

CHAPTER 107. SPECIAL APPOINTMENTS AND SOCIAL STUDIES
SUBCHAPTER A. COURT-ORDERED REPRESENTATION IN SUITS AFFECTING
THE PARENT-CHILD RELATIONSHIP

Sec. 107.001. DEFINITIONS. In this chapter:

(5) "Guardian ad litem" means a person appointed to represent the best interests of a child. The term includes:

(A) a volunteer advocate appointed under Subchapter C;

(B) a professional, other than an attorney, who holds a relevant professional license and whose training relates to the determination of a child's best interests;

(C) an adult having the competence, training, and expertise determined by the court to be sufficient to represent the best interests of the child; or

(D) an attorney ad litem appointed to serve in the dual role.

Amended by Acts 1995, 74th Leg., ch. 751, Sec. 15, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1294, Sec. 1, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 262, Sec. 1, eff. Sept. 1, 2003.

Sec. 107.002. POWERS AND DUTIES OF GUARDIAN AD LITEM FOR CHILD. (a) A guardian ad litem appointed for a child under this chapter is not a party to the suit but may:

(1) conduct an investigation to the extent that the guardian ad litem considers necessary to determine the best interests of the child; and

(2) obtain and review copies of the child's relevant medical, psychological, and school records as provided by Section 107.006.

(b) A guardian ad litem appointed for the child under this chapter shall:

(1) within a reasonable time after the appointment, interview:

(A) the child in a developmentally appropriate manner, if the child is four years of age or older;

(B) each person who has significant knowledge of the child's history and condition, including any foster parent of the child; and

(C) the parties to the suit;

(2) seek to elicit in a developmentally appropriate manner the child's expressed objectives of representation;

(3) consider the child's expressed objectives of representation without being bound by those objectives;

(4) encourage settlement and the use of alternative forms of dispute resolution; and

(5) perform any specific task directed by the court.

(c) A guardian ad litem appointed for the child under this chapter is not a party to the suit but is entitled to:

(1) receive a copy of each pleading or other paper filed with the court in the case in which the guardian ad litem is appointed;

(2) receive notice of each hearing in the case;

(3) participate in case staffings by an authorized agency concerning the child;

(4) attend all legal proceedings in the case but may not call or question a witness or otherwise provide legal services unless the guardian ad litem is a licensed attorney who has been appointed in the dual role;

(5) review and sign, or decline to sign, an agreed order affecting the child; and

(6) explain the basis for the guardian ad litem's opposition to the agreed order if the guardian ad litem does not agree to the terms of a proposed order.

(d) The court may compel the guardian ad litem to attend a trial or hearing and to testify as necessary for the proper disposition of the suit.

(e) Unless the guardian ad litem is an attorney who has been appointed in the dual role and subject to the Texas Rules of Evidence, the court shall ensure in a hearing or in a trial on the merits that a guardian ad litem has an opportunity to testify or submit a report regarding the guardian ad litem's recommendations regarding:

(1) the best interests of the child; and

(2) the bases for the guardian ad litem's recommendations.

(f) In a nonjury trial, a party may call the guardian ad litem as a witness for the purpose of cross-examination regarding the guardian's report without the guardian ad litem being listed as a witness by a party. If the guardian ad litem is not called as a witness, the court shall permit the guardian ad litem to testify in the narrative.

(g) In a contested case, the guardian ad litem shall provide copies of the guardian ad litem's report, if any, to the attorneys for the parties as directed by the court, but not later than the earlier of:

(1) the date required by the scheduling order; or

(2) the 10th day before the date of the commencement of the trial.

(h) Disclosure to the jury of the contents of a guardian ad litem's report to the court is subject to the Texas Rules of Evidence.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. Sept. 1,

1995. Amended by Acts 1995, 74th Leg., ch. 943, Sec. 10, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1294, Sec. 2, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 262, Sec. 1, eff. Sept. 1, 2003.

Sec. 107.006. ACCESS TO CHILD AND INFORMATION RELATING TO CHILD.

(a) Except as provided by Subsection (c), in conjunction with an appointment under this chapter, other than an appointment of an attorney ad litem for an adult or a parent, the court shall issue an order authorizing the attorney ad litem, guardian ad litem for the child, or amicus attorney to have immediate access to:

(1) the child; and
(2) any otherwise privileged or confidential information relating to the child.

(b) Without requiring a further order or release, the custodian of any relevant records relating to the child, including records regarding social services, drug and alcohol treatment, or medical or mental health evaluation or treatment of the child, law enforcement records, school records, records of a probate or court proceeding, and records of a trust or account for which the child is a beneficiary, shall provide access to a person authorized to access the records under Subsection (a).

(c) A mental health record of a child at least 12 years of age that is privileged or confidential under other law may be released to a person appointed under Subsection (a) only in accordance with the other law.

Added by Acts 1995, 74th Leg., ch. 943, Sec. 11, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1294, Sec. 4, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 262, Sec. 1, eff. Sept. 1, 2003.

Sec. 107.009. IMMUNITY. (a) A guardian ad litem, an attorney ad litem, or an amicus attorney appointed under this chapter is not liable for civil damages arising from a recommendation made or an opinion given in the capacity of guardian ad litem, attorney ad litem, or amicus attorney.

(b) Subsection (a) does not apply to an action taken or a recommendation or opinion given:

(1) with conscious indifference or reckless disregard to the safety of another;
(2) in bad faith or with malice; or
(3) that is grossly negligent or wilfully wrongful.

Added by Acts 2003, 78th Leg., ch. 262, Sec. 1, eff. Sept. 1, 2003.