

Memorandum

STATE OF WISCONSIN
DIRECTOR OF STATE COURTS



DATE: March 1, 2010
TO: Circuit Court Judges
FROM: Guardian ad Litem Oversight Subcommittee
SUBJECT: Subcommittee Recommendations

The Committee of Chief Judges and District Court Administrators convened a subcommittee to identify best practices and develop resources to assist circuit court judges as they oversee guardians ad litem appointed under the Wisconsin Children's Code (Chapter 48) or Juvenile Justice Code (Chapter 938).

The subcommittee consisted of the following individuals:

- Hon. Mary Wagner, District 2 (Chair)
- Hon. John Damon, District 7
- Gail Richardson, DCA, District 5
- Kerry Connelly, former DCA, District 2
- Attorney Mary Moore, Milwaukee County, Guardian ad Litem
- Attorney Douglas Heenan, Grant County, Guardian ad Litem
- Vicki Gilbertson, Dane County, Court Manager/Juvenile Court Clerk
- Michelle Jensen Goodwin, CCIP Director, Office of Court Operations
- Bridget Bauman, CCIP Coordinator, Office of Court Operations

The judicial oversight of guardian ad litem (GAL) performance was brought to the attention of the Chief Judges as a result of findings from Children's Court Initiative (CCI) county reviews. CCI is an on-going project initiated by the Director of State Courts Office, Children's Court Improvement Program that assesses safety, permanency, due process, and timeliness performance measures in child in need of protection or services and termination of parental rights cases. Performance measures are evaluated via court file review, court observation, surveys, and focus groups.

While the CCI reviews conducted in 49 counties revealed examples of exceptional practice by guardians ad litem, listed below are concerns observed repeatedly by CCI reviewers in the majority of the counties:

- Reports that guardians ad litem are not meeting with the child, or that the meetings are occurring at the courthouse moments before a hearing;
- A perception that guardians ad litem are not developing an independent opinion of the child's best interests, based on reports that they are not talking with parents, caregivers, and others involved in the case; and
- Confusion about the role and duties of the GAL, particularly post-disposition.

In response to these issues, as well as others identified by committee members, the subcommittee created or modified the documents listed below in an effort to assist judges in the oversight of guardians ad litem in juvenile cases. With the exception of the standard court forms, use of the following resources is voluntary and any document may be modified to reflect local practice.

- **Statement of Guardian ad Litem (Chapters 48 & 938) (JD-1799):** Newly created standard court form completed by the GAL and filed with the court, typically prior to or at disposition in Child in Need of Protection or Services (CHIPS) and Juvenile in Need of Protection or Services (JIPS) cases. The form should be used whenever the court requires the GAL to provide a written statement regarding their statutory obligations to meet with the child, assess the appropriateness and safety of the child's environment, and interview the child to determine the child's goals and concerns regarding placement.
- **Dispositional Order – Protection or Services (Chapter 48) (JC-1611):** Existing standard court form with the addition of a box that is checked if the GAL has filed the Statement of Guardian ad Litem form in the case prior to or at the dispositional hearing. The form also includes language related to the duration and scope of the GAL appointment after disposition.
- **Dispositional Order – Protection or Services (Chapter 938) (JD-1746):** Same changes as described above for JC-1611.
- **Order Appointing Guardian ad Litem or Attorney (Chapters 48 & 938) (JD-1798):** Newly created standard court form specifically for juvenile case types, which addresses compliance with Supreme Court Rule 35, access to records by the GAL, and compensation for the GAL or attorney.
- **Sample Judge's Colloquy with Guardians ad Litem:** Newly created resource that outlines suggested questions for judges to ask the GAL at court hearings.
- **Minimum Statutory Expectations for Guardians ad Litem:** Compilation of required GAL duties contained in Chapters 48 and 938.
- **Sample Additional Guardian ad Litem Requirements:** Examples of GAL best practice that exceed the minimum statutory requirements.
- **Sample Guardian ad Litem Memorandum of Understanding:** A template of the minimum information to include in a memorandum of understanding between the court and guardians ad litem based on documents currently used by Dane and Milwaukee Counties.
- **Sample Guardian ad Litem Evaluation for Professionals:** A general evaluation tool for professionals, such as attorneys, court officials and caseworkers, to complete for each GAL based on forms used by Dane and Racine Counties.
- **Sample Guardian ad Litem Evaluation for Parents and Caregivers:** An evaluation instrument to obtain input from care providers and parents regarding their experience with the GAL in their individual case based on a form used by Kenosha County.

The documents described above were approved by the Chief Judges on November 23, 2009. The modifications to the circuit court forms were approved by the Records Management Committee on February 11, 2010.