> <p>6. Counsel shall serve for all stages of the proceedings, including appeal, unless relieved by the court for good cause shown. If no appeal is taken, services of counsel are terminated following the entry of an order of disposition. Mo. Ann. Stat. § 211.211.</p>
<p>7. General Representation Rules: Administrative structure is clear for appointment, support and accountability of the CR. The child's representative is independent from the court</p>	<p>1. In all actions to terminate parental rights, if not previously appointed pursuant to section 210.160, a guardian ad litem shall be appointed for the child as soon as practicable after the filing of the petition. Mo. Ann. Stat. § 211.462.</p> <p>1.0 When appointing a guardian ad litem for a child, the court shall only appoint a lawyer licensed by the Supreme Court who has completed the training required by these standards. The court may designate a court appointed special advocate volunteer to assist in the performance of the guardian ad litem duties for the court as provided by law. Comment If the court is presented with a petition or motion to modify under section 211.031.1, RSMo, requesting that a child be placed in temporary protective custody, the court immediately shall appoint a guardian ad litem for the child. In all other family law related court matters provided in chapters 210, 452, 453, and 455, RSMo, the guardian ad litem shall be appointed not later than the first proceeding at which a guardian ad litem is required by law. Standards with Comments for Guardians Ad Litem In Juvenile And Family Court Division Matters, Missouri Supreme Court.</p> <p>Recognizing that Missouri children have a right to adequate and effective representation in child welfare cases, the September 17, 1996, Missouri supreme court standards for representation by guardians ad litem shall be adopted statewide and each circuit shall devise a plan for implementation which takes into account the individual needs of their circuit as well as the negative impact that excessive caseloads have upon effectiveness of counsel. These plans shall be approved by the supreme court en banc and fully implemented by July 1, 2011. Mo. Ann. Stat. § 484.350.</p> <p>1. A party is entitled to be represented by counsel in all proceedings. 2. The court shall appoint counsel for a child prior to the filing of a petition if a request is made therefor to the court and the court finds that the child is the subject of a juvenile court proceeding and that the child making the request is indigent. 3. When a petition has been filed, the court shall appoint counsel for the child when necessary to assure a full and fair hearing. Mo. Ann. Stat. § 211.211.</p>
<p>8. Lawyer Training: Child representative trained, on-</p>	<p>Any person appointed to perform guardian ad litem duties shall have completed a training program in permanency planning . . . Mo. Ann. Stat. § 210.160(7).</p>

<p>going training provided, new attorneys provided senior lawyer mentorship.</p>	<p>14.0 The court shall not appoint a lawyer to serve as guardian ad litem until the lawyer has completed eight hours of continuing legal education devoted to guardian ad litem training. Thereafter, to continue to be appointed as a guardian ad litem, a lawyer shall complete three hours of continuing legal education devoted to guardian ad litem training annually. The hours required for guardian ad litem training qualify toward the mandatory annual 15 hours of continuing legal education. The program sponsor shall obtain approval of the program for continuing legal education from The Missouri Bar. Any continuing legal education required by this standard shall not be completed by self study. In addition, the program sponsor shall obtain approval of the program as guardian ad litem training from the presiding judge in a circuit where the training is offered. Completion of the training hours shall be documented by an affidavit or other evidence filed with the appointing court by July 31st of each year.</p> <p>Any lawyer who has completed at least six hours of guardian ad litem training within five years prior to the date of the adoption of these standards shall not be required to complete the initial eight hour course of study. Any lawyer currently approved by the court to serve as a guardian ad litem who has not completed any guardian ad litem training within five years prior to the date of the adoption of these standards shall have one year from the date of the adoption of these standards to complete the initial eight hours of training.</p> <p>The judge appointing the guardian ad litem shall determine whether the lawyer has completed the required training prior to making any appointment.</p> <p>Prior to appointment, the lawyer must have completed a training program in permanency planning.</p> <p>Comment: Guardian ad litem practice is unique and complex and, as such, requires specialized education, training, and experience.</p> <p>The specialized training may include the following topics:</p> <ul style="list-style-type: none"> (a) Dynamics of child abuse and neglect issues; (b) Factors to consider in determining the best interests of the child, including the required permanency planning and the child’s right to be with his or her family; (c) Inter-relationships between family system, legal process and the child welfare system; (d) Federal, state and local legislation and case law affecting children; (e) Cultural and ethnic diversity and gender-specific issues; (f) Family and domestic violence issues; (g) Available community resources and services; (h) Child development issues; and (i) Guardian ad litem standards. <p>The guardian ad litem is not expected to make diagnostic or therapeutic recommendations. The guardian ad litem must have a working knowledge of family dynamics and be able to compare and relate this concept to the observations, reports, and documentation received regarding the child and the child's family. Standards with Comments for Guardians Ad Litem In Juvenile And Family Court Division Matters, Missouri Supreme Court.</p>
<p>9. Lawyer Compensation: Adequate and timely compensation, reimbursement provided for expenses.</p>	<p>The guardian ad litem may be awarded a reasonable fee for such services to be set by the court. The court, in its discretion, may award such 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 who 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 guardian ad litem. Such final judgment shall</p>

	<p>be enforceable against the parties in accordance with chapter 513. Mo. Ann. Stat. § 210.160(4).</p> <p>Court costs shall be paid by the county in which the proceeding is instituted, except that the court may require the agency or person having or receiving legal or actual custody to pay the costs. Mo. Ann. Stat. § 211.462(4).</p> <p>f. In any proceeding under subsection 1 of section 211.031, RSMo, where counsel is appointed for the juvenile, the court may assess a reasonable attorney fee and any reasonable and necessary expenses of counsel as costs. In the discretion of the court, such costs may be adjudged against the parents, guardian or custodian of the juvenile, the informing witness as provided by law, or as otherwise provided by law. Mo R. Juv. P. 115.02.</p> <p>The court may designate volunteer advocates, who may or may not be attorneys licensed to practice law, to assist in the performance of the guardian ad litem duties for the court. . . . Any such designated person shall receive no compensation from public funds. This shall not preclude reimbursement for reasonable expenses. Mo. Ann. Stat. § 210.160(5).</p>
<p>10. Caseload Levels: Caseloads are of a manageable size.</p>	<p>2.0 A guardian ad litem has a duty to notify the court if the caseload reaches a level bearing upon the guardian ad litem's ability to meet these standards or to comply with the ethical standards of the rules of professional conduct. Standards with Comments for Guardians Ad Litem In Juvenile And Family Court Division Matters, Missouri Supreme Court.</p>