

598.12 Guardian ad litem for minor child.

1. The court may appoint a guardian ad litem to represent the best interests of the minor child or children of the parties. The guardian ad litem shall be a practicing attorney and shall be solely responsible for representing the best interests of the minor child or children. The guardian ad litem shall be independent of the court and other parties to the proceeding and shall be unprejudiced and uncompromised in the guardian ad litem's independent actions.

a. Unless otherwise enlarged or circumscribed by a court having jurisdiction over the child or by operation of law, the duties of a guardian ad litem with respect to a child shall include all of the following:

(1) Conducting an initial in-person interview with the child, if the child's age is appropriate for the interview, and interviewing each parent, guardian, or other person having custody of the child.

(2) Maintaining regular contact with the child.

(3) Visiting the home, residence, or both home and residence of the child and any prospective home or residence of the child.

(4) Interviewing any person providing medical, mental health, social, educational, or other services to the child, prior to any court-ordered hearing.

(5) Obtaining knowledge of facts, circumstances, and parties involved in the matter in which the person is appointed guardian ad litem.

(6) Attending any depositions, hearings, or trials in the matter in which the person is appointed guardian ad litem, and filing motions or responses or making objections when necessary. The guardian ad litem may cause witnesses to appear, offer evidence, and question witnesses on behalf of the best interests of the child. The guardian ad litem may offer proposed or requested relief and arguments in the same manner allowed the parties by the court. However, the guardian ad litem shall not testify, serve as a witness, or file a written report in the matter.

b. The order appointing the guardian ad litem shall grant authorization to the guardian ad litem to interview any relevant person and inspect and copy any records relevant to the proceedings, if not prohibited by federal law. The order shall specify that the guardian ad litem may interview any person providing medical, mental health, social, educational, or other services to the child; may attend any meeting with the medical or mental health providers, service providers, organizations, or educational institutions regarding the child, if deemed necessary by the guardian ad litem; may inspect and copy any records relevant to the proceedings; and shall specifically be authorized to communicate with any individual or person appointed by the court to conduct a home-study investigation. The parent, guardian, or other person having custody of the child shall immediately execute any release necessary to allow the guardian ad litem to effect the authorization granted under this paragraph.

2. The same person shall not serve both as the child's attorney and as guardian ad litem, nor shall the same person serve both as the child and family reporter and as guardian ad litem.

3. The court shall enter an order in favor of the guardian ad litem for fees and disbursements as submitted by the guardian ad litem, and the amount shall be charged against the party responsible for court costs unless the court determines that the party responsible for court costs is indigent, in which event the amount shall be borne by the county.

[C71, 73, 75, 77, 79, 81, §598.12; 82 Acts, ch 1250, §3]

83 Acts, ch 96, §157, 159; 2000 Acts, ch 1067, §1; 2005 Acts, ch 69, §34; 2017 Acts, ch 43, §2

Referred to in §598.10, §598C.310

Section amended