

APPOINTMENTS OF GUARDIANS AD LITEM FOR CHILDREN IN VIRGINIA
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In custody, abuse and neglect, emancipation, adoption, detention hearings CHINS hearings and termination of parental rights proceedings, a guardian ad litem may or must be appointed by the court to represent the child. This is separate from any attorney who also may be appointed for the child.

1

Mandatory Appointment

A guardian ad litem must be appointed by the court in emancipation proceedings, abortion by-pass cases, cases involving a child who is alleged to be abused or neglected or who is the subject of an entrustment agreement, adoption consent hearing in the J&DR Court and termination of residual parental rights. Prior to a detention hearing a guardian ad litem must be appointed unless an attorney has been retained and appears on behalf of the child. A guardian ad litem is required for petitions for relief of the care and custody of a child initially placed by social services.

2

Discretionary Appointment

In child custody cases appointment of a guardian ad litem is discretionary with the court. If both parties are represented by counsel the court may determine that such appointment is not required. In contested custody cases in the most Juvenile and Domestic Relations District Courts, it is customary to have guardians ad litem for the child appointed. The court also can appoint guardians ad litem for the parents if they are under some disability. A guardian ad litem may be, and usually is, appointed in foster care review and permanency planning cases.

3

Standards For Guardian Ad Litem Qualification

The Judicial Council of Virginia has established standards for guardian ad litem qualification. 1. Member in good standing of Virginia State Bar 2. Completion of seven hours of education in required courses initially 3. Completion of six further hours of required education biennially The courts maintain a list of attorneys who meet the standards and are eligible for appointment to serve as guardians ad litem. There also are

ethical requirements for guardians ad litem. A complaint process exists through the Virginia State Bar.

4

Specific Court Rules

Each court and each judge has their own requirements regarding the filing of written reports and the timing of the filing and the level of diligence that it expects from each guardian ad litem. Generally, the guardian ad litem is expected to interview the child (if of appropriate age), the parties and any relevant secondary individuals, like daycare providers and/or therapists. They are expected to make home visits to the parties' residences.

5

Recommendations

Depending on the case, the guardian ad litem may make a recommendation to the judge as to the outcome of the case. It is the duty of the guardian ad litem to protect the interests of the child, not to argue for whatever position the child wants. If the guardian ad litem's recommendation differs from what the child wants, however, the guardian ad litem, must advise the court of this.