

§1507. Appointment of guardian ad litem in contested proceedings

1. Guardian ad litem; appointment. In contested proceedings under sections 904, 1653 and 1803 in which a minor child is involved, the court may appoint a guardian ad litem for the child. The appointment may be made at any time, but the court shall make every effort to make the appointment as soon as possible after the commencement of the proceeding. The court may appoint a guardian ad litem when the court has reason for special concern as to the welfare of a minor child. In determining whether an appointment must be made, the court shall consider:

- A. The wishes of the parties; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
- B. The age of the child; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
- C. The nature of the proceeding, including the contentiousness of the hearing; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
- D. The financial resources of the parties; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
- E. The extent to which a guardian ad litem may assist in providing information concerning the best interest of the child; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
- F. Whether the family has experienced a history of domestic abuse; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
- G. Abuse of the child by one of the parties; and [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
- H. Other factors the court determines relevant. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

At the time of the appointment, the court shall specify the guardian ad litem's length of appointment, duties and fee arrangements.
[PL 2005, c. 360, §2 (AMD).]

2. Qualifications. A guardian ad litem appointed on or after March 1, 2000 must meet the qualifications established by the Supreme Judicial Court.
[PL 1999, c. 251, §1 (AMD).]

3. Duties. The guardian ad litem has both mandatory and optional duties.

A. A guardian ad litem shall:

- (1) Interview the child face-to-face with or without another person present; and
- (3) Make a written report of investigations, findings and recommendations as ordered by the court, with copies of the report to each party and the court. [PL 1997, c. 257, §3 (AMD); PL 1997, c. 257, §6 (AFF).]

B. The court shall specify the optional duties of the guardian ad litem. The optional duties of the guardian ad litem may include:

- (1) Interviewing the parents, teachers and other people who have knowledge of the child or family;
- (2) Reviewing mental health, medical and school records of the child;
- (3) Reviewing mental health and medical records of the parents;
- (4) Having qualified people perform medical and mental evaluations of the child;

- (5) Having qualified people perform medical and mental evaluations of the parents;
- (6) Procuring counseling for the child;
- (7) Retaining an attorney to represent the guardian ad litem in the pending proceeding, with approval of the court;
- (8) Subpoenaing witnesses and documents and examining and cross-examining witnesses;
- (9) Serving as a contact person between the parents and the child; or
- (10) Other duties that the court determines necessary, including, but not limited to, filing pleadings. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

If, in order to perform the duties, the guardian ad litem needs information concerning the child or parents, the court may order the parents to sign an authorization form allowing the release of the necessary information. The guardian ad litem must be allowed access to the child by caretakers of the child, whether the caretakers are individuals, authorized agencies or child care providers. [PL 2005, c. 683, Pt. B, §9 (AMD).]

4. Best interest of the child. The guardian ad litem shall use the standard of the best interest of the child as set forth in section 1653, subsection 3. The guardian ad litem shall make the wishes of the child known to the court if the child has expressed them, regardless of the recommendation of the guardian ad litem. [PL 1997, c. 257, §4 (AMD); PL 1997, c. 257, §6 (AFF).]

5. Written report. A guardian ad litem shall make a final written report to the parties and the court reasonably in advance of the hearing. The report is admissible as evidence and subject to cross-examination and rebuttal, whether or not objected to by a party. [PL 2001, c. 253, §3 (RPR).]

6. Court's agent. A person serving as a guardian ad litem under this section acts as the court's agent and is entitled to quasi-judicial immunity for acts performed within the scope of the duties of the guardian ad litem. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

7. Payment for services. Payment for the services of the guardian ad litem is the responsibility of the parties, as ordered by the court. In determining the responsibility for payment, the court shall consider:

- A. The income of the parties; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
- B. The marital and nonmarital assets of the parties; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
- C. The division of property made as part of the final divorce; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
- D. Which party requested appointment of a guardian ad litem; and [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
- E. Other relevant factors. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

8. Notice. A guardian ad litem must be given notice of all civil or criminal hearings and proceedings, including, but not limited to, grand juries, in which the child is a party or a witness. The guardian ad litem shall protect the best interests of the child in those hearings and proceedings, unless otherwise ordered by the court.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

PL 1995, c. 694, §B2 (NEW). PL 1995, c. 694, §E2 (AFF). PL 1997, c. 257, §§2-4 (AMD). PL 1997, c. 257, §6 (AFF). PL 1999, c. 251, §1 (AMD). PL 2001, c. 253, §3 (AMD). PL 2005, c. 360, §2 (AMD). PL 2005, c. 683, §B9 (AMD).

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