

KENTUCKY

<p>Structure, organization, and delivery of Child Representation State-by-state, county-by-county, etc.</p>	<p>The statewide Administrative Office of the Courts is the agency that oversees training of GALs and sets out best practices for them: The Legal Training for Dependency, Neglect and Abuse Cases Program prepares attorneys to provide legal representation to abused and neglected children throughout the state. The Administrative Office of the Courts has overseen this training seminar program since 1999. Legal Training for Dependency, Neglect and Abuse.</p>
<p>Funding Child Representation</p>	<p>(1) In proceedings in the juvenile session of the District Court, no court fees shall be charged against, and no witness fees shall be allowed to, any party to a petition. No public officer shall be entitled to receive any fee from the service of process or for attendance in court in any such proceedings. All other persons acting under orders of the court may be paid for service of process and attendance as witnesses. The payments for fees provided by law for like services in civil cases in the Circuit Court are to be made out of the county treasury. The county or state may compensate any officer or person in the amount prescribed by law for the transportation of a child to a place where he will be detained or placed or the return of any child to the jurisdiction of the court, and funds for this purpose may be appropriated and paid by the fiscal court. (2) For the purpose of paying salaries and expenses necessary to carry out the purposes of KRS Chapters 600 to 645, the fiscal court of any county, or urban-county council of an urban-county government, may levy taxes and make appropriations within constitutional limitations. The legislative body of any city also is authorized to appropriate funds to assist the county in carrying out the purposes of KRS Chapters 600 to 645, including providing facilities for custody and care of children coming within the purview of KRS Chapters 600 to 645. KY. REV. STAT. ANN. § 610.350.</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>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 parent or other person exercising custodial control or supervision of their right to appointment of separate counsel: (a) The court shall appoint counsel for the child to be paid for by the Finance and Administration Cabinet (d) The court may, in the interest of justice, appoint a court-appointed special advocate volunteer to represent the best interests of the child pursuant to KRS 620.500 to 620.550. The clerk of the court shall arrange for service on all parties, including the local representative of the cabinet, of the order appointing the court-appointed special advocate volunteer. KY. REV. STAT. ANN. § 620.100(1)(a) & (d).</p> <p>In Kentucky, it is presupposed that a guardian ad litem shall act in the capacity of an attorney; his or her obligation is to stand in the child’s interests and defense demand; although not having the powers of a regular guardian, he or she fully represents the child and is endowed with similar powers for purposes of the litigation at hand; he or she is, therefore, both a fiduciary and lawyer of the child, and in a special sense the representative of the court to protect the minor. Black v. Wiedeman, 254 S.W.2d 344 at 346 (C.O.A. 1953); Best Practice Methods and Essential Elements for the Child’s Guardian ad Litem, developed by the Administrative Office of the Courts.</p> <p>Whether appointed pursuant to this statute or pursuant to a provision of the Kentucky Unified Juvenile Code, the duties of a guardian ad litem shall be to advocate for the client's best interest in the proceeding through which the guardian ad litem was appointed. Without an appointment, the guardian ad litem shall have no obligation to initiate action or to defend the</p>

	client in other proceedings. KY. REV. STAT. ANN. § 387.305(5) .
<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><i>No explicit legal authority or requirement.</i></p> <p>(c) Children expected to testify shall be prepared for the courtroom experience by the Commonwealth's or county attorney handling the case with the assistance of the guardian ad litem or special advocate. KY. REV. STAT. ANN. § 26A.140.</p> <p>A GAL should determine the facts of the case by interviewing the child, Cabinet for Families and Children family services worker, family members, therapist and others as necessary, and by reviewing reports and other information. When interviewing a child is impractical (due to age or other circumstances), inspection of the home or place of care and/or an interview with the foster parent or caretaker is an adequate substitute. If these events do not occur, perhaps due to hostility toward the GAL or other safety concerns, the GAL should document the reason the action did not occur. Responsibilities of a Guardian ad Litem, Division of Dependent Children's Services, Administrative Office of the Courts.</p> <p>A GAL should make recommendations for specific and clear orders for evaluation, services, and treatment for the child and the child's family. Responsibilities of a Guardian ad Litem, Division of Dependent Children's Services, Administrative Office of the Courts.</p> <p>A GAL should file all necessary pleadings and papers, and maintain a complete file with notes rather than relying upon court files. Responsibilities of a Guardian ad Litem, Division of Dependent Children's Services, Administrative Office of the Courts.</p> <p>Consistent with the Rules of Professional Responsibility, a GAL should identify common interests among the parties and, to the extent possible, promote a cooperative resolution of the matter. Responsibilities of a Guardian ad Litem, Division of Dependent Children's Services, Administrative Office of the Courts.</p> <p>A GAL should consult, as necessary and consistent with existing rules of confidentiality, with other persons knowledgeable about the child and the child's family to identify the child's interests, current and future placements that would be best for the child, and necessary services for the child. Responsibilities of a Guardian ad Litem, Division of Dependent Children's Services, Administrative Office of the Courts.</p> <p>Any statute to the contrary notwithstanding, an attorney representing a child in any proceeding under KRS Chapters 600 to 645 or in any adult criminal proceeding shall have full access to all records, including juvenile records, held by law enforcement, courts, social work agencies, or any other record, public or private, relating to that child which the attorney believes is necessary to the representation of that child. KY. REV. STAT. ANN. § 610.342.</p>
<p>3. In Court – Active Participation in Hearings: Appear in court, explain proceedings to client, present</p>	<p>The court may, on the motion of the attorney for any party and upon a finding of compelling need, order that the testimony of the child be taken in a room other than the courtroom and be televised by closed circuit equipment in the courtroom to be viewed by the court and the finder of fact in the proceeding. Only the attorneys for the defendant and for the state, persons necessary to operate the equipment, and any person whose presence the court finds would contribute to the welfare and</p>

<p>evidence, ensure child is present, expand scope of representation into other needed areas, and undertake certain obligations post-disposition.</p>	<p>well-being of the child may be present in the room with the child during his testimony. Only the attorneys may question the child. The persons operating the equipment shall be confined to an adjacent room or behind a screen or mirror that permits them to see and hear the child during his testimony, but does not permit the child to see or hear them. The court shall permit the defendant to observe and hear the testimony of the child in person, but shall ensure that the child cannot hear or see the defendant. KY. REV. STAT. ANN. § 421.350(2).</p> <p>The court may, on the motion of the attorney for any party and upon a finding of compelling need, order that the testimony of the child be taken outside the courtroom and be recorded for showing in the courtroom before the court and the finder of fact in the proceeding. Only those persons permitted to be present at the taking of testimony under subsection (3) of this section may be present during the taking of the child's testimony, and the persons operating the equipment shall be confined from the child's sight and hearing as provided by subsection (3) of this section. . . . KY. REV. STAT. ANN. § 421.350(3).</p> <p>A GAL should meet with and observe the child, assess the child's needs and wishes with regard to the representation and issues in the case, and explain the proceedings to the child according to the child's ability to understand. Responsibilities of a Guardian ad Litem, Division of Dependent Children's Services, Administrative Office of the Courts.</p> <p>A GAL should appear at all hearings concerning the child. Responsibilities of a Guardian ad Litem, Division of Dependent Children's Services, Administrative Office of the Courts.</p> <p>A GAL should submit, as ordered, an oral or written report to the court. Responsibilities of a Guardian ad Litem, Division of Dependent Children's Services, Administrative Office of the Courts.</p> <p>A GAL should advocate the child's best interests, but advise the court when the child disagrees with the attorney's assessment of the case. Responsibilities of a Guardian ad Litem, Division of Dependent Children's Services, Administrative Office of the Courts.</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>During the term of the appointment, a GAL should monitor the implementation of court orders and determine whether service(s) ordered by the court for the child or the child's family are being provided in a timely manner and are accomplishing their purpose. If a GAL believes services are not being provided in a timely manner, or if he/she believes the family has failed to take advantage of these services, or if the GAL believes the services are not accomplishing their purpose, he/she should file a motion for appropriate relief. The GAL should assess whether the Cabinet for Families and Children is making reasonable efforts as defined in state and federal law and should challenge the adequacy of those efforts when appropriate. Responsibilities of a Guardian ad Litem, Division of Dependent Children's Services, Administrative Office of the Courts.</p>
<p>5. Appellate Advocacy: Decision to appeal, withdrawal, participation in</p>	<p>Any interested party aggrieved by a proceeding under KRS 610.010(2)(d) including the parent, child, guardian ad litem, the cabinet, and the county attorney may appeal from the juvenile court to the Circuit Court as a matter of right in the manner provided in the Kentucky Rules of Civil Procedure. The Circuit Court may order that the child may be removed to a suitable</p>

<p>appeal, conclusion by appeal.</p>	<p>place, pending the appeal, if it appears by affidavit or sworn testimony that the child would be in imminent danger if left with or returned to his or her parents, guardian, or other person party to the appeal. KY. REV. STAT. ANN. § 620.155.</p>
<p>6. Cessation of Representation: Contacts post representation, if any</p>	<p><i>No explicit legal authority or requirement.</i></p> <p>Representation by the GAL continues so long as the appointing authority retains jurisdiction over the child. Responsibilities of a Guardian ad Litem, Division of Dependent Children’s Services, Administrative Office of the Courts.</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) 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 parent or other person exercising custodial control or supervision of their right to appointment of separate counsel:</p> <p>(a) The court shall appoint counsel for the child to be paid for by the Finance and Administration Cabinet. Counsel shall document participation in training on the role of counsel that includes training in early childhood, child, and adolescent development. 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. KY. REV. STAT. ANN. § 620.100.</p> <p>(1) The parties to an action for voluntary termination of parental rights shall be the parent seeking termination, whose presence is not required if represented by counsel for the parent when an appearance-waiver and consent-to-adopt form is filed with the court, but the court shall appoint a guardian ad litem to represent the best interest of the child. KY. REV. STAT. ANN. § 625.041 (West)</p> <p>The Legal Training for Dependency, Neglect and Abuse Cases Program prepares attorneys to provide legal representation to abused and neglected children throughout the state. The Administrative Office of the Courts has overseen this training seminar program since 1999. The goal of the program is to produce highly qualified guardians ad litem by offering training sessions, providing educational materials and serving as a comprehensive resource. See http://courts.ky.gov/stateprograms/gal.</p>
<p>8. Lawyer Training: Child representative trained, on-going training provided, new attorneys provided senior lawyer mentorship.</p>	<p>The Legal Training for Dependency, Neglect and Abuse Cases Program prepares attorneys to provide legal representation to abused and neglected children throughout the state. The Administrative Office of the Courts has overseen this training seminar program since 1999. The goal of the program is to produce highly qualified guardians ad litem by offering training sessions, providing educational materials and serving as a comprehensive resource. See http://courts.ky.gov/courtprograms/Pages/dna.aspx. There are no explicit training requirements to serve as a GAL.</p> <p>(1) Courts shall implement measures to accommodate the special needs of children which are not unduly burdensome to the rights of the defendant, including, but not limited to:</p> <p>(a) Trained guardians ad litem or special advocates, if available, shall be appointed for all child victims and shall serve in Circuit and District Courts to offer consistency and support to the child and to represent the child’s interests where needed. KY. REV. STAT. ANN. § 26A.140.</p>
<p>9. Lawyer Compensation:</p>	<p>... The court shall appoint counsel for the child to be paid for by the Finance and Administration Cabinet. The clerk of the</p>

<p>Adequate and timely compensation, reimbursement provided for expenses.</p>	<p>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 fee to be fixed by the court shall not exceed five hundred dollars (\$500); however, if the action has final disposition in the District Court, the fee shall not exceed two hundred fifty dollars (\$250)... KY. REV. STAT. ANN. § 620.100(1)(a).</p> <p>The court shall allow the guardian ad litem a reasonable fee for services, to be taxed as costs. Fees allowed to counsel for children, indigent parents or non-parental custodians of children in dependency, abuse or neglect cases, and to counsel for children or indigent parents in parental rights termination cases, under the Juvenile Code, shall not exceed the amounts specified in KRS 620.100 or KRS 625.080. Counsel fee awards shall not exceed the statutory maximum, regardless of the number of persons represented in a proceeding by the counsel. KY. CT. R. 17.03(5).</p> <p>(2) The guardian ad litem shall be paid a fee to be fixed by the court, not to exceed five hundred dollars (\$500), to be paid by the petitioner, except if the Cabinet for Health and Family Services receives custody of the child, the guardian ad litem shall be paid by the Finance and Administration Cabinet. KY. REV. STAT. ANN. § 625.041.</p> <p>(2) Any child to whom an involuntary action directly relates shall be made a party to the action and a guardian ad litem shall be appointed to represent the best interests of the child. The person appointed as a guardian ad litem shall be paid a fee not to exceed five hundred dollars (\$500), to be paid by the Finance and Administration Cabinet when the cabinet is the proposed custodian. When the cabinet is not the proposed custodian, the court may order the cost to be paid by the proposed adoptive parent, parents, agency, or the petitioner. KY. REV. STAT. ANN. § 625.080.</p>
<p>10. Caseload Levels: Caseloads are of a manageable size.</p>	<p><i>No explicit legal authority or requirement.</i></p>