

**Appendix B. State by State Survey of Child Representation in Custody Cases
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State	WHEN APPOINTED	ROLE OF APPOINTED PERSON*	WHO IS APPOINTED	IMMUNITY	FEES	QUALIFICATIONS
AL AL Rule of Civil Procedure 17	Discretionary	GAL	Atty	No	Parties	No
AK <i>Stat Def</i> A.S. 25.24.310 (2004)	Discretionary	Atty (Preference) ----- GAL	Atty or Gov't Atty ----- Atty or Gov't Atty	Yes	Parties or State	No
AZ A.R.S. 25-321 AZ Rule of Fam L Procedure 10	Discretionary	Atty- Ch Atty BI Court Advisor	Atty	No	Parties	Yes Yes
AR A.C.A. 9-13-101 Sup Ct Admin Order 15- 4 & 5	Discretionary	Atty "Atty Ad Litem" (BI)	Atty	No	Parties or State	Yes
CA <i>Stat Def</i> Cal.Fam.C 3150, 3151 (2001)	Discretionary	Hybrid	Atty or Gov't Atty	Yes	Parties or County	No
CO C.R.S.A. 14-10-116 (2000)	Discretionary	Atty, "Legal representative" (BI) ----- GAL "Special advocate"	Atty ----- Atty or other Professional	Yes	Parties or State	No
CT CGSA 46b-54 ----- CGSA 45a-132	Discretionary	Atty (interest of child) -----	Atty -----	Yes- Case Law Yes-other	Parties	No

		GAL	Atty or other Professional	Professional		
DE <i>Stat Def</i> 13 Del.C 701, 721 29 Del.C. 9007	Discretionary	Atty (Ch Atty) ----- GAL BI Atty or CASA	Atty ----- Atty or other Professional	Yes	Parties or State	Yes
D.C. D.C. Code 1981 s 16-918	Discretionary	GAL	Atty	No	Parties	No
FL FSA s 61.401 <i>Stat Def</i> FSA 61.402 403	GAL Required if abuse	Atty (atty or advocate) ----- GAL	Atty ----- Atty or "citizen certified by GAL program"	Yes	Parties	No Yes for citizen
GA** Superior Court Rule 24.9	Discretionary	GAL	Atty	No	Parties	No
HI <i>Stat Def</i> HRS 571-46(8)	Discretionary	GAL	Atty (in practice also custody evaluators who are social workers or psychologists)	Yes	Parties	No
ID IC § 32-704	Discretionary	Atty	Atty	No	Parties or County	No
IL <i>Stat Def</i> 750 ILCS 5/506 (2006)	Discretionary	Hybrid or GAL or Atty	Atty or Gov't Atty	Yes	Parties	Yes by County
IN <i>Stat Def</i> IN ST § 31-15-6-1 & IN ST § 31-17-6-1	Discretionary	GAL	Atty or CASA trained	Yes	Parties	Atty- No Other- Yes

IA I.C.A. § 598.12	Discretionary	Atty (GAL in case law)	Atty	No	Parties or County	No
KS <i>SCt Rule 100</i>	Discretionary	GAL	Atty	Yes	Parties or County	Yes
KY <i>Stat Def</i> Ky code 403.090	Discretionary	GAL (friend of court)	Atty	No	Parties or County	Yes by County
LA LSA-RS 9:345 (2001)	Required if Abuse	Atty	Atty	Yes	Parties or Pro Bono Atty	No
ME 19-A M.R.S§1507 (2000) <i>SCt Rules</i>	Discretionary	GAL	Atty or other Professional	Yes	Parties	Yes
MD MD Family §1-202	Discretionary	Atty ----- GAL (case law)	Atty ----- Atty	No	Parties	No
MA MGLA 215 §56A	Discretionary	GAL	Atty or “disinterested person” (case law)	Yes	Parties or State	No

MI MCLA 712A.17d <i>Stat Def</i>	Discretionary	Hybrid (BI atty unless disagree than CH A)	Atty	No	Parties	No
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MN MSA §518.165 <i>Stat Def</i>	Required if Abuse	GAL	Does not specify (SCt Rule 902 has qualifications, can be lawyer or non-lawyer)	No	Parties or State	Yes
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<i>SCt Rule 901 et seq</i>						
MS <i>Stat Def</i>	Required if Abuse	GAL	Atty or other Professional	No	Parties or County	Atty=No Other=Yes
MO Mo St 452.423 <i>Stat Def</i>	Required if Abuse	GAL	Atty	No	Parties or State	Yes by County
MT MT ST 40-4-205 <i>Stat Def</i>	Discretionary	GAL	Atty or other	No	Parties or Fees Waived	No (pending)
NE RRS Neb §42-358	Discretionary	Atty (protect interest) Investigate & call witness ----- ----- GAL(case law)	Atty ----- -- Atty	Yes	Parties or County	No
NV No Statute	Discretionary	GAL	Atty or other professional	Yes	Parties or County	No
NH RSA 461-A:16 <i>SCT Rules</i>	Discretionary	GAL	Atty “except in extraordinary circumstances” (SCt Rule)	Yes	Parties or State	Yes (developing)
NJ NJ § 9:2-4 SCt Rule 5:8A & B	Discretionary	Atty (Best Interest) ----- ----- GAL	Atty ----- --- Atty, sw, mental health	Yes	Parties	No
NM NM §40-4-8 <i>Stat Def</i>	Discretionary	GAL	Atty	No	Parties	No

NY* NY CLS Fam Ct §249App Div 3 rd Dept Rule 835.2	Discretionary	Atty (Law Guardian) ----- ----- GAL	Atty ----- -- Atty or Gov't Atty	Yes	Parties or Indigent Fund or Gov't	Yes
NC** NC St Rules Civ Proc. § 1A-1, Rule 17	Discretionary	GAL	Does not specify (except if abuse, use atty)	No	Parties	No
ND ND Code § 14-09-06.4 Stat Def SCt Rule 8.7	Discretionary	GAL	Atty	Yes	Parties or County	Yes

OH <i>Stat Rules</i>	Discretionary	GAL or Atty for Child (12/05 Recommnedation)	Atty	No	Parties	Yes by County
OK 43 Okl. St. Ann. § 107.3	Discretionary	GAL	Atty	Yes	Parties	No
OR OR ST § 107.425	Required if Minor Requests	Atty	Atty	No	Parties	No
PA <i>Stat Rules</i> PaRule CP 1915.11	Discretionary	Atty (in practice Atty, GAL or Hybrid)	Atty	Yes	No Statute	No
RI RI St S 15-5-16.2(c)	Discretionary	Atty ----- GAL	Atty ----- ----- Does not specify	No ----- --- Quasi	Parties	No
SC SC Code § 20-7-1545 (eff 1/15/03) <i>Stat Def</i>	Discretionary	GAL	Atty or Layperson	No	Parties	Yes
SD**	Discretionary	Atty (Best Interest)				

SD Codified L § 25-4-45.4			Atty	Yes	Parties	No
TN TN Code 36-4-132	Discretionary	GAL	Does not specify (atty by practice)	Yes	Parties Or Fees Waived	No
TX TX Fam Code 107, 107.021	Required if in best interest	Atty (Atty Ad Litem (Ch Atty) & Amicus Atty (BI Atty)) ----- GAL	Atty ----- --- Atty or other Adult	Yes	Parties	Atty- Yes Other- Yes
UT UT ST §30-3-11.2 UT ST §78-7-45	Discretionary ----- --- Discretionary	Atty (Ch Atty) ----- Atty GAL (BI Atty)	Atty ----- --- Atty or Gov't Atty	Yes	Parties ----- -- State or Pro Bono	No ----- Yes

VT 15 vt code § 594 ----- -- 15 vt code § 669 <i>Fam Ct Rule 7</i>	Required if Minor is Witness ----- - Discretionary	Atty ----- GAL	Atty ----- ----- Atty	No	Parties	No
VA* VA CODE § 16.1-266	Required if Abuse	GAL or Atty for Child	Atty	No	Parties	No

WA RCWA § 26.12.175 & 26.09.220 <i>Stat Def</i>	Discretionary	GAL	Atty or other	Yes	Parties or County or Pro Bono	Yes
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WV Wv code § 48-11-302(b) ----- - wv code § 48-11-302(a) <i>W.Va Trial CtRule</i> 21.01	Required if abuse alleged unless certain conditions present	Atty (Ch Atty) ----- - GAL	Atty ----- does not specify	Yes	Parties	No
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WI Wis. Stat § 767.045 <i>Stat Def</i>	Required if contested unless certain conditions present	GAL	Atty	Yes	Parties or County	Yes
WY** Wy stat 14-3-211	Required if Abuse	Hybrid (BI)	Atty	Yes	Parties	No

CODE:

⌘ *Role of Appointed Person

GAL = Guardian ad Litem – reports to the court what is in the “best interests” of the child.

Atty = Typical attorney tasks but “client” varies between Child and “Best Interests”

Hybrid = Child representative has elements of both the GAL (best interest) role and the attorney role (advocate for the child).

⌘ **Jurisdictions without a specific statute relating to appointment of attorneys and/or GALs in their domestic relations code. These jurisdictions use the child protection or general defense of infant’s statutes to appoint attorneys and/or GALs.

⌘ Stat Def= Jurisdictions having a definition of the roles and responsibilities of the attorney and/or GAL in the statute

- ⌘ Stat Rule= Jurisdictions having specific codes or rules related to the duties, responsibilities, and obligations of an attorney or GAL for minor.
- ⌘ Discretionary = Appointment within judge's complete Discretion.
- ⌘ Required = Appointment required in all cases, and also allows for Discretionary appointment if the factors for mandatory appointment are not met.
- ⌘ Abuse = Child abuse or neglect alleged or shown (standards vary by state).
- ⌘ Atty = Private or legal service or pro bono attorney.
- ⌘ Other Professional = Psychologists, social workers, or CASAs.
- ⌘ Gov't Atty = Attorney employed by a state or county office.