

Kentucky	Legal Authority
	<p align="center">GENERAL DUTIES AND ACTIVITIES OF THE CHILD’S LEGAL REPRESENTATIVE</p>
<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>	<p>- If the court determines, as a result of a temporary removal hearing, that further proceedings are required, the court shall advise the child and his parent or other person exercising custodial control or supervision of their right to appointment of separate counsel:</p> <p>(a) The court shall appoint counsel for the child to be paid for by the Finance and Administration Cabinet</p> <p>(d) The court may, in the interest of justice, appoint a court-appointed special advocate volunteer to represent the best interests of the child pursuant to KRS 620.500 to 620.550. The clerk of the court shall arrange for service on all parties, including the local representative of the cabinet, of the order appointing the court-appointed special advocate volunteer. K.R.S. § 620.100(1)(a) & (d).</p> <p>- In Kentucky, it is presupposed that a guardian <i>ad litem</i> shall act in the capacity of an attorney; his or her obligation is to stand in the child’s interests and defense demand; although not having the powers of a regular guardian, he or she fully represents the child and is endowed with similar powers for purposes of the litigation at hand; he or she is, therefore, both a fiduciary and lawyer of the child, and in a special sense the representative of the court to protect the minor. Black v. Wiedeman, 254 S.W.2d 344 at 346 (C.O.A. 1953); Best Practice Methods and Essential Elements for the Child’s Guardian ad Litem, developed by the Administrative Office of the Courts.¹</p> <p>- Whether appointed pursuant to this statute or pursuant to a provision of the Kentucky Unified Juvenile Code, the duties of a guardian ad litem shall be to advocate for the client's best interest in the proceeding through which the guardian ad litem was appointed. Without an appointment, the guardian ad litem shall have no obligation to initiate action or to defend the client in other proceedings. K.R.S. § 387.305(5).</p> <p>- "Court-appointed special advocate volunteer" and "CASA volunteer" mean a person who completes training through and is supervised by a CASA program and appointed by a judge to represent the best interests of dependent, abused, and neglected children in court. K.R.S. § 620.500(5).</p> <p>- CASA volunteers shall be appointed by the presiding judge to represent the best interest of the child, subject to judicial discretion, and only after confirmation from the program director that the CASA volunteer has been properly screened and trained. K.R.S. § 620.505(9).</p>
<p>2. Out of Court - Actions to be Taken: <i>Meet with</i></p>	<p>- A GAL should determine the facts of the case by interviewing the child, Cabinet for Families and Children family services worker, family members, therapist and others as necessary, and by reviewing reports and other</p>

¹ This document offers guidance to GALs but does not purport to be binding.

<p><i>child, undertake an investigation, provide advice and counseling, file pleadings, request services, address special needs, negotiate settlements</i></p>	<p>information. When interviewing a child is impractical (due to age or other circumstances), inspection of the home or place of care and/or an interview with the foster parent or caretaker is an adequate substitute. If these events do not occur, perhaps due to hostility toward the GAL or other safety concerns, the GAL should document the reason the action did not occur. Responsibilities of a Guardian ad Litem, Division of Dependent Children's Services, Administrative Office of the Courts.</p> <ul style="list-style-type: none"> - A GAL should make recommendations for specific and clear orders for evaluation, services, and treatment for the child and the child's family. Responsibilities of a Guardian ad Litem, Division of Dependent Children's Services, Administrative Office of the Courts. - A GAL should file all necessary pleadings and papers, and maintain a complete file with notes rather than relying upon court files. Responsibilities of a Guardian ad Litem, Division of Dependent Children's Services, Administrative Office of the Courts. - Consistent with the Rules of Professional Responsibility, a GAL should identify common interests among the parties and, to the extent possible, promote a cooperative resolution of the matter. Responsibilities of a Guardian ad Litem, Division of Dependent Children's Services, Administrative Office of the Courts. - A GAL should consult, as necessary and consistent with existing rules of confidentiality, with other persons knowledgeable about the child and the child's family to identify the child's interests, current and future placements that would be best for the child, and necessary services for the child. Responsibilities of a Guardian ad Litem, Division of Dependent Children's Services, Administrative Office of the Courts. - Any statute to the contrary notwithstanding, an attorney representing a child in any proceeding under KRS Chapters 600 to 645 or in any adult criminal proceeding shall have full access to all records, including juvenile records, held by law enforcement, courts, social work agencies, or any other record, public or private, relating to that child which the attorney believes is necessary to the representation of that child. K.R.S. § 610.342. - Upon appointment by the court to represent a child, the CASA volunteer shall have access to all information and records pertaining to the child including, but not limited to, the records of the following entities: the cabinet; child-caring facilities operated or licensed by the cabinet; public and private schools; physical and mental health care providers; law enforcement agencies; and other entities deemed appropriate by the court. K.R.S. § 620.520(2). - With court approval, the CASA volunteer may have access to information and records pertaining to the parents or persons exercising custodial control or supervision of the child assigned to the CASA volunteer, including
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	<p>information and records of the court, the cabinet, public and private child care facilities, private and public schools, and the medical and psychological records of the child assigned to the volunteer. The volunteer shall have access to the medical and psychological records of parents when the court determines that the information is essential to the welfare of the child and the court orders it. K.R.S. § 620.520(3).</p> <p>- The CASA volunteer shall:</p> <p>...</p> <p>(b) Submit a written report and recommendation to the judge for consideration in determining the best interest of the child at the dispositional hearing, dispositional review hearings, other hearings as requested by the court, and at least one (1) report every six (6) months for as long as the case is assigned to a CASA volunteer;</p> <p>(c) Monitor the case by visiting the child as often as necessary to observe whether the child's essential needs are being met and whether court orders are actually being carried out;</p> <p>(d) Participate in any treatment planning conferences and reviews involving the child to assess whether reasonable efforts are being made to provide services to the child and family and determine the appropriateness and progress of the child's permanent plan;</p> <p>(e) Advocate a prompt, thorough review of the case if the child's circumstances warrant the attention of the court;</p> <p>(f) Interview parties involved in the case, including interviewing and observing the child;</p> <p>(g) Maintain complete written records about the case;</p> <p>(h) Report any incidents of child or adult abuse or neglect to the appropriate authorities and to the program director;</p> <p>...</p> <p>(j) Return all case-related materials including, but not limited to, written notes, court reports, and agency documents, to the program director upon the request of the program director; and</p> <p>(k) Work with the cabinet representatives to advocate the best interest of the child. K.R.S. § 620.525.</p>
<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</i></p>	<p>- A GAL should meet with and observe the child, assess the child's needs and wishes with regard to the representation and issues in the case, and explain the proceedings to the child according to the child's ability to understand. Responsibilities of a Guardian ad Litem, Division of Dependent Children's Services, Administrative Office of the Courts.</p> <p>- A GAL should appear at all hearings concerning the child. Responsibilities of a Guardian ad Litem, Division of Dependent Children's Services, Administrative Office of the Courts.</p> <p>- A GAL should submit, as ordered, an oral or written report to the court. Responsibilities of a Guardian ad Litem,</p>

<p><i>obligations post-disposition.</i></p>	<p>Division of Dependent Children's Services, Administrative Office of the Courts.</p> <ul style="list-style-type: none"> - A GAL should advocate the child's best interests, but advise the court when the child disagrees with the attorney's assessment of the case. Responsibilities of a Guardian ad Litem, Division of Dependent Children's Services, Administrative Office of the Courts. - The court may, on the motion of the attorney for any party and upon a finding of compelling need, order that the testimony of the child be taken in a room other than the courtroom and be televised by closed circuit equipment in the courtroom to be viewed by the court and the finder of fact in the proceeding. Only the attorneys for the defendant and for the state, persons necessary to operate the equipment, and any person whose presence the court finds would contribute to the welfare and well- being of the child may be present in the room with the child during his testimony. Only the attorneys may question the child. The persons operating the equipment shall be confined to an adjacent room or behind a screen or mirror that permits them to see and hear the child during his testimony, but does not permit the child to see or hear them. The court shall permit the defendant to observe and hear the testimony of the child in person, but shall ensure that the child cannot hear or see the defendant. K.R.S. § 421.350(2). - The court may, on the motion of the attorney for any party and upon a finding of compelling need, order that the testimony of the child be taken outside the courtroom and be recorded for showing in the courtroom before the court and the finder of fact in the proceeding. Only those persons permitted to be present at the taking of testimony under subsection (3) of this section may be present during the taking of the child's testimony, and the persons operating the equipment shall be confined from the child's sight and hearing as provided by subsection (3) of this section. . . . K.R.S. § 421.350(3). - The CASA volunteer shall: <ul style="list-style-type: none"> (a) Attend all court hearings except that the CASA volunteer may be excused by the court or the program director if emergency circumstances arise; (b) Submit a written report and recommendation to the judge for consideration in determining the best interest of the child at the dispositional hearing, dispositional review hearings, other hearings as requested by the court, and at least one (1) report every six (6) months for as long as the case is assigned to a CASA volunteer; ... (e) Advocate a prompt, thorough review of the case if the child's circumstances warrant the attention of the court; K.R.S. § 620.525.
<p>4. <i>Post-Hearing: Review</i></p>	<p>- During the term of the appointment, a GAL should monitor the implementation of court orders and determine</p>

<i>courts order, communicate order to child, and monitor implementation of orders.</i>	whether service(s) ordered by the court for the child or the child's family are being provided in a timely manner and are accomplishing their purpose. If a GAL believes services are not being provided in a timely manner, or if he/she believes the family has failed to take advantage of these services, or if the GAL believes the services are not accomplishing their purpose, he/she should file a motion for appropriate relief. The GAL should assess whether the Cabinet for Families and Children is making reasonable efforts as defined in state and federal law and should challenge the adequacy of those efforts when appropriate. Responsibilities of a Guardian ad Litem , Division of Dependent Children's Services, Administrative Office of the Courts.
5. Appellate Advocacy: <i>Decision to appeal, withdrawal, participation in appeal, conclusion by appeal.</i>	- Any interested party aggrieved by a proceeding under KRS 610.010(2)(d) including the parent, child, guardian ad litem, the cabinet, and the county attorney may appeal from the juvenile court to the Circuit Court as a matter of right in the manner provided in the Kentucky Rules of Civil Procedure. The Circuit Court may order that the child may be removed to a suitable place, pending the appeal, if it appears by affidavit or sworn testimony that the child would be in imminent danger if left with or returned to his or her parents, guardian, or other person party to the appeal. K.R.S. § 620.155.
6. Cessation of Representation: <i>Contacts post representation, if any.</i>	- Representation by the GAL continues so long as the appointing authority retains jurisdiction over the child. Responsibilities of a Guardian ad Litem , Division of Dependent Children's Services, Administrative Office of the Courts. - The CASA volunteer shall: ... (i) Remain actively involved in the case until dismissed from the case by the program director or judge with competent jurisdiction, or when an adoption proceeding is finalized; ... K.R.S. § 620.525.
	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.</i>	- The Legal Training for Dependency, Neglect and Abuse Cases Program prepares attorneys to provide legal representation to abused and neglected children throughout the state. The Administrative Office of the Courts has overseen this training seminar program since 1999. The goal of the program is to produce highly qualified guardians ad litem by offering training sessions, providing educational materials and serving as a comprehensive

<p><i>The child's representative is independent from the court</i></p>	<p>resource. See http://courts.ky.gov/stateprograms/gal.</p> <ul style="list-style-type: none"> - For the purpose of providing an independent, efficient, and thorough representation for children who enter the court system as a result of dependency, abuse, or neglect, there may be established a court-appointed special advocate program by the chief judge of family court or, if none, then by the Chief District Judge. K.R.S. § 620.505(1). - CASA volunteers shall be appointed by the presiding judge to represent the best interest of the child, subject to judicial discretion, and only after confirmation from the program director that the CASA volunteer has been properly screened and trained. K.R.S. § 620.505(9). - Duties [of CASA association]. The association shall: <ul style="list-style-type: none"> (1) Adopt and approve state standards for all CASA volunteers, program directors, and other staff, including, but not limited to, guidelines for training; (2) Adopt and approve the uniform annual data reporting procedures for local programs pursuant to KRS 620.505(2)(h); and (3) Evaluate and make recommendations by February 1 in odd-numbered years to the Supreme Court, the Governor, the Legislative Research Commission, and the cabinet regarding: <ul style="list-style-type: none"> (a) Laws of the Commonwealth and practices, policies, and procedures within the Commonwealth affecting the welfare of children and families; and (b) The effectiveness, or lack thereof, and the reasons therefor, of local CASA volunteers advocating for permanent placement for the children in the Commonwealth. K.R.S. § 620.535.
<p>8. Lawyer Training: <i>Child representative trained, on-going training provided, new attorneys provided senior lawyer mentorship.</i></p>	<ul style="list-style-type: none"> - The Legal Training for Dependency, Neglect and Abuse Cases Program prepares attorneys to provide legal representation to abused and neglected children throughout the state. The Administrative Office of the Courts has overseen this training seminar program since 1999. The goal of the program is to produce highly qualified guardians ad litem by offering training sessions, providing educational materials and serving as a comprehensive resource. See http://courts.ky.gov/stateprograms/gal. <i>There are no explicit training requirements to serve as a GAL.</i> The court-sponsored training program is offered free of charge, and attorneys may attend the “basic” or “advanced” course. - (1) A CASA volunteer shall meet the following minimum requirements: <ul style="list-style-type: none"> (a) Be at least twenty-one (21) years of age; (b) Be of good moral character; (c) Complete a written application providing the names of at least three (3) references;

	<p>(d) Submit to a personal interview with program staff;</p> <p>(e) Submit to a criminal record check; and</p> <p>(f) Submit to a check of the child abuse and adult protection registry maintained by the cabinet.</p> <p>(2) If found acceptable, then the applicant shall receive a minimum of thirty (30) hours of initial training and take an oath of confidentiality administered by a family court judge or, if none, then a District Judge.</p> <p>(3) Training, both initial and in-service, of volunteers shall be provided by the program director or staff following standards adopted pursuant to KRS 620.535. K.R.S. § 620.515.</p>
<p>9. Lawyer Compensation: <i>Adequate and timely compensation, reimbursement provided expenses.</i></p>	<p>- ... The court shall appoint counsel for the child to be paid for by the Finance and Administration Cabinet. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for Health and Family Services, of the order appointing counsel. The fee to be fixed by the court shall not exceed five hundred dollars (\$500); however, if the action has final disposition in the District Court, the fee shall not exceed two hundred fifty dollars (\$250)... K.R.S. § 620.100(1)(a).</p> <p>- The court shall allow the guardian ad litem a reasonable fee for services, to be taxed as costs. Fees allowed to counsel for children, indigent parents or non-parental custodians of children in dependency, abuse or neglect cases, and to counsel for children or indigent parents in parental rights termination cases, under the Juvenile Code, shall not exceed the amounts specified in KRS 620.100 or KRS 625.080. Counsel fee awards shall not exceed the statutory maximum, regardless of the number of persons represented in a proceeding by the counsel. K.C.R. 17.03(5).</p>
<p>10. Caseload Levels: <i>Caseloads are of a manageable size.</i></p>	<p><i>No explicit legal authority or requirement.</i></p>