

Mississippi	Legal Authority
<p>1. General Duties: <i>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.</i></p>	GENERAL DUTIES AND ACTIVITIES OF THE CHILD'S LEGAL REPRESENTATIVE
	<ul style="list-style-type: none"> - The youth court shall appoint a guardian ad litem for the child: <ul style="list-style-type: none"> (a) When a child has no parent, guardian or custodian; (b) When the youth court cannot acquire personal jurisdiction over a parent, a guardian or a custodian; (c) When the parent is a minor or a person of unsound mind; (d) When the parent is indifferent to the interest of the child or if the interests of the child and the parent, considered in the context of the cause, appear to conflict; (e) In every case involving an abused or neglected child which results in a judicial proceeding; or (f) In any other instance where the youth court finds appointment of a guardian ad litem to be in the best interest of the child. Miss. Code Ann. § 43-21-121(1). MS R of Youth Ct. Practice, R. 13(a). - The guardian ad litem shall be appointed by the court when custody is ordered or at the first judicial hearing regarding the case, whichever occurs first. Miss. Code Ann. § 43-21-121(2). - In addition to all other duties required by law, a guardian ad litem shall have the duty to protect the interest of a child for whom he has been appointed guardian ad litem. The guardian ad litem shall investigate, make recommendations to the court or enter reports as necessary to hold paramount the child's best interest. The guardian ad litem is not an adversary party and the court shall insure that guardians ad litem perform their duties properly and in the best interest of their wards. The guardian ad litem shall be a competent person who has no adverse interest to the minor. The court shall insure that the guardian ad litem is adequately instructed on the proper performance of his duties. Miss. Code Ann. § 43-21-121(3). MS R of Youth Ct. Practice, R. 13(c). - The court may appoint either a suitable attorney or a suitable layman as guardian ad litem. In cases where the court appoints a layman as guardian ad litem, the court shall also appoint an attorney to represent the child. Miss. Code Ann. § 43-21-121(4). MS R of Youth Ct. Practice, R. 13(f). - Upon appointment of a guardian ad litem, the youth court shall continue any pending proceedings for a reasonable time to allow the guardian ad litem to familiarize himself with the matter, consult with counsel and prepare his participation in the cause. Miss. Code Ann. § 43-21-121(5). - The court, in its sound discretion, may appoint a volunteer trained layperson to assist children subject to the provisions of this section in addition to the appointment of a guardian ad litem. Miss. Code Ann. § 43-21-121(7). - The guardian ad litem has the responsibility to fully represent the interests of the child. <i>See In re D.K.L.</i>, 652 So.

	2d 184, 191 (Miss. 1995).
2. Out of Court - Actions to be Taken: <i>Meet with child, undertake an investigation, provide advice and counseling, file pleadings, request services, address special needs, negotiate settlements.</i>	<ul style="list-style-type: none"> - Child protection proceedings. <p>A child who has been ordered or taken into custody may be held in custody for longer than temporary custody if:</p> <ol style="list-style-type: none"> (1) A written report, complaint, or petition has been filed. (2) Reasonable oral or written notice of the time, place and purpose of the hearing has been given to the child; to the child's parent, guardian or custodian; to the child's guardian ad litem, if any; and to the child's counsel. If the parent, guardian or custodian cannot be found, the youth court may hold the hearing in the absence of the child's parent, guardian or custodian. (3) All parties present are afforded the opportunity to present evidence and cross-examine witnesses produced by others. The youth court may, in its discretion, limit the extent but not the right or presentation of evidence and cross-examination of witnesses. The youth court may receive any testimony and other evidence relevant to the necessity for the continued custody of the child without regard to the formal rules of evidence, including hearsay and opinion evidence. All testimony shall be made under oath and may be in narrative form. . . . <p>The child's guardian ad litem, and parent, guardian or custodian, and child may waive in writing the time of the shelter hearing or the shelter hearing itself. The child's consent is not required if the child has not reached ten (10) years of age. MS R of Youth Ct. Practice, R. 16(b).</p>
3. In Court - Active Participation in Hearings: <i>Appear in court, explain proceedings to client, present evidence, ensure child is present, expand scope of representation into other needed areas, and undertake certain obligations post-disposition.</i>	<ul style="list-style-type: none"> - (b) Entry of appearance. An attorney shall be deemed of record when the attorney appears personally before the court, files a written entry of appearance, or has been appointed by the court. Once an attorney is deemed of record that attorney shall continue to represent the party in all proceedings pertaining to the case except upon a withdrawal of counsel as set forth in Rule 14(c). After an entry of appearance, counsel shall be served with copies of all subsequent pleadings, motions and notices required to be served on the party which counsel represents. MS R of Youth Ct. Practice, R. 14(b). - The youth court may exclude the attendance of a child from a hearing in neglect and abuse cases with consent of the child's counsel.. Miss. Code Ann. § 43-21-203(8). - All parties to a youth court cause shall have the right at any hearing in which an investigation, record or report is admitted in evidence: <ol style="list-style-type: none"> (a) to subpoena, confront and examine the person who prepared or furnished data for the report; and (b) to introduce evidence controverting the contents of the report. Miss. Code Ann. § 43-21-203(9).

	<p>- Child protection proceedings. (1) Time of hearing. If the child has been adjudicated a neglected child or an abused child, the youth court shall immediately set a time and place for a disposition hearing which shall be separate, distinct and subsequent to the adjudicatory hearing. The disposition hearing may be held immediately following the adjudicatory hearing unless a continuance is necessary to allow the parties to prepare for their participation in the proceedings. If the child has been taken into custody, a disposition hearing shall be held within fourteen (14) days after the adjudicatory hearing unless good cause be shown for postponement.</p> <p>(2) Conduct of hearing. All cases involving children shall be heard at any place the judge deems suitable but separately from the trial of cases involving adults. Disposition hearings shall be conducted: (i) without a jury and may be recessed from time to time; (ii) under the rules of evidence and rules of court as may comply with applicable constitutional standards; (iii) by excluding the general public and admitting only those persons found by the court to have a direct interest in the cause or work of the court; (iv) with a complete record of all the evidence taken by stenographic reporting, by mechanical or electronic device or by some combination thereof. Any person found by the court to have a direct interest in the cause shall have the right to appear and be represented by legal counsel, which shall include the foster parent(s) and the residential child caring agency providing care for the child.</p> <p>(3) Evidence. In arriving at its dispositional decision, the court shall consider only evidence presented at the disposition hearing. The following evidentiary procedures apply to these disposition hearings: (i) All testimony shall be under oath unless waived by all parties and may be in narrative form. (ii) The court may consider any evidence that is material and relevant to the disposition of the cause, including hearsay and opinion evidence. (iii) All parties to a youth court cause shall have the right at any hearing in which an investigation, record or report is admitted in evidence to subpoena, confront and examine the person who prepared or furnished data for the report and to introduce evidence controverting the contents of the report. (iv) The court may exclude the attendance of a child from any portion of a disposition hearing that would be injurious to the best interest of the child in abuse and neglect cases with consent of the child's counsel.</p> <p>(4) Explaining the purpose of the dispositional hearing. At the beginning of each disposition hearing, the judge shall inform the parties of the purpose of the hearing.</p> <p>(5) Opportunity to present closing argument. At the conclusion of the evidence, the youth court shall give the parties an opportunity to present closing argument.</p> <p>. MS R of Youth Ct. Practice, R. 26(c).</p>
<p>4. Post-Hearing: Review courts order, communicate order to child, and monitor</p>	<p><i>No explicit legal authority or requirement.</i></p>

<i>implementation of orders.</i>	
5. Appellate Advocacy: <i>Decision to appeal, withdrawal, participation in appeal, conclusion by appeal.</i>	<p>- Appeals from final orders or decrees of the court shall be pursuant to the Mississippi Rules of Appellate Procedures. MS R of Youth Ct. Practice, R. 37.</p> <p><i>No explicit provision regarding the role of the GAL in appeals.</i></p>
6. Cessation of Representation: <i>Contacts post representation, if any.</i>	<p>- Withdrawal of counsel. An attorney who has made an entry of appearance shall not be permitted to withdraw from the case until a timely appeal if any has been decided, except by leave of the court after a notice of withdrawal has been served on the party which counsel represents. MS R of Youth Ct. Practice, R. 14(c).</p>
	Organizational and Administrative Supports for the Child Representative
7. General Representation Rules: <i>Administrative structure is clear for appointment, support and accountability of the CR. The child's representative is independent from the court</i>	<p>- Qualifications of guardian ad litem. The court shall only appoint as guardian ad litem a competent person who has no adverse interest to the minor and who has received, in accordance with section 43-21-121(4) of the Mississippi Code, the requisite child protection and juvenile justice training provided by or approved by the Mississippi Judicial College within the year immediately preceding such appointment. MS R of Youth Ct. Practice, R. 13(b).</p> <p>- Appointment of volunteer trained layperson to assist children. The court may appoint a volunteer trained layperson to assist children, in addition to the appointment of a guardian ad litem, pursuant to section 43-21-121(7) of the Mississippi Code. MS R of Youth Ct. Practice, R. 13(e).</p>
8. Lawyer Training: <i>Child representative trained, on-going training provided, new attorneys provided senior lawyer mentorship.</i>	<p>From and after January 1, 1999, in order to be eligible for an appointment as a guardian ad litem, [an] attorney or lay person must have received child protection and juvenile justice training provided by or approved by the Mississippi Judicial College within the year immediately preceding such appointment. The Mississippi Judicial College shall determine the amount of child protection and juvenile justice training which shall be satisfactory to fulfill the requirements of this section. The Administrative Office of Courts shall maintain a roll of all attorneys and laymen eligible to be appointed as a guardian ad litem under this section and shall enforce the provisions of this subsection. Miss. Code Ann. § 43-21-121(4). MS R of Youth Ct. Practice, R. 13(f).</p> <p>- The Mississippi Judicial College presently requires six (6) hours of child protection and guardian ad litem training through an educational program approved by the Director of the Mississippi Judicial College for any appointment within 365 days thereof. MS R of Youth Ct. Practice, R. 13(b) Cmt.</p>

<p>9. Lawyer Compensation: <i>Adequate and timely compensation, reimbursement provided expenses.</i></p>	<p>- Upon order of the youth court, the guardian ad litem shall be paid a reasonable fee as determined by the youth court judge or referee out of the county general fund as provided under Section 43-21-123. To be eligible for such fee, the guardian ad litem shall submit an accounting of the time spent in performance of his duties to the court. Miss. Code Ann. § 43-21-121(6). Factors to be weighed when considering the proper amount of guardian ad litem fees to be awarded include: (1) the relative ability of the parties; (2) the skill and standing of the attorney employed; (3) the nature of the case and novelty and difficulty of the questions at issue; (4) the degree of responsibility involved in the management of the case; (5) the time and labor required; (6) the usual and customary charge in the community; and (7) preclusion of other employment by the attorney due to the acceptance of the case. MS R of Youth Ct. Practice, R. 13(d), cmt. The court may order financially able parents to pay for the reasonable fees of the guardian ad litem, or a portion thereof, pursuant to section 43-21-619 of the Mississippi Code. MS R of Youth Ct. Practice, R. 13(d).</p>
<p>10. Caseload Levels: <i>Caseloads are of a manageable size.</i></p>	<p><i>No explicit legal authority or requirement.</i></p>