

78A-2-228 (Effective 07/01/13). Private attorney guardian ad litem -- Appointment -- Costs and fees -- Duties -- Conflicts of interest -- Pro bono obligation -- Indemnification -- Minimum qualifications.

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(12) The private attorney guardian ad litem appointed under the provisions of this section shall:

(a) represent the best interests of the minor from the date of the appointment until released by the court;

(b) conduct or supervise an ongoing, independent investigation in order to obtain, first-hand, a clear understanding of the situation and needs of the minor;

(c) interview witnesses and review relevant records pertaining to the minor and the minor's family, including medical, psychological, and school records;

(d) (i) personally meet with the minor, unless:

(A) the minor is outside of the state; or

(B) meeting with the minor would be detrimental to the minor;

(ii) personally interview the minor, unless:

(A) the minor is not old enough to communicate;

(B) the minor lacks the capacity to participate in a meaningful interview; or

(C) the interview would be detrimental to the minor;

(iii) to the extent possible, determine the minor's goals and concerns regarding custody or visitation; and

(iv) to the extent possible, and unless it would be detrimental to the minor, keep the minor advised of:

(A) the status of the minor's case;

(B) all court and administrative proceedings;

(C) discussions with, and proposals made by, other parties;

(D) court action; and

(E) the psychiatric, medical, or other treatment or diagnostic services that are to be provided to the minor;

(e) unless excused by the court, prepare for and attend all mediation hearings and all court conferences and hearings, and present witnesses and exhibits as necessary to protect the best interests of the minor;

(f) identify community resources to protect the best interests of the minor and advocate for those resources; and

(g) participate in all appeals unless excused by the court.

(13) (a) The private attorney guardian ad litem shall represent the best interests of a minor.

(b) If the minor's intent and desires differ from the attorney's determination of the minor's best interests, the attorney guardian ad litem shall communicate to the court the minor's intent and desires and the attorney's determination of the minor's best interests.

(c) A difference between the minor's intent and desires and the attorney's determination of best interests is not sufficient to create a conflict of interest.

(d) The private attorney guardian ad litem shall disclose the intent and desires of the minor unless the minor:

(i) instructs the private attorney guardian ad litem to not disclose the minor's intent and

desires; or

(ii) has not expressed an intent and desire.

(e) The court may appoint one attorney guardian ad litem to represent the best interests of more than one child of a marriage.

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