



APPOINTMENT OF GUARDIANS AD LITEM FOR CHILD LITIGANTS

FAMILY COURT OF THE STATE OF DELAWARE

Related Forms

Form 194 – Motion for Appointment of a Guardian ad Litem for a Child Litigant

Form 192 – Notice of Motion

Form 194O – Order Regarding Motion to Appoint Guardian ad Litem

All forms can be found on the Family Court Website at

<https://courts.delaware.gov/family>

Family Court Contact Information

New Castle County

Leonard L Williams
Justice Center
500 N. King Street
Wilmington, DE 19801
302-255-0300

Kent County

Family Courthouse
400 Court Street
Dover, DE 19901
302-672-1000

Sussex County

Family Courthouse
100 East Market St
Georgetown, DE 19947
302-855-7400

What is a guardian ad litem for a child litigant?

A child does not have the legal capacity to represent himself or herself in Court. A guardian ad litem is an adult who participates in a court case on behalf of a child. Guardians ad litem are frequently referred to by the initials, GAL.

When does a GAL need to be appointed?

Family Court Civil Rule 17(b) of the Family Court Rules of Civil Procedure requires the Court to appoint a GAL whenever a child is properly named as either a petitioner or a respondent in a court case. This means if a child files a petition, the Court will appoint a GAL for the child. Similarly, if a person files a petition against a child, the Court will also appoint a GAL. A GAL is not required when a petition is filed between adults “in the interest” of a child.

Does every petition involving a child require a GAL?

No. A petition filed between adults “in the interest” of a child does not require a GAL. Examples of such petitions include child support, parentage, custody, visitation, guardianship and other case types that involve where a child will live or circumstances under which the child will have contact with non-residential parents or relatives. A GAL is only required in these types of petitions if the child himself or herself is a parent of the child the petition is about.

Is a GAL required in a Protection from Abuse (PFA) case where the child has been abused?

It depends. Appointment of a GAL is not required if the adult filing the petition is the child’s parent and has a “qualifying relationship” with the alleged abuser. Qualifying relationships include anyone to whom the petitioning parent is or has been married, or with whom they have a child, have lived together as a couple, or have had a “substantive dating relationship.”

The PFA petition may allege abuse committed either against the petitioner or against the petitioner’s child. However, a GAL must be appointed if the abuse was committed by a person with whom the petitioning parent does not have a qualifying relationship, such as abuse committed by a child’s boyfriend or girlfriend, or by a step-relative through the other parent.

Additionally, a GAL must be appointed if the adult filing the petition is not the child’s parent.

Who can file a Motion for Appointment of a Guardian Ad Litem for a Child Litigant (Form 194)?

A Motion for Appointment of a Guardian Ad Litem for a Child Litigant can be filed by:

- The person seeking appointment;
- Another party in the case;
- The child litigant;
- The child litigant's custodial parent or legal guardian; or
- The Department of Services for Children, Youth and their Families.

****If you are filing a petition against a child as the respondent, you must file the Motion for Appointment of a Guardian Ad Litem for a Child Litigant.****

Who can be appointed a GAL?

Any person known to the child may be appointed a GAL. A proposed GAL cannot have an interest in the case that is inconsistent with the child's interest. If the proposed GAL is not a parent, grandparent, great-grandparent, or adult sibling of the child, then appointment may only occur after a hearing. A parent of a child who holds joint or sole custody or a child's court ordered guardian of the person will be presumed a qualified GAL unless such person has an interest in the case which is inconsistent with the child's interests.

Can a person seeking to be appointed GAL request emergency relief on behalf of a child?

Only a custodial parent, legal guardian, or duly appointed guardian ad litem can request emergency or expedited relief on behalf of a child pending appointment of a GAL.

What if the parties cannot identify a proposed GAL?

The Court may appoint an attorney to represent the child, permit the child to proceed on his or her own, or dismiss the action. The cost of an appointed attorney may be assessed against the adult parties to the case.