

**13B.9 Powers and duties of local public defenders — referrals to outside counsel.**

1. The local public defender shall do all of the following:

a. Represent an indigent person who is under arrest or charged with a crime if the indigent person requests representation or the court orders representation when the type of case, the county, and the court have been designated for such representation by the state public defender. The local public defender shall counsel and defend an indigent defendant at every stage of the criminal proceedings and prosecute before or after conviction any appeals or other remedies which the local public defender considers to be in the interest of justice unless other counsel is appointed to the case.

b. Represent an indigent party, upon order of the court, in child in need of assistance, family in need of assistance, delinquency, and termination of parental rights proceedings pursuant to chapter 232 when designated by the state public defender to represent the indigent party in the type of case for that county. The local public defender shall counsel and represent an indigent party in all proceedings pursuant to chapter 232 to which the local public defender is appointed and prosecute before or after judgment any appeals or other remedies which the local public defender considers to be in the interest of justice unless other counsel is appointed to the case.

c. Serve as guardian ad litem for each child in all cases in which the local public defender office is the state public defender's designee. The local public defender shall be responsible for determining who shall perform the duties of the guardian ad litem as defined in section 232.2 and shall be responsible for assuring the court that the duties of the guardian ad litem have been fulfilled.

2. An attorney appointed under this section is not liable to a person represented by the attorney for damages as a result of a conviction in a criminal case unless the court determines in a postconviction proceeding or on direct appeal that the person's conviction resulted from ineffective assistance of counsel, and the ineffective assistance of counsel is the proximate cause of the damage. In juvenile or civil proceedings, an attorney appointed under this section is not liable to a person represented by the attorney for damages unless it has been determined that the attorney has provided ineffective assistance of counsel and the ineffective assistance of counsel is the proximate cause of the damage.

3. The local public defender shall handle every case to which the local public defender is appointed if the local public defender can reasonably handle the case. The local public defender shall be responsible for assigning cases to individual attorneys within the local public defender office and for making decisions concerning cases in which the local public defender has been appointed.

4. a. If a conflict of interest arises or if the local public defender is unable to handle a case because of a temporary overload of cases, the local public defender shall return the case to the court. If the case is returned and the state public defender has filed a successor designation, the court shall appoint the successor designee. If there is no successor designee on file, the court shall make the appointment pursuant to section 815.10. As used in this subsection, "successor designee" may include another local public defender office, or a nonprofit organization or a person admitted to practice law in this state that has contracted with the state public defender under section 13B.4, subsection 3.

b. If a conflict of interest arises in any case, subsection 1 does not affect the local public defender's obligation to withdraw as counsel or as guardian ad litem.

88 Acts, ch 1161, §9; 89 Acts, ch 83, §4; 91 Acts, ch 268, §413, 439; 94 Acts, ch 1187, §18, 19; 96 Acts, ch 1040, § 3, 4; 99 Acts, ch 135, §8 – 10; 2002 Acts, ch 1067, §9 – 12; 2003 Acts, ch 51, §4; 2004 Acts, ch 1017, §1; 2004 Acts, ch 1040, §4; 2005 Acts, ch 19, §13; 2008 Acts, ch 1061, §2, 3; 2012 Acts, ch 1063, §2, 3

[T] Subsection 1, paragraphs a and b amended

[T] Subsection 4, paragraph a amended