

VERMONT	Legal Authority
	GENERAL DUTIES AND ACTIVITIES OF THE CHILD'S LEGAL REPRESENTATIVE
<p><b>1. General Duties:</b>  <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>- Attorney and guardian ad litem for child</p> <p>(a) The court shall appoint an attorney for a child who is a party to a proceeding brought under the juvenile judicial proceedings chapters.</p> <p>(b) The court shall appoint a guardian ad litem for a child who is a party to a proceeding brought under the juvenile judicial proceedings chapters. . . .The guardian ad litem appointed under this section shall not be a party to that proceeding or an employee or representative of such party. <a href="#">33 VT. STAT. ANN. § 5112.</a></p> <p>Party' includes the child with respect to whom the proceedings are brought. <a href="#">33 VT. STAT. ANN. § 5102(22)(A).</a></p> <p>- Representation by Attorneys and Guardians Ad Litem of Minors</p> <p>(a) Applicability. -- This rule applies to all proceedings under <a href="#">33 V.S.A. Chapters 51, 52 and 53</a> (Juvenile Judicial Proceedings) which are held within the family court and to any proceeding under Article 1 of Subchapter 2 of <a href="#">14 V.S.A. Chapter 111</a> (Guardians of Minors) in which the probate court, in its discretion, seeks to appoint a guardian ad litem for a minor; and to any proceeding under <a href="#">18 V.S.A. Chapters 179 and 181</a> (Involuntary Treatment), and <a href="#">Chapter 206</a> (Care for Mentally Retarded Persons), involving a minor.</p> <p>(b) Appointment of Counsel. -- In proceedings under <a href="#">33 V.S.A. Chapters 51, 52 and 53</a>, the court shall assign counsel pursuant to Administrative Order No. 32 to represent the child unless counsel has been retained by that person.</p> <p>(c) Appointment of Guardian Ad Litem.</p> <p>(1) Proceedings Under <a href="#">33 V.S.A. Chapters 51, 52 and 53</a>-- In all proceedings under <a href="#">33 V.S.A. Chapters 51, 52 and 53</a>, appointment of a guardian ad litem for the child shall be governed by <a href="#">Family Court Rules 1, 2 and 3.</a></p> <p>... <a href="#">VT. R. FAM. PROC 6.</a></p> <p>- (c) Preliminary Hearing. -- At the temporary care hearing, or if no temporary care hearing is held, at or within a reasonable time after the filing of a petition, a preliminary hearing shall be held. Counsel shall be assigned at the temporary care hearing or prior to the preliminary hearing. Upon order of the court, a guardian ad litem other than a</p>

	parent may be appointed for the child. If not assigned prior to the hearing, a guardian ad litem shall be appointed for the child at the hearing. A party's denial shall be entered to the allegations of the petition unless that party enters an admission. <a href="#">VT. R. FAM. PROC 2.</a>
<b>2. Out of Court - Actions to be Taken:</b> <i>Meet with child, undertake an investigation, provide advice and counseling, file pleadings, request services, address special needs, negotiate settlements.</i>	<p>- (e) Role of Guardian Ad Litem.</p> <p>(1) In General. -- The guardian ad litem shall act as an independent parental advisor and advocate whose goal shall be to safeguard the ward's best interests and rights.</p> <p>(2) Duties Generally. -- Each guardian ad litem shall meet with the ward, the ward's attorney, and others who may be necessary for an understanding of the issues in the proceeding. The guardian ad litem shall be familiar with all pertinent pleadings, reports, and other documents. The guardian ad litem shall discuss with the ward and the ward's attorney all options which may be presented to the court, and shall assist the attorney in advising the ward regarding those options.</p> <p>...</p> <p>(5) Reports Prepared by Guardians Ad Litem. -- If the guardian ad litem prepares a written report, it shall be submitted to the court only by agreement of the parties or pursuant to the Vermont Rules of Evidence and subject to paragraph (4) of this subdivision.</p> <p>(f) Record of Proceedings. -- The court shall make a verbatim record of all proceedings under this rule. <a href="#">VT. R. FAM. PROC 6.</a></p>
<b>3. In Court - Active Participation in Hearings:</b> <i>Appear in court, explain proceedings to client, present evidence, ensure child is present, expand scope of representation into other needed areas,</i>	<p>- (e) (3) Courtroom Role. -- The guardian ad litem shall not be asked for nor provide an opinion on the merits to the court at any contested merits hearings held under <a href="#">Chapters 52 and 53 of Title 33, Vermont Statutes Annotated.</a> The guardian ad litem may, at a disposition or temporary care hearing held under <a href="#">Chapters 52 and 53 of Title 33, Vermont Statutes Annotated.</a>, state his or her position or opinion and the reasons therefor. In any other proceeding governed by this rule, the guardian ad litem may, at any phase of the proceeding, state his or her position or opinion and the reasons therefor, which reasons shall be based upon the evidence which is in the record. At any hearing the court may inquire, subject to the provisions of this rule, whether the guardian ad litem is satisfied with the representation of the ward by the attorney, including but not limited to the presentation of evidence made by the ward's attorney. If the guardian ad litem at any time is not satisfied that the ward's rights and interests are being</p>

*and undertake certain obligations post-disposition.*

effectively represented, the guardian ad litem shall so advise the court in open court, orally or in writing. [VT. R. FAM. PROC 6.](#)

- (e) (4) Guardian Ad Litem as Witness. -- A guardian ad litem may be called as a witness only when that person's testimony would be directly probative of the child's best interest, and no other persons could be employed or subpoenaed to testify on the same subject matter. When a guardian ad litem is to be called as a witness, the court may appoint a new guardian ad litem. [VT. R. FAM. PROC 6.](#)

- (d) Settlements, Compromises and Waivers.

(1) In General. -- In any proceeding in which a guardian ad litem has been appointed pursuant to the Family Court Rules, the court shall review all settlements, compromises, waivers of evidentiary, statutory, constitutional or common-law privileges, stipulations and other decisions affecting the substantial rights or interests of the ward.

(2) Disagreements Between Ward and Guardian Ad Litem. -- When a ward and a ward's guardian ad litem disagree as to a matter governed by subdivision (d)(1) of this rule, the attorney assigned to represent the ward shall promptly and fully inform the court of the position of the guardian ad litem. The guardian ad litem also shall be afforded the right to be heard but shall not disclose privileged information or information that has not been admitted into evidence. The court may, in its discretion, appoint additional counsel for the guardian ad litem.

(3) Waivers of Constitutional and Other Important Rights. -- When a ward or a guardian ad litem wishes to waive a constitutional right of the ward, enter an admission to the merits of a proceeding, or waive patient's privilege under [V.R.E. 503](#), the court shall not accept the proposed waiver or admission unless the court determines, after opportunity to be heard, each of the following:

(A) that there is a factual and legal basis for the waiver or admission;

(B) that the attorney has investigated the relevant facts and law, consulted with the client and guardian ad litem, and the guardian ad litem has consulted with the ward;

(C) that the waiver or admission is in the best interest of the ward; and

(D) that the waiver or admission is being entered into knowingly and voluntarily by the ward and also by the guardian ad litem, except as set forth in (4) below. [VT. R. FAM. PROC 6.](#)

<p><b>4. <i>Post-Hearing:</i></b> Review courts order, communicate order to child, and monitor implementation of orders.</p>	<p><i>No explicit legal authority or requirement.</i></p>
<p><b>5. <i>Appellate Advocacy:</i></b> Decision to appeal, withdrawal, participation in appeal, conclusion by appeal.</p>	<p><i>No explicit legal authority or requirement.</i></p>
<p><b>6. <i>Cessation of Representation:</i></b> Contacts post representation, if any.</p>	<p>- (f) Withdrawal.</p> <p>(1) In General. -- Except as may be otherwise agreed or ordered pursuant to a limited appearance under subdivision (h):</p> <p>...</p> <p>(B) Other Actions. -- In any other action, an attorney who has entered an appearance may withdraw only with leave of court granted as provided in paragraph (2) or (3) of this subdivision.</p> <p>(2) Leave to Withdraw without Hearing. -- The court shall grant leave to withdraw on motion without notice and hearing, (A) after entry of final judgment and the expiration of the time for appeal therefrom in any action where withdrawal is not automatic under subparagraph (1)(A) of this subdivision; or (B), except in any action where a final hearing has been scheduled, when a represented party files a written pro se appearance pursuant to paragraph (4) of subdivision (a) or another attorney enters an appearance for such a party. The court may grant appointed counsel leave to withdraw on motion without notice and hearing only when the ground of withdrawal is a conflict of interest.</p> <p>(3) Leave to Withdraw after Hearing. -- In any case where withdrawal is not automatic under subparagraph (1)(A) of this subdivision and leave to withdraw may not be granted under paragraph (2), the court shall grant leave to withdraw only on motion, after notice and hearing, for good cause shown, and on such terms as the court may order. <a href="#">VT. R. FAM. PROC 15.</a></p> <p>- (c) (3) Selection, Replacement, Discharge. -- The guardian ad litem shall be selected and replaced as appropriate by the court in its discretion. <a href="#">VT. R. FAM. PROC 6.</a></p>

	Organizational and Administrative Supports for the Child Representative
<b>7. General Representation Rules:</b> <i>Administrative structure is clear for appointment, support and accountability of the CR. The child's representative is independent from the court</i>	<p>In addition, attorneys from the public defender's office are appointed to represent the child clients. See <a href="#">VT JUV LAW &amp; PRAC. MANUAL, THE OFFICE OF THE DEFENDER GENERAL (June 2010)</a>.</p> <p>The Office of the Court Administrator runs the GAL program.</p>
<b>8. Lawyer Training:</b> <i>Child representative trained, on-going training provided, new attorneys provided senior lawyer mentorship.</i>	<p>The <a href="#">Office of the Defender General</a> provides training to lawyers who represent children in dependency cases, though it does not appear that any particular training program is required before receiving appointments.</p> <p>- <a href="#">GAL Program Screening Policies</a>. Applicants to the GAL Program must:</p> <p>4. Complete Pre-Service Training</p> <p>All applicants must have 32 hours of approved pre-service training at no cost to the applicant. Training schedules and locations will be determined by the GAL Program Office. Applicants who complete training to the satisfaction of the GAL Program will be awarded a certificate of training completion and will be accepted to the GAL Program.</p>
<b>9. Lawyer Compensation:</b> <i>Adequate and timely compensation, reimbursement provided expenses.</i>	<p>-Attorneys for children are either on staff of the <a href="#">Office of the Defender General</a> or have a contract with that office.</p> <p>- From the <a href="#">GAL Program website</a>:</p> <p>This is a volunteer program. We reimburse expenses for mileage and for long distance phone calls directly related to GAL case assignments.</p>
<b>10. Caseload Levels:</b> <i>Caseloads are of a manageable size.</i>	<p><i>No explicit legal authority or requirement.</i></p>