

Missouri	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
	<p>- In every case involving an abused or neglected child which results in a judicial proceeding, the judge shall appoint a guardian ad litem to appear for and represent a child who is the subject of proceedings pursuant to sections 210.110 to 210.165, sections 210.700 to 210.760, sections 211.442 to 211.487, or sections 453.005 to 453.170. MO ST § 210.160(1).</p> <p>- The judge in making appointments pursuant to this section shall give preference to persons who served as guardian ad litem for the child in the earlier proceeding, unless there is a reason on the record for not giving such preference. MO ST § 210.160(3).</p> <p>- The court may designate volunteer advocates, who may or may not be attorneys licensed to practice law, to assist in the performance of the guardian ad litem duties for the court. Nonattorney volunteer advocates shall not provide legal representation.. MO ST § 210.160(5).</p> <p>- 1. In all actions to terminate parental rights, if not previously appointed pursuant to section 210.160, a guardian ad litem shall be appointed for the child as soon as practicable after the filing of the petition.</p> <p>...</p> <p>3. The guardian ad litem shall, during all stages of the proceedings:</p> <p>(1) Be the legal representative of the child, and may examine, cross-examine, subpoena witnesses and offer testimony. The guardian ad litem may also initiate an appeal of any disposition that he determines to be adverse to the best interests of the child;</p> <p>(2) Be an advocate for the child during the dispositional hearing and aid in securing a permanent placement plan for the child. To ascertain the child's wishes, feelings, attachments, and attitudes, he shall conduct all necessary interviews with persons, other than the parent, having contact with or knowledge of the child and, if appropriate, with the child;</p> <p>(3) Protect the rights, interest and welfare of a minor or incompetent parent by exercising the powers and duties enumerated in subdivisions (1) and (2) of this subsection.</p> <p>MO ST § 211.462.</p> <p>- A guardian ad litem, whether a lawyer or a volunteer, shall be guided by the best interests of the child and shall exercise independent judgment on behalf of the child in all matters. S.Ct. MO, Standards for GAL 2.0.</p> <p>- The court shall assure that the guardian ad litem maintains independent representation of the best interests of the child. The court shall require the guardian ad litem to perform the guardian ad litem duties faithfully and, upon failure to do so, shall discharge the guardian ad litem and appoint another. S.Ct. MO, Standards for GAL 3.0.</p>

	<ul style="list-style-type: none"> - If the court appoints a court appointed special advocate volunteer, the services of a lawyer shall be obtained by the volunteer program supporting the volunteer when the volunteer has need for legal advice and assistance. S.Ct. MO, Standards for GAL 4.0. - If it is determined that the recommendations of the guardian ad litem are not in agreement with the wishes of the child, the court shall be informed by the guardian ad litem. Whenever the court believes that it is appropriate, the court shall discharge the guardian ad litem and appoint another. S.Ct. MO, Standards for GAL 13.0.
<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 settlements.</i></p>	<ul style="list-style-type: none"> - The guardian ad litem shall be provided with all reports relevant to the case made to or by any agency or person, shall have access to all records of such agencies or persons relating to the child or such child's family members or placements of the child, and upon appointment by the court to a case, shall be informed of and have the right to attend any and all family support team meetings involving the child. Employees of the division, officers of the court, and employees of any agency involved shall fully inform the guardian ad litem of all aspects of the case of which they have knowledge or belief. MO ST § 210.160(2). - The guardian ad litem shall not be unduly restricted in access to the child by any agency or person. The guardian ad litem should meet with the child in the child's placement as often as necessary to determine that the child is safe and to ascertain and represent the child's best interests. S.Ct. MO, Standards for GAL 5.0. - Unless otherwise provided by law, the guardian ad litem shall be provided, upon request, with all reports relevant to the case made to or by any agency or any person and shall have access to all relevant records of such agencies or persons relating to the child or the child's family members or placements of the child. S.Ct. MO, Standards for GAL 6.0. - A guardian ad litem shall observe all statutes, rules and regulations concerning confidentiality. A guardian ad litem shall not disclose information or participate in the disclosure of information relating to an appointed case to any person who is not a party to the case, except as necessary to perform the guardian ad litem duties or as may be specifically provided by law. S.Ct. MO, Standards for GAL 7.0. - The court may designate volunteer advocates, . . . shall have access to all records of such agencies or persons relating to the child or such child's family members or placements of the child, and upon designation by the court to a case, shall be informed of and have the right to attend any and all family support team meetings involving the child.. MO ST § 210.160(5).

<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>	<ul style="list-style-type: none"> - The guardian ad litem will review the progress of a child's case through the court process, and advocate for timely hearings. S.Ct. MO, Standards for GAL 8.0. - The guardian ad litem will explain, when appropriate, the court process and the role of the guardian ad litem to the child. The guardian ad litem will assure that the child is informed of the purpose of each court proceeding. The guardian ad litem will assure the child that the child's opinions and feelings will be made known to the court even when not consistent with the recommendations of the guardian ad litem. S.Ct. MO, Standards for GAL 9.0. - The guardian ad litem shall participate in the development and negotiation of any plans, orders and staffings that affect the best interests of the child. The guardian ad litem shall monitor implementation of service plans and court orders to determine whether services ordered by the court are being provided in a timely manner. S.Ct. MO, Standards for GAL 10.0. - The guardian ad litem shall, during all stages of the proceedings: <ul style="list-style-type: none"> (1) Be the legal representative of the child, and may examine, cross-examine, subpoena witnesses and offer testimony. The guardian ad litem may also initiate an appeal of any disposition that he determines to be adverse to the best interests of the child; (2) Be an advocate for the child during the dispositional hearing and aid in securing a permanent placement plan for the child. To ascertain the child's wishes, feelings, attachments, and attitudes, he shall conduct all necessary interviews with persons, other than the parent, having contact with or knowledge of the child and, if appropriate, with the child; (3) Protect the rights, interest and welfare of a minor or incompetent parent by exercising the powers and duties enumerated in subdivisions (1) and (2) of this subsection. MO ST § 211.462(3). - The guardian ad litem shall appear at all proceedings to represent the child's best interests. As authorized by law the guardian ad litem may present evidence and ensure that, where appropriate, witnesses are called and examined, including, but not limited to, foster parents and psychiatric, psychological, medical, or other expert witnesses. In the event any new developments or significant changes in the child's circumstances occur during the pendency of the court process, the guardian ad litem may cause appropriate pleadings to be filed. S.Ct. MO, Standards for GAL 11.0. - The guardian ad litem in a pending case shall protect the interests of the child who is a witness in any judicial proceeding relating to the case in which the guardian ad litem has been appointed. The guardian ad litem shall explain, when appropriate, the court proceedings and process to the child. S.Ct. MO, Standards for GAL 12.0.
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	<p>- The guardian ad litem shall present recommendations to the court on the basis of the evidence presented and provide reasons in support of these recommendations. When authorized by law, the guardian ad litem may offer evidence to the court. If the guardian ad litem testifies, the guardian ad litem shall be duly sworn as a witness and be subject to cross-examination. S.Ct. MO, Standards for GAL 14.0.</p> <p>- The guardian ad litem should request orders that are clear, specific, and, where appropriate, include a time line for the assessment, services, placement, treatment and evaluation of the child and the child's family. S.Ct. MO, Standards for GAL 15.0.</p>
<p>4. <i>Post-Hearing:</i> Review courts order, communicate order to child, and monitor implementation of orders.</p>	<p>- The guardian ad litem will review the progress of a child's case through the court process, and advocate for timely hearings. S.Ct. MO, Standards for GAL 8.0.</p> <p>- The guardian ad litem shall participate in the development and negotiation of any plans, orders and staffings that affect the best interests of the child. The guardian ad litem shall monitor implementation of service plans and court orders to determine whether services ordered by the court are being provided in a timely manner. S.Ct. MO, Standards for GAL 10.0.</p> <p>- The guardian ad litem should request orders that are clear, specific, and, where appropriate, include a time line for the assessment, services, placement, treatment and evaluation of the child and the child's family. S.Ct. MO, Standards for GAL 15.0.</p>
<p>5. <i>Appellate Advocacy:</i> Decision to appeal, withdrawal, participation in appeal, conclusion by appeal.</p>	<p>MO ST § 453.011 governs appeals from dependency cases.</p> <p>A person for whom counsel is appointed shall be represented at every stage of the termination of parental rights proceeding, from his or her initial appearance after the filing of the termination of parental rights petition is filed through appeal, including ancillary matters appropriate to the proceedings. 13 MO Code of State Regulations 40-30.020(1).</p>
<p>6. <i>Cessation of Representation:</i> Contacts post representation, if any.</p>	<p>- If it is determined that the recommendations of the guardian ad litem are not in agreement with the wishes of the child, the court shall be informed by the guardian ad litem. Whenever the court believes that it is appropriate, the court shall discharge the guardian ad litem and appoint another. S.Ct. MO, Standards for GAL 13.0.</p> <p>- The appointing judge shall require the guardian ad litem to faithfully discharge such guardian ad litem's duties, and upon failure to do so shall discharge such guardian ad litem and appoint another. The judge in making appointments pursuant to this section shall give preference to persons who served as guardian ad litem for the child in the earlier proceeding, unless there is a reason on the record for not giving such preference. MO ST §</p>

	<p>210.160(3).</p> <p>The guardian ad litem shall be appointed not later than the first proceeding at which a guardian ad litem is required by law and shall remain involved until the matter in which the guardian in ad litem is appointed is concluded or as otherwise ordered by the court. S.Ct. MO, Standards for GAL 1.0.</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>- Only a lawyer licensed by the Supreme Court of Missouri and, when authorized by law, a court appointed special advocate volunteer sworn in as an officer of the court shall be appointed to act as a guardian ad litem for a child. The guardian ad litem shall be appointed not later than the first proceeding at which a guardian ad litem is required by law and shall remain involved until the matter in which the guardian in ad litem is appointed is concluded or as otherwise ordered by the court. S.Ct. MO, Standards for GAL 1.0.</p> <p>- Recognizing that Missouri children have a right to adequate and effective representation in child welfare cases, the September 17, 1996, Missouri supreme court standards for representation by guardians ad litem shall be adopted statewide and each circuit shall devise a plan for implementation which takes into account the individual needs of their circuit as well as the negative impact that excessive caseloads have upon effectiveness of counsel. These plans shall be approved by the supreme court en banc and fully implemented by July 1, 2011. MO ST § 484.350.</p> <p>Some examples of the circuits' implementation plans are available: 7th Cir.; 11th Cir.; 22nd Cir.; 25th Cir.</p>
<p>8. Lawyer Training: <i>Child representative trained, on-going training provided, new attorneys provided senior lawyer mentorship.</i></p>	<p>- Any person appointed to perform guardian ad litem duties shall have completed a training program in permanency planning . . . MO ST § 210.160(6).</p> <p>- Only a lawyer licensed by the Supreme Court of Missouri and, when authorized by law, a court appointed special advocate volunteer sworn in as an officer of the court shall be appointed to act as a guardian ad litem for a child. S.Ct. MO, Standards for GAL 1.0.</p> <p>- No person shall be appointed as guardian ad litem without first completing twelve hours of specialized training. Thereafter, to continue to be appointed as a guardian ad litem a person shall complete six hours of specialized</p>

	<p>training annually. Completion of the training hours shall be evidenced by an affidavit filed with the appointing court by July 31 of each year. The court may accept, in lieu of the initial twelve hours of specialized training, an equivalent number of hours experience as a guardian ad litem prior to the effective date of the adoption of these standards.</p> <p>The specialized training shall include, but is not limited to, the following topics:</p> <ol style="list-style-type: none"> 1. Dynamics of child abuse and neglect issues 2. Factors to consider in the determining the best interest of the child, including permanency planning 3. Inter-relationships between family system, legal process and the child welfare system 4. Mediation and negotiation skills 5. Federal, state and local legislation and case law affecting children 6. Cultural and ethnic diversity and gender-specific issues 7. Family and domestic violence issues 8. Available community resources and services 9. Child development issues 10. Guardian ad litem standards <p>Programs providing guardian ad litem training to meet the provisions of this standard shall be accredited by the Supreme Court of Missouri's judicial education committee. S.Ct. MO, Standards for GAL 16.0.</p>
<p>9. Lawyer Compensation: <i>Adequate and timely compensation, reimbursement provided expenses.</i></p>	<p>- The guardian ad litem may be awarded a reasonable fee for such services to be set by the court. The court, in its discretion, may award such fees as a judgment to be paid by any party to the proceedings or from public funds. However, no fees as a judgment shall be taxed against a party or parties who have not been found to have abused or neglected a child or children. Such an award of guardian fees shall constitute a final judgment in favor of the guardian ad litem. Such final judgment shall be enforceable against the parties in accordance with chapter 513. MO ST § 210.160(4).</p> <p>- Court costs shall be paid by the county in which the proceeding is instituted, except that the court may require the agency or person having or receiving legal or actual custody to pay the costs. MO ST § 211.462(4).</p> <p>- (1) If permanency for the children requires parental rights be terminated to enable children to be permanently placed or adopted, the children's parents shall be provided representation in such cases which shall include counsel, investigative, expert and other services to ensure adequate representation. This includes the appointment of a guardian ad litem for the children. Representation shall be provided for financially eligible persons. A person is considered financially eligible when it appears from all of the circumstances of the case including the person's income, the number of individuals dependent on the person for support, and the person's financial assets and</p>

liabilities, that the person does not have the means available to obtain counsel and is indigent. Upon motion and/or application by any party, the court in which the case is pending shall have the authority to determine, based on a finding of indigency, whether the Division of Family Services should pay for counsel for a particular parent. The motion and/or application for and determination of indigency may be made at any time by the court. If the court finds the parent is not indigent, the Division of Family Services shall discontinue paying for counsel on behalf of such parent. Counsel furnishing representation under the plan shall be selected from a panel of attorneys designated or approved by the court, or from a bar association or other organization of attorneys willing to furnish representation of parents in termination of parental rights cases. A person for whom counsel is appointed shall be represented at every stage of the termination of parental rights proceeding, from his or her initial appearance after the filing of the termination of parental rights petition is filed through appeal, including ancillary matters appropriate to the proceedings. In the interest of justice, one counsel may be substituted for another at any stage of the proceedings.

(2) After the filing of a termination of parental rights petition pursuant to [Chapter 211, RSMo](#), or if a combined termination of parental rights and transfer of custody and/or adoption petition was filed, as permitted by [Chapter 453, RSMo](#), then after the initiation of the termination of parental rights phase of that case payment for attorney representation shall be made as provided below:

(A) Hourly Rate. Any attorney shall, at the conclusion of the representation (i.e., the conclusion of trial or at the conclusion of any appeal, or both at the conclusion of trial and at the conclusion of appeal), be compensated at a rate not exceeding one hundred dollars (\$100) per hour. Attorneys may be reimbursed, at the conclusion of the representation (i.e., the conclusion of trial or at the conclusion of any appeal, or both at the conclusion of trial and at the conclusion of appeal), for expenses reasonably incurred, including the costs of transcripts authorized by the court except that if a termination of parental rights petition was filed in a separate proceeding and a duplicative termination of parental rights petition or the transfer of custody and/or adoption petition or the combined termination of parental rights and transfer of custody and/or adoption petition was filed prior to the court's ordering of termination of parental rights in that separate proceeding, reimbursement for attorneys fees and/or expenses will not be reimbursed if those fees and/or expenses are duplicative of fees and/or expenses reimbursed in the separate termination of parental rights proceeding;

(B) Maximum Amounts. The compensation to be paid for representation at trial shall not exceed one thousand dollars (\$1,000) for uncontested matters and seven thousand dollars (\$7,000) for contested matters. For representation in an appellate court, the compensation shall not exceed three thousand five hundred dollars (\$3,500) at one hundred dollars (\$100) per hour;

(C) Cost of Extraordinary Expenses. The cost of extraordinary expenses must be approved in advance by the court but shall be reimbursed at the conclusion of the representation (i.e., the conclusion of trial or at the conclusion of any appeal, or both at the conclusion of trial and at the conclusion of appeal). Such extraordinary expenses include:

1. Psychiatric/psychological/medical evaluations;

	<p>2. Expert witnesses; and</p> <p>3. Deposition of witnesses;</p> <p>(D) Waiving Maximum Amounts. Payment in excess of any maximum amount provided in subsection (2)(B) may be made for extended or complex representation whenever the court in which the representation was rendered certifies that the amount of the excess payment is necessary to provide fair compensation and the payment is approved by the court. At any time an attorney believes that the cost of representation will surpass the limits provided for in subsection (2)(B), they must provide notice to the Division of Family Services, that they may exceed the current maximum fee;</p> <p>(E) Disclosure of Fees. The amounts paid to particular attorneys or groups of attorneys shall be available as public records. However, the identity of parties, including parents, children, foster parents and anyone whose confidentiality is established in Chapter 210 or 211, RSMo, shall not be publicly available;</p> <p>(F) Filing Claims. A separate claim for compensation and reimbursement shall be made to the Division of Family Services for each case. Each claim shall be supported by a sworn written statement specifying the time expended, services rendered, and expenses incurred while the case was pending before the court, and the compensation and reimbursement applied for or received in the same case from any other source. The Division of Family Services may agree to the claim, may negotiate the claim with the applying attorney, or may deny the claim in which case the attorney shall apply to the court to determine the compensation and reimbursement to be paid to the attorney;</p> <p>(G) New Trials. For purposes of compensation and other payments authorized by this section, an order by a trial or appellate court granting a new trial shall be deemed to initiate a new case;</p> <p>(H) Receipt of Other Payments. Whenever the Division of Family Services or the court finds that funds are available for payment from or on behalf of a person furnished representation, it may authorize or direct that such funds be paid to the appointed attorney. 13 MO Code of State Regulations 40-30.020.</p> <p>The court may designate volunteer advocates, who may or may not be attorneys licensed to practice law, to assist in the performance of the guardian ad litem duties for the court. . . . Any such designated person shall receive no compensation from public funds. This shall not preclude reimbursement for reasonable expenses. MO ST § 210.160(5).</p>
<p>10. Caseload Levels: <i>Caseloads are of a manageable size.</i></p>	<p><i>There are no explicit caseload standards.</i></p>