

Indiana	Legal Authority
	<p align="center">GENERAL DUTIES AND ACTIVITIES OF THE CHILD’S LEGAL REPRESENTATIVE</p> <p>[The court will appoint either a guardian ad litem, who may or may not be an attorney, or a court appointed special advocate, who is a community volunteer. IC 31-34-1 through -16 governs the practice of a Child in Need of Services.]</p> <p>- "Guardian ad litem"... means an attorney, a volunteer, or an employee of a county program designated under IC 33-24-6-4 who is appointed by a court to:</p> <ol style="list-style-type: none"> (1) Represent and protect the best interests of a child; and (2) Provide the child with services requested by the court, including: <ol style="list-style-type: none"> (A) Researching; (B) Examining; (C) Advocating; (D) Facilitating; and (E) Monitoring; <p>the child's situation.. IC 31-9-2-50.</p> <p>- "Court appointed special advocate"... means a community volunteer who:</p> <ol style="list-style-type: none"> (1) Has completed a training program approved by the court; (2) Has been appointed by a court to represent and protect the best interests of a child; and (3) May research, examine, advocate, facilitate, and monitor a child's situation. IC 31-9-2-28. <p>- The juvenile court <i>may</i> appoint a guardian ad litem or a court appointed special advocate, or both, for the child at any time. IC 31-32-3-1.</p> <p>- The court <i>shall</i> appoint a guardian ad litem, court appointed special advocate, or both, for the child:</p> <ol style="list-style-type: none"> (1) If the child is alleged to be a child in need of services: <ol style="list-style-type: none"> (A) under IC 31-34-1-6; (B) under IC 31-34-1-10 or IC 31-34-1-11; (C) due to the inability, refusal, or neglect of the child's parent, guardian, or custodian to supply the child with the necessary medical care; or (D) because the location of both of the child's parents is unknown. (2) If the child is alleged to be a child in need of services under: <ol style="list-style-type: none"> (A) IC 31-34-1-1; (B) IC 31-34-1-2; (C) IC 31-34-1-3;

- (D) [IC 31-34-1-4](#);
- (E) [IC 31-34-1-5](#);
- (F) [IC 31-34-1-7](#); or
- (G) [IC 31-34-1-8](#)

(3) If the parent, guardian, or custodian of a child denies the allegations of a petition under [section 6 of this chapter](#). [IC 31-34-10-3](#).

- Whenever a child is taken into custody without a court order under this chapter, the attorney for the department of child services shall, without unnecessary delay, request the juvenile court to:

- (1) authorize the filing of a petition alleging that the child is a child in need of services;
- (2) hold an initial hearing under [IC 31-34-10](#) not later than the next business day after the child is taken into custody; and
- (3) appoint a guardian ad litem or a court appointed special advocate for the child. [IC 31-34-2.5-4](#).

- (a) If a parent objects to the termination of the parent-child relationship, the court shall appoint:

- (1) a guardian ad litem;
- (2) a court appointed special advocate; or
- (3) both;

for the child.

(b) If a guardian ad litem or court appointed special advocate has been appointed for the child under IC 31-34-10, the court may reappoint the guardian ad litem or court appointed special advocate to represent and protect the best interests of the child in the termination proceedings. [IC 31-35-2-7\(b\)](#).

- Children charged with delinquency are entitled to counsel; additionally, “the court may appoint counsel to represent any child in any other proceeding.” [IC 31-32-4-2\(b\)](#).

- A guardian ad litem or court appointed special advocate need not be an attorney, but the attorney representing the child may be appointed the child's guardian ad litem or court appointed special advocate. [IC 31-32-3-3](#).

- The guardian ad litem or the court appointed special advocate may be represented by an attorney. [IC 31-32-3-4](#).

- If necessary to protect the child's interests, the court may appoint an attorney to represent the guardian ad litem or the court appointed special advocate. The court may only appoint one (1) attorney under this section. [IC 31-32-3-5](#).

- A guardian ad litem or court appointed special advocate shall represent and protect the best interests of the child.

	<p>IC 31-32-3-6.</p> <p>- The:</p> <ul style="list-style-type: none"> (1) child; (2) child's parents, guardian, or custodian; (3) department; and (4) guardian ad litem or court appointed special advocate; <p>are parties to the proceedings described in the juvenile law and have all rights of parties under the Indiana Rules of Trial Procedure. IC 31-34-9-7.</p>
<p>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</i></p>	<p>- The guardian ad litem or the court appointed special advocate, or both, shall be given access under IC 31-39 to:</p> <ul style="list-style-type: none"> (1) all reports relevant to the case; and (2) any reports of examinations of the child's parents or other person responsible for the child's welfare. IC 31-33-15-2. <p>- Any of the following may sign and file a petition for the juvenile court to require the participation of a parent, guardian, or custodian in a program of care, treatment, or rehabilitation for a child:</p> <ul style="list-style-type: none"> (1) The attorney for the department. (2) The guardian ad litem or court appointed special advocate. IC 31-34-16-1. <p>- (a) Upon finding that a child is a child in need of services, the juvenile court shall order the department or a caseworker to prepare a predispositional report that contains a:</p> <ul style="list-style-type: none"> (1) statement of the needs of the child for care, treatment, rehabilitation, or placement; and (2) recommendation for the care, treatment, rehabilitation, or placement of the child. <p>(b) Any of the following may prepare an alternative report for consideration by the court:</p> <ul style="list-style-type: none"> (1) The child.¹ (2) The child's: (A) parent; (B) guardian; (C) guardian ad litem; (D) court appointed special advocate; or (E) custodian. IC 31-34-18-1. <p>- (a) Predispositional reports shall be made available within a reasonable time before the dispositional hearing, unless the juvenile court determines on the record that the reports contain information that should not be released to the child or the child's parent, guardian, or custodian.</p> <p>(b) The court shall provide a copy of the report to:</p> <ul style="list-style-type: none"> (1) each attorney, guardian ad litem, or court appointed special advocate representing the child; and

¹ By permitting the child to file a report with the court, presumably the statute contemplates that the child would be represented by a lawyer.

	<p>(2) each attorney representing the child's parent, guardian, or custodian.</p> <p>(c) The court may provide a factual summary of the report to:</p> <ol style="list-style-type: none"> (1) the child; or (2) the child's parent, guardian, or custodian. IC 31-34-18-6. <p>- Any of the following may sign and file a petition for the juvenile court to require a person to refrain from direct or indirect contact with a child:</p> <ol style="list-style-type: none"> (1) The attorney for the department. (2) The guardian ad litem or court appointed special advocate. IC 31-34-25-1. <p>- (a) A petition to terminate the parent-child relationship involving a delinquent child or a child in need of services may be signed and filed with the juvenile or probate court by any of the following:</p> <ol style="list-style-type: none"> (1) The attorney for the department. (2) The child's court appointed special advocate. (3) The child's guardian ad litem. . IC 31-35-2-4.
<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></p>	<p>- (a) Before entering its dispositional decree, the juvenile court shall do the following:</p> <ol style="list-style-type: none"> (1) Consider the recommendations for the needs of the child for care, treatment, rehabilitation, or placement made by the department in the department's predispositional report. (2) Consider the recommendations for the needs of the child for care, treatment, rehabilitation, or placement made by the parent, guardian or custodian, guardian ad litem or court appointed special advocate, foster parent, other caretaker of the child, or other party to the proceeding.... IC 31-34-19-6.1. <p>- (a) Upon motion of the prosecuting attorney, the child, or the child's guardian ad litem, counsel, parent, guardian, or custodian, the court may issue an order closing a proceeding during the testimony of a child witness or child victim if the court finds that:</p> <ol style="list-style-type: none"> (1) an allegation or a defense involves matters of a sexual nature; and (2) closing the proceeding is necessary to protect the welfare of a child witness or child victim. <p>(b) Upon motion of the prosecuting attorney, the child, or the child's guardian ad litem, counsel, parent, guardian, or custodian, the court may issue an order closing a proceeding during the testimony of a health care provider if the court finds that:</p> <ol style="list-style-type: none"> (1) the testimony involves matters that would be protected under 45 CFR Parts 160 and 164 (Health Insurance Portability and Accountability Act of 1996 (HIPAA)); or (2) the testimony involves matters that would be a privileged communication between a health care provider and the health care provider's patient.

	<p>(c) Upon motion of the prosecuting attorney, the child, or the child's guardian ad litem, counsel, parent, guardian, or custodian, the court may issue an order closing a proceeding during the testimony of:</p> <p>(1) a: (A) certified social worker; (B) certified clinical social worker; or (C) certified marriage and family therapist; regarding a client;</p> <p>(2) a school counselor regarding a student; or</p> <p>(3) a school psychologist regarding a student. IC 31-32-6-4.</p> <p>- (a) If the allegations of a petition have been admitted, the juvenile court may hold a dispositional hearing immediately after the initial hearing.</p> <p>(b) If the allegations have been denied, the juvenile court may hold the factfinding hearing immediately after the initial hearing.</p> <p>(c) The following persons must consent to holding a hearing under subsection (a) or (b) immediately after the initial hearing:</p> <p>(1) The child if competent to do so.</p> <p>(2) The child's: (A) counsel; (B) guardian ad litem; (C) court appointed special advocate; (D) parent; (E) guardian; or (F) custodian.</p> <p>(3) The person representing the interests of the state. IC 31-34-10-9.</p>
<p>4. Post-Hearing: Review courts order, communicate order to child, and monitor implementation of orders.</p>	<p>- While the juvenile court retains jurisdiction under IC 31-30-2, the juvenile court may modify any dispositional decree:</p> <p>(1) upon the juvenile court's own motion;</p> <p>(2) upon the motion of:</p> <p>(A) the child²;</p> <p>(B) the child's:</p> <p>(i) parent; (ii) guardian; (iii) custodian; (iv) court appointed special advocate; or (v) guardian ad litem; or</p> <p>(C) the attorney for the department; or</p> <p>(3) upon the motion of any person providing services to the child or to the child's parent, guardian, or custodian under a decree of the court. IC 31-34-23-1.</p> <p>- (b) During permanency hearings, the court shall</p> <p>...</p> <p>(4) consult with the child in person, or through an interview with or written statement or report submitted by:</p> <p>(A) a guardian ad litem or court appointed special advocate for the child;</p>

² Again, by permitting the child to file a motion, the statute presumably is contemplating that the child would be represented by a lawyer.

	<p>(B) a case manager; or</p> <p>(C) the person with whom the child is living and who has primary responsibility for the care and supervision of the child; in an age appropriate manner as determined by the court, regarding the proposed permanency plan;</p> <p>...</p> <p>(c) If the child is at least sixteen (16) years of age and the proposed permanency plan provides for the transition of the child from foster care to independent living, the court shall:</p> <p>(1) require the department to provide notice of the permanency hearing to the child, in accordance with section 4(a) of this chapter; and</p> <p>(2) provide to the child an opportunity to be heard and to make recommendations to the court, in accordance with section 4(d) of this chapter.... IC 31-34-21-7.</p>
<p>5. Appellate Advocacy: <i>Decision to appeal, withdrawal, participation in appeal, conclusion by appeal.</i></p>	<p>- A. Applicability. This Rule governs appellate review per Indiana Code sections 31-34-4-7(f), 31-34-19-6.1(f), 31-37-5-8(g), and 31-37-18-9(d). [These sections concern the Juvenile Court.] All other appeals concerning children alleged to be in need of service or children alleged to be delinquent are not covered by this rule.</p> <p>B. Notice of Expedited Appeal. (1) The Department of Child Services (“DCS”) shall file a Notice of Expedited Appeal with the trial court clerk within five (5) business days after the court's order of placement and/or services is noted in the Chronological Case Summary. (See Form #App.R. 14.1-1.)</p> <p>(2) On the same day DCS files the Notice of Expedited Appeal, it shall serve the Notice on the trial court judge, the court clerk, county commissioners, the guardian ad litem, CASA, any juvenile who is the subject of the order if 14 years of age or older, counsel for the juvenile, the parents of the juvenile, the Attorney General, in the case of a juvenile delinquency matter the Chief Probation Officer and Prosecutor, and any other party of record.</p> <p>(3) The Notice of Expedited Appeal, in a form prescribed by this rule, shall designate the order from which the appeal is taken and any Transcript that is to be provided.</p> <p>(4) The certificate of service attached to the Notice of Expedited Appeal shall include (a) the name and address, and (b) the FAX number and e-mail address if known, of every person to whom it was sent.</p> <p>(5) Any party who has received the Notice of Expedited Appeal shall have five (5) business days from service of the Notice of Expedited Appeal to file an Appearance and request any additional other items to be included in the record. Failure to file an Appearance shall remove that party from the Appeal.</p> <p>(6) The trial court shall be considered a party to the Appeal if it files a timely appearance. IN ST RAP Rule 14.1.</p>
<p>6. Cessation of Representation: <i>Contacts post representation, if any.</i></p>	<p>- A guardian ad litem or court appointed special advocate serves until the juvenile court enters an order for discharge under IC 31-34-21-11. IC 31-32-3-8.</p>
<p>Organizational and Administrative Supports for the Child Representative</p>	

<p>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>	<p>- Indiana Supreme Court Advisory Commission on Guardian ad Litem ("GAL")/Court Appointed Special Advocate ("CASA"). <i>Creation, Members and Staff Support.</i> There is hereby created a commission to be known as the Indiana Supreme Court Advisory Commission on GAL/CASA. The Commission shall consist of eighteen (18) members representative of the Indiana judiciary and directors of certified, volunteer based GAL/CASA programs. The Commission shall include three GAL/CASA program directors and one member of the judiciary each from four regions of Indiana (North, South, East, West) and two at-large members of the judiciary. The Indiana Supreme Court shall appoint the members. The term of each member and the chair shall be three (3) years. The terms of the program directors shall be staggered so that one representative is appointed from each region every year. The terms of the judicial representatives shall also be staggered so that two judicial representatives are appointed each year. All members shall serve at the pleasure of the Supreme Court. The Commission members shall elect a Chair. Vice-Chair and other officers at the first meeting of the year. The Executive Director and of the Division of State Court Administration, the Division's GAL/CASA Director and Division staff shall assist the Commission in the performance of its duties. The Division GAL/CASA Director shall serve as ex-officio member of the Commission. <u>IN ST ADMIN Rule 4(E)(1).</u></p> <p>- The division of state court administration shall establish and administer an office of guardian ad litem and court appointed special advocate services. The division shall use money it receives from the state general fund to administer the office. If funds for guardian ad litem and court appointed special advocate programs are appropriated by the general assembly, the division shall provide matching funds to counties that implement and administer, in courts with juvenile jurisdiction, a guardian ad litem or court appointed special advocate program for children who are alleged to be victims of child abuse or neglect under IC 31-33. Matching funds must be distributed in accordance with the provisions of section 5 of this chapter. A county may use these matching funds to supplement amounts that are collected as fees under IC 31-40-3-1 and used for the operation of guardian ad litem and court appointed special advocate programs. The division may use its administrative fund to provide training services and communication services for local officials and local guardian ad litem and court appointed special advocate programs....</p> <p>Only guardian ad litem or court appointed special advocate programs certified by the supreme court are eligible for funding under this section. <u>IC 33-24-6-3(a) & (e).</u></p>
<p>8. Lawyer Training: <i>Child representative trained, on-going training provided, new attorneys provided senior</i></p>	<p>- Indiana Supreme Court Advisory Commission on Guardian ad Litem ("GAL")/Court Appointed Special Advocate ("CASA"). <i>Duties of the Commission.</i> The Indiana Supreme Court Advisory Commission on GAL/CASA shall conduct a continuous study of the GAL/CASA services in Indiana and shall provide support and guidance to the Indiana Supreme Court on how best to provide GAL/CASA services. The Commission's charge includes but is not limited to providing a long-range strategy for promoting, expanding and training child advocacy</p>

<p><i>lawyer mentorship.</i></p>	<p>GAL/CASA programs. The Commission shall from time to time review the GAL/CASA Program Standards and Code of Ethics and make recommendations to the Supreme Court for their improvement. IN ST ADMIN Rule 4(E)(2).</p> <p>- A guardian ad litem who is not an attorney must complete the same court approved training program that is required for a court appointed special advocate under section 28 of this chapter. IC 31-9-2-50.</p> <p><i>There are no explicit requirements regarding training for attorneys who are appointed to represent children.</i></p>
<p>9. Lawyer Compensation: <i>Adequate and timely compensation, reimbursement provided expenses.</i></p>	<p>- Any costs related to the services of a guardian ad litem shall be paid according to IC 31-40. IC 31-33-15-3.</p> <p>- If any fees arise, payment shall be made under IC 31-40. IC 31-32-3-9.</p> <p>- The fiscal body of the county shall appropriate money from: (1) the guardian ad litem fund; or (2) the court appointed special advocate fund; to the juvenile courts of the county for use by the courts in providing guardian ad litem or court appointed special advocate services and the costs of representation for the guardians ad litem or court appointed special advocates. IC 31-40-3-2.</p> <p><i>There are no explicit provisions regarding compensation of attorneys representing children. In Indiana, counties are generally responsible for funding indigent representation.</i></p>
<p>10. Caseload Levels: <i>Caseloads are of a manageable size.</i></p>	<p><i>No explicit legal authority or requirement.</i></p>