

ARIZONA	Legal Authority
	GENERAL DUTIES AND ACTIVITIES OF THE CHILD’S LEGAL REPRESENTATIVE
<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>[Guardian ad litem or special advocate:] -"Guardian ad litem" means a person appointed by the court to protect the interest of a minor or an incompetent in a particular case before the court. A.R.S. §8-531(7).</p> <p>-In all juvenile court proceedings in which the dependency petition includes an allegation that the juvenile is abused or neglected, the court shall appoint a guardian ad litem to protect the juvenile's best interests. This guardian may be an attorney or a court appointed special advocate. A.R.S. §8-221(I).</p> <p>-The guardian ad litem or attorney for a juvenile shall meet with the juvenile before the preliminary protective hearing, if possible, or within fourteen days after the preliminary protective hearing. The guardian ad litem or attorney for the juvenile also shall meet with the juvenile before all substantive hearings. Upon a showing of extraordinary circumstances, the judge may modify this requirement for any substantive hearing. A.R.S. §8-221(J).</p> <p>- The presiding judge of the juvenile court in each county may appoint an adult as a special advocate to be the guardian ad litem for a child who is the subject of a dependency action. The court shall make this appointment at the earliest possible stage in the proceedings. A child, through the child's guardian ad litem or attorney, has the right to be informed of, to be present at and to be heard in any proceeding involving dependency or termination of parental rights. A.R.S. §8-522 (A).</p> <p>-A special advocate shall have access to all documents and information regarding the child and the child's family without obtaining prior approval of the child, the child's family or the court. All records and information the special advocate acquires, reviews or produces may only be disclosed as provided for in section 41-1959. A.R.S. §8-522(F).</p> <p>- The special advocate shall receive notice of all hearings, staffings, investigations and other matters concerning the child. The special advocate shall have a right to participate in the formulation of any agreement, stipulation or case plan entered into regarding the child. A.R.S. §8-522(G).</p> <p>-A special advocate is immune from civil or criminal liability for the advocate's acts or omissions in connection with the authorized responsibilities the special advocate performs in good faith. A.R.S. §8-522(H).</p> <p>[Guardian ad litem is replaced with the title “best interests attorney” in the Arizona Rules of Family Procedure.]</p> <p>- The court may appoint one or more of the following:</p> <ol style="list-style-type: none"> a best interests attorney; a child's attorney; or a court-appointed advisor. Ariz. Fam. Law Proc. R. 10(A)(1). <p>-The order of appointment must clearly set forth the terms of the appointment, including the reasons for and duration of the appointment, rights of access as provided under this paragraph and applicable terms of compensation. Ariz. Fam. Law Proc. R. 10(A)(3).</p> <p>-...[T]he court shall issue an order of access at the time of an order of appointment, authorizing the child’s attorney, best interests</p>

	attorney, or court advisor to have immediate access to the child and any otherwise privileged or confidential information relating to the child. Ariz. Fam. Law Proc. R. 10(D)(1).
<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>	<p>-Each attorney shall be responsible for keeping advised of the status of cases in which that attorney has appeared, or their positions on the calendars of the court and of any assignments for hearing or argument.... Ariz. Fam. Law Proc. R. 9(C).</p> <p>-The guardian ad litem or attorney for a juvenile shall meet with the juvenile before the preliminary protective hearing, if possible, or within fourteen days after the preliminary protective hearing. The guardian ad litem or attorney for the juvenile also shall meet with the juvenile before all substantive hearings. Upon a showing of extraordinary circumstances, the judge may modify this requirement for any substantive hearing. A.R.S. §8-221(J).</p> <p>-A special advocate shall:</p> <ol style="list-style-type: none"> (1) Meet with the child; (2) Advocate for the child's safety as the first priority; (3) Gather and provide independent, factual information to aid the court in making its decision regarding what is in the child's best interest and in determining if reasonable efforts have been made to prevent removal of the child from the child's home or to reunite the child with the child's family; (4) Provide advocacy to ensure that appropriate case planning and services are provided for the child; (5) Perform other duties prescribed by the supreme court by rule. A.R.S. §8-522(E). <p>-In addition to services prescribed elsewhere in these rules, the court may consider the services set forth in this rule, if available, in a family law case.</p> <p>A. Private Mental Health Services. In addition to conciliation services, the court may order parties to engage in private mental health services, including, but not limited to, counseling, custody evaluations, mental health evaluations, Parenting Coordinator services, therapeutic supervision of parenting time, and other therapeutic interventions.</p> <p>B. Substance Abuse Screening and Testing in Cases Where Custody or Parenting Time Are at Issue. Upon an allegation or showing that a party has abused drugs or alcohol, including prescription medication, the court may order substance abuse screening and random testing of that party. The court shall designate the frequency of testing and apportion responsibility for payment of screening and testing.</p> <p>C. Parent Education. The court shall order the parties to engage in parent education as required by Arizona law. The court may also order supplemental or additional education in appropriate cases, such as parenting skills classes and parental conflict resolution classes.</p> <p>D. Supervised Exchange; Supervised Parenting Time; Therapeutic Supervision. The court shall take reasonable measures to protect the parties and their children from harm, including, but not limited to, supervised exchanges of parenting time, supervised parenting time, and therapeutic supervised parenting time.</p> <p>E. Family Violence Prevention Services; Domestic Violence Shelters; Advocacy Services. Goals of the court include prevention of domestic violence and protection of parties and children from domestic violence. In pursuit of these goals, the court may implement family violence prevention services, including, but not limited to, family violence prevention centers and victim advocacy services. If the court finds evidence of domestic violence in cases, the court may refer parties to services that the court deems appropriate for victims and batterers.</p> <p>F. Batterer Intervention and Prevention Programs. If the court finds evidence that a party has committed domestic violence or may commit domestic violence in the future, the court may order the person to attend a Batterer Intervention and Prevention Program approved by the Arizona Department of Health Services. A list of providers is available at the Arizona Department of Health Services website. Ariz.</p>

	Fam. Law Proc. R. 95.
<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>- The court shall hold a preliminary protective hearing to review the taking into temporary custody of a child pursuant to section 8-821 not fewer than five days nor more than seven days after the child is taken into custody, excluding Saturdays, Sundays and holidays. If clearly necessary to prevent abuse or neglect, to preserve the rights of a party or for other good cause shown, the court may grant one continuance that does not exceed five days. The following persons shall be present at the preliminary protective hearing:</p> <ol style="list-style-type: none"> 1. The child's parents or guardian, unless they cannot be located or they fail to appear in response to the notice. 2. Counsel for the parents if one has been requested or retained. 3. The child's guardian ad litem or attorney. 4. The protective services worker. 5. Counsel for the protective services worker. A.R.S. §8-824 (A)-(B). <p>-Except as otherwise provided pursuant to this section, court proceedings relating to dependent children, permanent guardianship and termination of parental rights are open to the public. At the first hearing in any dependency, permanent guardianship or termination of parental rights proceeding, the court shall ask the parties if there are any reasons the proceeding should be closed. For good cause shown, the court may order any proceeding to be closed to the public. In considering whether to close the proceeding to the public, the court shall consider:</p> <ol style="list-style-type: none"> 1. Whether doing so is in the child's best interests. 2. Whether an open proceeding would endanger the child's physical or emotional well-being or the safety of any other person. 3. The privacy rights of the child, the child's siblings, parents, guardians and caregivers and any other person whose privacy rights the court determines need protection. 4. Whether all parties have agreed to allow the proceeding to be open. 5. If the child is at least twelve years of age and a party to the proceeding, the child's wishes. 6. Whether an open proceeding could cause specific material harm to a criminal investigation. A.R.S. 8-525(A)-(B). <p>- The court may, in its discretion, exclude minor children from any proceeding if the presence of a minor child may not be in the child's best interest or may be disruptive or distracting to the proceeding. The presence of a minor child affected by a family law proceeding is generally not in the child's best interest and such child shall not be present during any proceeding involving said child, or the parents of said child, without prior permission of the court. Ariz. Fam. Law Proc. R. 11.</p> <p>- On motion of any party, or its own motion, the court may, in its discretion, conduct an <i>in camera</i> interview with a minor child who is the subject of a custody or parenting time dispute, to ascertain the child's wishes as to the child's custodian and as to parenting time. The interview may be conducted at any stage of the proceeding and shall be recorded by a court reporter or any electronic medium that is retrievable in perceivable form. The record of the interview may be sealed, in whole or in part, based upon good cause and after considering the best interests of the child. The parties may stipulate that the record of the interview shall not be provided to the parties or that the interview may be conducted off the record. Ariz. Fam. Law Proc. R. 12.</p> <p>- Only one attorney on each side shall conduct the examination of a witness until such examination is completed, except when the court grants permission for other attorneys to conduct the examination. Ariz. Fam. Law Proc. R. 17.</p> <p>-The requirements of this rule are minimum disclosure requirements for every family law case. Unless otherwise provided for in this rule or agreed to by the parties, within forty (40) days after the filing of a response to an initial petition, each party shall disclose in writing to</p>

every other party the information set forth in this rule. [Ariz. Fam. Law Proc. R. 49.](#)

-Not later than twenty (20) days after filing of a responsive pleading, if a party believes more detailed disclosure is necessary than that set forth in [Rule 49](#), that party shall file a notice with the court that disclosure pursuant to Rule 26.1, *Arizona Rules of Civil Procedure*, shall be required. If this rule is timely invoked, disclosure shall be made within forty (40) days after the filing of the notice. [Ariz. Fam. Law Proc. R. 50.](#)

- Parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. The frequency or extent of use of the discovery methods set forth in paragraph A may be limited by the court if it determines that:

- a. the discovery sought is unreasonably cumulative or duplicative, or obtainable from some other source that is more convenient, less burdensome, or less expensive;
- b. the party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought; or
- c. the discovery is unduly burdensome or expensive, given the needs of the case, the amount in controversy, limitations on the parties' resources, and the importance of the issues at stake in the litigation. The court may act upon its own initiative after reasonable notice or pursuant to a motion under [Rule 53](#). [Ariz. Fam. Law Proc. R. 51\(B\)\(1\).](#)

- **When depositions may be taken.** After commencement of the action, the testimony of parties or their current spouses, or any expert witnesses expected to be called, may be taken by deposition upon oral examination. Depositions of document custodians may be taken to secure production of documents and to establish evidentiary foundation.... [Ariz. Fam. Law Proc. R. 57\(A\).](#)

-**Examination and Cross-Examination.** Examination and cross-examination of witnesses may proceed as permitted at the trial under the provisions of Rule 2(B).... [Ariz. Fam. Law Proc. R. 57\(C\).](#)

-**Setting of Cases for trial.** In every family law case, unless a trial has been set at a Resolution Management Conference or on the court's own motion, any party may file a Motion to Set requesting that the case be set for trial. The motion shall state:

1. that the case will be ready for trial on or after [insert date];
2. that the names, addresses and telephone numbers of the parties or their individual attorneys who are responsible for the conduct of the litigation are: [insert the appropriate information];
3. the estimated time for trial; and
4. whether the case is entitled to a preference for trial because custody is at issue. [Ariz. Fam. Law Proc. R. 77\(A\).](#)

[Court-appointed advisor.]

-A court advisor may not take any action that may be taken only by a licensed attorney, including making opening and closing statements, examining witnesses, and engaging in discovery other than as a witness. [Ariz. Fam. Law Proc. R. 10\(E\)\(3\).](#)

-The court shall ensure that any court-appointed advisor for a child has an opportunity to testify or submit a report setting forth:

- a. the court-appointed advisor's recommendations regarding the best interests of the child; and
- b. the basis for the court-appointed advisor's recommendations. [Ariz. Fam. Law Proc. R. 10\(E\)\(4\).](#)

	<p>-In a proceeding, a party, including a child's attorney or best interests attorney, may call any court-appointed advisor for the child as a witness for the purpose of cross-examination regarding the advisor's report without the advisor's being listed as a witness by a party. Ariz. Fam. Law Proc. R. 10(E)(5).</p> <p>[Best interests attorney/guardian ad litem.]</p> <p>-An attorney appointed as child's attorney or best interests attorney may not:</p> <ol style="list-style-type: none"> be compelled to produce the attorney's work product developed during the appointment; be required to disclose the source of information obtained as a result of the appointment; submit a report into evidence; or testify in court. Ariz. Fam. Law Proc. R. 10(E)(6).
<p>4. <i>Post-Hearing: Review courts order, communicate order to child, and monitor implementation of orders.</i></p>	<p>- If the court determines that the termination of parental rights is clearly in the best interests of the child, the court shall:</p> <ol style="list-style-type: none"> Order the department or the child's attorney or guardian ad litem to file within ten days after the permanency hearing a motion alleging one or more of the grounds prescribed in section 8-533 for termination of parental rights. The party who files the motion has the burden of presenting evidence at the termination hearing to prove the allegations in the motion. Set a date for an initial hearing on the motion for termination of parental rights within thirty days after the permanency hearing. If the termination is contested at the initial hearing, the court shall set a date for the trial on termination of parental rights within ninety days after the permanency hearing. A.R.S. §8-862 (D). <p>-If the court determines that permanent guardianship is clearly in the best interests of the child, the court shall:</p> <ol style="list-style-type: none"> Order the department or the child's attorney or guardian ad litem to file within ten days after the permanency hearing a motion alleging the grounds prescribed in section 8-871 for permanent guardianship. The party who files the motion has the burden of presenting evidence at the hearing to prove the allegations in the motion. Set a date for an initial hearing on the motion for permanent guardianship within thirty days after the permanency hearing. If the permanent guardianship is contested at the initial hearing, the court shall set a date for the trial on the permanent guardianship within ninety days after the permanency hearing. A.R.S. §8-862(F).
<p>5. <i>Appellate Advocacy: Decision to appeal, withdrawal, participation in appeal, conclusion by appeal.</i></p>	<p>-<i>Attorney of Record: Duties of Counsel...</i>[A]n attorney of record shall be deemed responsible as attorney of record in all matters before and after judgment until the time for appeal from a judgment has expired or a judgment has become final after appeal.... Ariz. Fam. Law Proc. R. 9(A)(1).</p>
<p>6. <i>Cessation of Representation: Contacts post representation, if any.</i></p>	<p>-The order of appointment must clearly set forth the terms of the appointment, including the reasons for and duration of the appointment, rights of access as provided under this paragraph and applicable terms of compensation. Ariz. Fam. Law Proc. R. 10(A)(3).</p> <p>-- <i>Attorney of Record: Duties of Counsel.</i> No attorney shall appear in any action or file anything in any action without first appearing as counsel of record. Except as pursuant to paragraph B, an attorney of record shall be deemed responsible as attorney of record in all matters before and after judgment until the time for appeal from a judgment has expired or a judgment has become final after appeal or until there has been a formal withdrawal from or substitution in the case.</p>

	<p><i>Withdrawal and Substitution.</i> Except pursuant to paragraph B, or when substituting counsel with consent of the client, or where provided otherwise in any local rules pertaining to family law cases, no attorney shall be permitted to withdraw, or be substituted, as attorney of record in any pending action except by formal written order of the court, supported by written application setting forth the reasons therefore together with the name, mailing address, and telephone number of the client Ariz. Fam. Law Proc. R. 9(A)(1)-(2).</p> <p>- The appointment of the special advocate continues until the court relieves the advocate of the advocate's responsibilities or until the court dismisses the action before it. A.R.S. § 8-522(C).</p>
	Organizational and Administrative Supports for the Child Representative
<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>[Binding rules and procedures are established by the court for the appointment of a special advocate and guardian ad litem (best interests attorney), as well as the child's attorney.]</p> <p>-The court may appoint one or more of the following:</p> <ul style="list-style-type: none"> a. a best interests attorney; b. a child's attorney; or c. a court-appointed advisor. Ariz. Fam. Law Proc. R. 10(A)(1). <p>-The court appointed special advocate program is established in the administrative office of the supreme court. The program shall establish local special advocate programs in each county. The supreme court shall adopt rules prescribing the establishment of local programs, the minimum performance standards of these programs... [and] shall employ administrative and other personnel it determines are necessary to properly administer the program and to monitor local program performance. A.R.S. §8-523(A)-(B).</p>
<p>8. Lawyer Training: <i>Child representative trained, on-going training provided, new attorneys provided senior lawyer mentorship.</i></p>	<p>- The supreme court shall certify special advocates pursuant to rules adopted by the court. Court rules for certification shall include compliance with qualification standards prescribed by the court. A.R.S. §8-522 (B).</p> <p>-The court may appoint as a child's attorney or best interests attorney only an individual who is qualified through training or experience in the type of proceeding in which the appointment is made, as determined by the court and according to any standards established by Arizona law or rule. Ariz. Fam. Law Proc. R. 10(B).</p> <p>-The court may appoint as court advisor for a child only a qualified individual or a non-profit or governmental organization of qualified individuals. To be qualified, an individual must have received training or have experience in the type of proceeding in which the appointment is made, according to any standards established by Arizona law or rule. An attorney appointed as court advisor may take only those actions that may be taken by a court advisor who is not an attorney. Ariz. Fam. Law Proc. R. 10(C).</p>
<p>9. Lawyer Compensation: <i>Adequate and timely compensation, reimbursement provided expenses.</i></p>	<p>-The order of appointment must clearly set forth the terms of the appointment, including the reasons for and duration of the appointment, rights of access as provided under this paragraph and applicable terms of compensation. Ariz. Fam. Law Proc. R. 10(A)(3).</p> <p>- A special advocate serves without compensation but is entitled to reimbursement of expenses pursuant to guidelines prescribed by the supreme court by rule. A.R.S. §8-522(D).</p>

10. Caseload Levels: Caseloads are of a manageable size.	No explicit legal authority or requirement.