THE ROLE OF THE GUARDIAN AD LITEM
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Federal Law

• Child Abuse Prevention and Treatment Act (CAPTA)
  – Mandates that a guardian ad litem represent children
    subject to juvenile abuse/neglect proceedings or risk
    loss of federal funding related to child welfare.

State Law

• G.S. 7B-1200 et seq.
  – Established the GAL Program as a division of the
    Administrative Office of the Courts
  – Specifies that each local program consists of volunteers
    GAL’s, program attorney, and paid program coordinator.
Team Player & Role

• Attorney Advocate
  – Duties outlined in statutes and GAL Contract
  – Only mandated player on the team

• Volunteer Guardian ad Litem
  – Advocate for child-client through work as investigator, interviewer, researcher, monitor, resource finder, recommendation developer, report writer, court order monitor, etc.

Team Player & Role (Cont.)

• Guardian ad Litem Staff Supervisor
  – Volunteer supervisor, volunteer/attorney communication broker, case manager
  ✓ Plus recruit, screen, train, supervise volunteers; cover uncovered cases; supervise staff; manage GAL program in county or judicial district; interagency liaison; etc.

Attorney Advocates and Program Staff FY 2013-2014

Attorneys
• 73 Attorney Advocates on contract with the Guardian ad Litem Program
• 8 Attorney Advocates who are state employees working full-time in local GAL district programs
• 95 Conflict Attorneys
• 1 Associate Counsel
• 1 Appellate Counsel
• 108 Pro Bono Appellate Attorneys

Program Staff
• 137 Guardian ad Litem District Program Staff (District Administrators, Program Supervisors, Program Specialists, Program Assistants) in 69 offices
• 3 Regional Administrators
  – Iris Gerres
  – Cy Gurney
  – Geoff Farmer
• 1 Administrator
  – Cindy Bizzell
GAL Program Statistics

- Fiscal Year 2013-2014 (Year End Totals)
  - Total Children Represented: 16,281
  - Total Hearings (Completed): 59,972
  - Total Volunteers: 4,770
  - GAL Appellate Cases: 195

GAL Program Timeline Highlights

1983
Guardian ad Litem is established in the North Carolina Administrative Office of the Courts by the General Assembly. (N.C.G.S. 7B-1200) After pilots featuring different representation models were tested, the model of a GAL Volunteer and Attorney Advocate is selected as the most effective.

1989
Guardian ad Litem officially joins the National Court Appointed Special Advocates (CASA) Association, after several years of active involvement with the organization. North Carolina’s attorney/volunteer model is recognized as the most effective best interest representation for children.
The first standardized, statewide Volunteer Training Manual is published, establishing a rigorous training program for volunteers that was later adopted by National CASA and adapted for national use.

The North Carolina Guardian ad Litem Program publishes a comprehensive practice manual for attorneys that represent children in juvenile court proceedings, and it is distributed statewide to judges and attorneys. Revised in 2007, the Guardian ad Litem Attorney Practice Manual continues to be a resource for attorneys and judges.

The N.C. Supreme Court recognizes the team representation of the GAL Program consisting of a GAL Volunteer and Attorney Advocate coordinated by staff in which each team member has a division of responsibilities to ensure that the best interests of child clients are properly represented in juvenile court.

The North Carolina Guardian ad Litem Program celebrates 30 years of child advocacy.

**GAL Program Timeline Highlights**

**Appointment (7B-601)**

- Juvenile petition alleges abuse or neglect, GAL shall be appointed.
  - Mandatory
- Juvenile petition alleges dependency only, GAL may be appointed.
  - Discretionary

**Appointment (Cont.)**

- Termination of Appointment
  - GAL appointment terminates when the permanent plan has been achieved and approved by the court.

- Reappointment
  - Good cause shown
  - Motion of any party, including GAL, or sua sponte.
Appointment in TPR (7B-1108)

✓ If GAL appointed, representation continues in TPR.
✓ If an answer or response is filed that denies material allegations, then a GAL is appointed to represent the juvenile.
  – Mandatory (including private TPR)
✓ Before or after TPR grounds, GAL may be appointed to assist the court in determining the best interest of the juvenile.
  – Discretionary

No GAL Appointment

• Juvenile petition alleges delinquency or undisciplined, NO statutory authority for appointment.
  – Even if DSS is given custody unless DSS files a juvenile petition.
• In civil custody cases, NO statutory appointment.
  – Some districts use civil guardians
  – Not part of the GAL Program

Standing

• Juvenile is a party. 7B-601, 7B-401.1
• GAL & Attorney Advocate have standing to represent the juvenile in all actions under Subchapter I of Chapter 7B.
• May be authorized to accompany juvenile in criminal action when called as a witness in matter relating to abuse.
• Includes appellate representation.
Statutory Duties

Investigation +
Facilitation +
Litigation =
BEST INTEREST REPRESENTATION

Duties (Cont.)

• Investigation
  – Determine the facts
  – Needs of the juvenile
  – Available family & community resources to meet needs
  – Conduct follow up investigations to ensure orders followed

Duties (Cont.)

• Facilitation
  – Settlement of disputed issues
  – Consent orders
  – Negotiated stipulations
Duties (Cont.)

- **Litigation**
  - Offer evidence
  - Examine witnesses
  - Explore options with court at disposition

Confidentiality

- **Broad authority:**
  - Any information or reports
  - Confidential or not
  - In GAL’s opinion, relevant to the case
- **GAL must maintain confidentiality**
  - No disclosure without order of court or authorized by law

Confidentiality

- **What about federal laws?**
  - HIPAA (Medical Records)
  - FERPA (Educational Records)
  - 42 C.F.R. Part 2 (Substance Abuse Treatment Records)
Conflict Representation

• Current Client Conflict
  – Minor mother and baby
  – No waiver

• Generational Conflict
  – Former child client of GAL Attorney
  – Possible waiver


Appellate Representation

• Generally, not done by trial GAL Attorney Advocate

• GAL State Office notified of Appeal by Court Reporting Coordinator

• GAL Appellate Attorney assigned
  – In House Counsel
  – Pro Bono Attorney
  – Attorney Advocate Contractor

• Appointment of GAL Appellate Counsel