

TEXAS

<p>Structure, organization, and delivery of Child Representation</p> <p>State-by-state, county-by-county, etc.</p>	<p>The State Bar of Texas maintains a database of qualified Guardians ad Litem that can be accessed by Courts when appointing a Guardian ad Litem. <i>See</i> https://www.texasbar.com/AM/Template.cfm?Section=Guardianship_Ad_Litem.</p> <p>- In a suit filed by a governmental entity requesting termination of the parent-child relationship or to be named conservator of a child, the court shall appoint an attorney ad litem to represent the interests of the child immediately after the filing, but before the full adversary hearing, to ensure adequate representation of the child. TEX. FAM. CODE § 107.012.</p>
<p>Funding Child Representation</p>	<p>- An attorney appointed under this chapter to serve as an attorney ad litem for a child, an attorney in the dual role, or an attorney ad litem for a parent 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. TEX. FAM. CODE § 107.015(a).</p> <p>- 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 guardian ad litem 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. TEX. FAM. CODE § 107.015(b).</p> <p>- If indigency of the parents is shown, an attorney ad litem appointed to represent a child or parent in a suit filed by a governmental entity shall be paid from the general funds of the county according to the fee schedule that applies to an attorney appointed to represent a child in a suit under Title 3 as provided by Chapter 51. The court may not award attorney ad litem fees under this chapter against the state, a state agency, or a political subdivision of the state except as provided by this subsection. TEX. FAM. CODE § 107.015(c).</p> <p>- A person appointed as a guardian ad litem 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 guardian ad litem or</p>

	<p>attorney ad litem. Information submitted under this section is subject to disclosure under Chapter 552, Government Code. TEX. FAM. CODE § 107.015(d).</p>
<p>1. General Duties: Timely appointment, mandatory or discretionary, attorney or lay person, represent child's interests, undertake basic obligations, address conflict situations, address special needs and disabilities, and accommodate client preferences.</p>	<p>- "Attorney ad litem" means an attorney who provides legal services to a person, including a child, and who owes to the person the duties of undivided loyalty, confidentiality, and competent representation. TEX. FAM. CODE § 107.001(2).</p> <p>- "Guardian ad litem" means a person appointed to represent the best interests of a child. The term includes: (A) a volunteer advocate appointed under Subchapter C; (B) 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; (C) an adult having the competence, training, and expertise determined by the court to be sufficient to represent the best interests of the child; or (D) an attorney ad litem appointed to serve in the dual role. TEX. FAM. CODE § 107.001(5).</p> <p>- In a suit filed by a governmental entity requesting termination of the parent-child relationship or to be named conservator of a child, the court shall appoint an attorney ad litem to represent the interests of the child immediately after the filing, but before the full adversary hearing, to ensure adequate representation of the child. TEX. FAM. CODE § 107.012.</p> <p>- Except as otherwise provided by this subchapter, in a suit filed by a governmental entity seeking termination of the parent-child relationship or the appointment of a conservator for a child, the court shall appoint a guardian ad litem to represent the best interests of the child immediately after the filing of the petition but before the full adversary hearing. TEX. FAM. CODE § 107.011(a).</p> <p>- The guardian ad litem appointed for a child under this section may be:</p> <ol style="list-style-type: none"> (1) a charitable organization composed of volunteer advocates or an individual volunteer advocate appointed under Subchapter C; (2) an adult having the competence, training, and expertise determined by the court to be sufficient to represent the best interests of the child; or (3) an attorney appointed in the dual role. TEX. FAM. CODE § 107.011(b). <p>- The court may not appoint a guardian ad litem in a suit filed by a governmental entity if an attorney is appointed in the dual role unless the court appoints another person to serve as guardian ad litem for the child and restricts the role of the attorney to acting as an attorney ad litem for the child. TEX. FAM. CODE §</p>

[107.011\(c\).](#)

The court may appoint an attorney to serve as guardian ad litem 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 guardian ad litem. An attorney appointed solely as a guardian ad litem:

(1) may take only those actions that may be taken by a nonattorney guardian ad litem; and

(2) may not:

(A) perform legal services in the case; or

(B) take any action that is restricted to a licensed attorney, including engaging in discovery other than as a witness, making opening and closing statements, or examining witnesses.

[TEX. FAM. CODE § 107.011\(d\).](#)

- In order to comply with the mandatory appointment of a guardian ad litem under Section [107.011](#) and the mandatory appointment of an attorney ad litem under Section [107.012](#), the court may appoint an attorney to serve in the dual role. [TEX. FAM. CODE § 107.0125\(a\).](#)

- If the court appoints an attorney to serve in the dual role under this section, the court may at any time during the pendency of the suit appoint another person to serve as guardian ad litem for the child and restrict the attorney to acting as an attorney ad litem for the child. [TEX. FAM. CODE § 107.0125\(b\).](#)

- An attorney appointed to serve in the dual role may request the court to appoint another person to serve as guardian ad litem for the child. If the court grants the attorney's request, the attorney shall serve only as the attorney ad litem for the child. [TEX. FAM. CODE § 107.0125\(c\).](#)

- Unless the court appoints another person as guardian ad litem in a suit filed by a governmental entity, an appointment of an attorney to serve as an attorney ad litem in a suit filed by a governmental entity is an appointment to serve in the dual role regardless of the terminology used in the appointing order. [TEX. FAM. CODE § 107.0125\(d\).](#)

- In a suit filed by a governmental entity in which termination of the parent-child relationship or appointment of the entity as conservator of the child is requested . . . an order appointing the Department of Family and Protective Services as the child's managing conservator may provide for the continuation of the appointment of the guardian ad litem or attorney ad litem for the child for any period set by the court. [TEX.](#)

	<p>FAM. CODE § 107.016(a).</p> <ul style="list-style-type: none"> - In a suit filed by a governmental entity requesting termination of the parent-child relationship or appointment of the entity as conservator of the child, 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 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 guardian ad litem for the child or as a volunteer advocate for the child. TEX. FAM. CODE § 107.031(a). - "Volunteer advocate program" means a volunteer-based, nonprofit program that: <ul style="list-style-type: none"> (A) 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 interest; and (B) complies with recognized standards for volunteer advocate programs. TEX. FAM. CODE § 264.601(2). - 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. Section 1415(b), if: <ul style="list-style-type: none"> (1) the child is in the conservatorship of the Department of Family and Protective Services; (2) the volunteer advocate is serving as guardian ad litem for the child; and (3) a foster parent of the child is not acting as the child's parent under Section 29.015, Education Code. TEX. FAM. CODE § 107.031(c)
<p>2. Out of Court - Actions to be Taken: Meet with child, undertake an investigation, provide advice and counseling, file pleadings, request services, address special needs, negotiate settlements</p>	<p>[See TEX. FAM. CODE § 107.004(a) in <i>Role of Child Representative</i>.]</p> <ul style="list-style-type: none"> - Except as otherwise provided by this chapter, the attorney ad litem appointed for a child shall, in a developmentally appropriate manner: <ul style="list-style-type: none"> (1) advise the child; (2) represent the child's expressed objectives of representation and follow the child's expressed objectives of representation during the course of litigation if the attorney ad litem determines that the child is competent to understand the nature of an attorney-client relationship and has formed that relationship with the attorney ad litem; and (3) 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. [TEX. FAM. CODE § 107.004\(a\)](#).

- An attorney ad litem appointed to represent a child or an amicus attorney appointed to assist the court:

(1) shall:

(A) subject to Rules 4.02, 4.03, and 4.04, Texas Disciplinary Rules of Professional Conduct, and within a reasonable time after the appointment, interview:

(i) the child in a developmentally appropriate manner, if the child is four years of age or older;

(ii) each person who has significant knowledge of the child's history and condition, including any foster parent of the child; and

(iii) the parties to the suit;

(B) seek to elicit in a developmentally appropriate manner the child's expressed objectives of representation;

(C) consider the impact on the child in formulating the attorney's presentation of the child's expressed objectives of representation to the court;

(D) investigate the facts of the case to the extent the attorney considers appropriate;

(E) obtain and review copies of relevant records relating to the child as provided by Section [107.006](#);

...

(I) review and sign, or decline to sign, a proposed or agreed order affecting the child. [TEX. FAM. CODE § 107.003\(a\)](#).

- Except as provided by Subsection (e), an attorney ad litem appointed for a child in a proceeding under Chapter 262 or 263 shall:

(1) meet before each court hearing with:

(A) the child, if the child is at least four years of age; or

(B) the individual with whom the child ordinarily resides, including the child's parent, conservator, guardian, caretaker, or custodian, if the child is younger than four years of age; and

(2) if the child or individual is not present at the court hearing, file a written statement with the court indicating that the attorney ad litem complied with Subdivision (1). [TEX. FAM. CODE § 107.004\(d\)](#).

	<p>- An attorney ad litem appointed for a child in a proceeding under Chapter 262 or 263 is not required to comply with Subsection (d) before a hearing if the court finds at that hearing that the attorney ad litem has shown good cause why the attorney ad litem's compliance with that subsection is not feasible or in the best interest of the child. Additionally, a court may, on a showing of good cause, authorize an attorney ad litem to comply with Subsection (d) by conferring with the child or other individual, as appropriate, by telephone or video conference. TEX. FAM. CODE § 107.004(e).</p> <p>Guardian ad litem:</p> <p>- A guardian ad litem appointed for a child under this chapter is not a party to the suit but may:</p> <ol style="list-style-type: none"> (1) conduct an investigation to the extent that the guardian ad litem considers necessary to determine the best interests of the child; and (2) obtain and review copies of the child's relevant medical, psychological, and school records as provided by Section 107.006. TEX. FAM. CODE § 107.002(a). <p>- A guardian ad litem appointed for the child under this chapter shall:</p> <ol style="list-style-type: none"> (1) within a reasonable time after the appointment, interview: <ol style="list-style-type: none"> (A) the child in a developmentally appropriate manner, if the child is four years of age or older; (B) each person who has significant knowledge of the child's history and condition, including any foster parent of the child; and (C) the parties to the suit; (2) seek to elicit in a developmentally appropriate manner the child's expressed objectives; (3) consider the child's expressed objectives without being bound by those objectives; (4) encourage settlement and the use of alternative forms of dispute resolution; and (5) perform any specific task directed by the court. TEX. FAM. CODE § 107.002(b).
<p>3. In Court – Active Participation in Hearings: Appear in court, explain proceedings to client, present evidence, ensure</p>	<p>Active Participation:</p> <p>- An attorney ad litem appointed to represent a child or an amicus attorney appointed to assist the court shall:</p> <p>...</p> <ol style="list-style-type: none"> (F) participate in the conduct of the litigation to the same extent as an attorney for a party; (G) take any action consistent with the child's interests that the attorney considers necessary to expedite the proceedings;

child is present, expand scope of representation into other needed areas, and undertake certain obligations post-disposition.

(H) encourage settlement and the use of alternative forms of dispute resolution; and
(I) review and sign, or decline to sign, a proposed or agreed order affecting the child. [TEX. FAM. CODE § 107.003\(1\)](#).

- An attorney ad litem appointed to represent a child or an amicus attorney appointed to assist the court is entitled to:

- (A) request clarification from the court if the role of the attorney is ambiguous;
- (B) request a hearing or trial on the merits;
- (C) consent or refuse to consent to an interview of the child by another attorney;
- (D) receive a copy of each pleading or other paper filed with the court;
- (E) receive notice of each hearing in the suit;
- (F) participate in any case staffing concerning the child conducted by an authorized agency; and
- (G) attend all legal proceedings in the suit. [TEX. FAM. CODE § 107.003\(3\)](#).

- An attorney ad litem who fails to perform the duties required by Sections 107.003 and 107.004 is subject to disciplinary action under Subchapter E, Chapter 81, Government Code. [TEX. FAM. CODE § 107.0045](#).

Guardian ad litem:

- A guardian ad litem appointed for the child under this chapter is entitled to:

- (1) receive a copy of each pleading or other paper filed with the court in the case in which the guardian ad litem is appointed;
- (2) receive notice of each hearing in the case;
- (3) participate in case staffings by an authorized agency concerning the child;
- (4) attend all legal proceedings in the case but may not call or question a witness or otherwise provide legal services unless the guardian ad litem is a licensed attorney who has been appointed in the dual role;
- (5) review and sign, or decline to sign, an agreed order affecting the child; and
- (6) explain the basis for the guardian ad litem's opposition to the agreed order if the guardian ad litem does not agree to the terms of a proposed order. [TEX. FAM. CODE § 107.002\(c\)](#).

- The court may compel the guardian ad litem to attend a trial or hearing and to testify as necessary for the proper disposition of the suit. [TEX. FAM. CODE § 107.002\(d\)](#).

- Unless the guardian ad litem is an attorney who has been appointed in the dual role and subject to the Texas Rules of Evidence, the court shall ensure in a hearing or in a trial on the merits that a guardian ad litem has an opportunity to testify regarding, and is permitted to submit a report regarding, the guardian ad litem's recommendations relating to:

- (1) the best interests of the child; and
- (2) the bases for the guardian ad litem's recommendations. [TEX. FAM. CODE § 107.002\(e\)](#).

- In a nonjury trial, a party may call the guardian ad litem as a witness for the purpose of cross-examination regarding the guardian's report without the guardian ad litem being listed as a witness by a party. If the guardian ad litem is not called as a witness, the court shall permit the guardian ad litem to testify in the narrative. [TEX. FAM. CODE § 107.002\(f\)](#).

- In a contested case, the guardian ad litem shall provide copies of the guardian ad litem's report, if any, to the attorneys for the parties as directed by the court, but not later than the earlier of:

- (1) the date required by the scheduling order; or
- (2) the 10th day before the date of the commencement of the trial. [TEX. FAM. CODE § 107.002\(g\)](#).

Dual role:

- An attorney ad litem appointed to represent a child or an attorney appointed in the dual role may determine that the child cannot meaningfully formulate the child's objectives of representation in a case because the child:

- (1) lacks sufficient maturity to understand and form an attorney-client relationship with the attorney;
- (2) despite appropriate legal counseling, continues to express objectives of representation that would be seriously injurious to the child; or
- (3) for any other reason is incapable of making reasonable judgments and engaging in meaningful communication. [TEX. FAM. CODE § 107.008\(a\)](#).

- An attorney ad litem or an attorney appointed in the dual role who determines that the child cannot meaningfully formulate the child's expressed objectives of representation may present to the court a position that the attorney determines will serve the best interests of the child. [TEX. FAM. CODE § 107.008\(b\)](#).

	<p>- If a guardian ad litem has been appointed for the child in a suit filed by a governmental entity requesting termination of the parent-child relationship or appointment of the entity as conservator of the child, an attorney ad litem who determines that the child cannot meaningfully formulate the child's expressed objectives of representation:</p> <p>(1) shall consult with the guardian ad litem and, without being bound by the guardian ad litem's opinion or recommendation, ensure that the guardian ad litem's opinion and basis for any recommendation regarding the best interests of the child are presented to the court; and</p> <p>(2) may present to the court a position that the attorney determines will serve the best interests of the child. TEX. FAM. CODE § 107.008(c).</p>
<p>4. Post-Hearing: Review courts order, communicate order to child, and monitor implementation of orders</p>	<p><i>No explicit legal authority or requirement.</i></p>
<p>5. Appellate Advocacy: Decision to appeal, withdrawal, participation in appeal, conclusion by appeal.</p>	<p><i>No explicit legal authority or requirement.</i></p>
<p>6. Cessation of Representation: Contacts post representation, if any</p>	<p><i>No explicit legal authority or requirement.</i></p>
<p>7. General Representation Rules: Administrative structure is clear for appointment, support</p>	<p>The State Bar of Texas maintains a database of qualified Guardians ad Litem that can be accessed by Courts when appointing a Guardian ad Litem. <i>See</i> https://www.texasbar.com/AM/Template.cfm?Section=Guardianship_Ad_Litem.</p> <p>In a suit filed by a governmental entity requesting termination of the parent-child relationship or to be named conservator of a child, the court shall appoint an attorney ad litem to represent the interests of the</p>

<p>and accountability of the CR. The child’s representative is independent from the court</p>	<p>child immediately after the filing, but before the full adversary hearing, to ensure adequate representation of the child. TEX. FAM. CODE § 107.012.</p> <p><i>No explicit legal authority or requirement regarding independence from the court.</i></p>
<p>8. Lawyer Training: Child representative trained, on-going training provided, new attorneys provided senior lawyer mentorship.</p>	<ul style="list-style-type: none"> - An attorney ad litem appointed to represent a child or an amicus attorney appointed to assist the court must be trained in child advocacy or have experience determined by the court to be equivalent to that training. TEX. FAM. CODE § 107.003(2). - An attorney ad litem appointed for a child in a proceeding under Subtitle E shall complete at least three hours of continuing legal education relating to representing children in child protection cases as described by Subsection (c) 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. TEX. FAM. CODE § 107.004(b). - The continuing legal education required by Subsections (b) and (b-1) must: <ul style="list-style-type: none"> (1) be low-cost and available to persons throughout this state, including on the Internet provided through the State Bar of Texas; and (2) focus on the duties of an attorney ad litem in, and the procedures of and best practices for, representing a child in a proceeding under Subtitle E. TEX. FAM. CODE § 107.004(c).
<p>9. Lawyer Compensation: Adequate and timely compensation, reimbursement provided for expenses.</p>	<ul style="list-style-type: none"> - An attorney appointed under this chapter to serve as an attorney ad litem for a child, an attorney in the dual role, or an attorney ad litem for a parent 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. TEX. FAM. CODE § 107.015(a). - 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 guardian ad litem 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. TEX. FAM. CODE § 107.015(b).

	<p>- If indigency of the parents is shown, an attorney ad litem appointed to represent a child or parent in a suit filed by a governmental entity shall be paid from the general funds of the county according to the fee schedule that applies to an attorney appointed to represent a child in a suit under Title 3 as provided by Chapter 51. The court may not award attorney ad litem fees under this chapter against the state, a state agency, or a political subdivision of the state except as provided by this subsection. TEX. FAM. CODE § 107.015(c).</p> <p>- A person appointed as a guardian ad litem 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 guardian ad litem or attorney ad litem. Information submitted under this section is subject to disclosure under Chapter 552, Government Code. TEX. FAM. CODE § 107.015(d).</p>
<p>10. Caseload Levels: Caseloads are of a manageable size</p>	<p><i>No explicit legal authority or requirement.</i></p>