



Training and Appointment of Guardians *Ad Litem*

Chief Justice Debra Hembree Lambert
Supreme Court of Kentucky, 3rd District

Judge Susan Wesley McClure
Family Court, 4th Judicial Circuit

Judge Amy S. Anderson
11th Judicial District

Judge Marcus L. Vanover
Family Court, 28th Judicial Circuit

Judge Eric S. Stovall
45th Judicial District

March 4, 2025

House Standing Committee
BR Sub. on Justice, Public Safety, & Judiciary (H)



Overview

This presentation covers GALs appointed in...

- KRS Ch. 199 Adoption
- KRS Ch. 620 Dependency, Neglect, and Abuse (DNA Cases)
- KRS Ch. 625 Termination of Parental Rights (TPR Cases)



Appointed Attorneys in Child Welfare Cases

Guardian Ad Litem (GAL)

- Appointed to represent legally incapable persons:
 - Minors
 - Mentally incompetent persons
 - Incarcerated persons

Court-Appointed Counsel (CAC)

- Appointed to represent:
 - Juvenile respondents and indigent criminal defendants (KRS 31.110)
 - Indigent adults in child welfare cases



Guardians ad litem are appointed in...

Non-Exhaustive List

- Kentucky Claims Commission (KRS 49.120)
- Adoption (KRS Ch. 199)
- Adult Protection Actions (KRS 209.110)
- Dissolution of Cooperative Association (KRS 272A.12-100)
- Guardianship, Trusts, and Estates (KRS Ch. 387)
- Divorce and Custody (KRS Ch. 403)
- Protective Orders (KRS 403.727, KRS 456.035)
- Dependency, Neglect, and Abuse (KRS Ch. 620)
- Termination of Parental Rights (KRS Ch. 625)





Opportunities for Improvement

Concerns about GAL Process and Practice

- 2019 “Report on Guardians ad Litem and Court Appointed Counsel”
 - Appointments and payments
- Reports from parties and stakeholders related to contact, or lack thereof
- Practice issues
 - Appeals
 - Evidence





Family Court Rules of Procedure and Practice (FCRPP)

2020 Revisions to Court Rules

- The Standing Committee on the Family Court Rules of Procedure and Practice (FCRPP) reviewed GAL and CAC practice
- The FCRPP were revised through Supreme Court Order 2020-01, which became effective 2-1-2020
- New rules govern appointments, minimum training, and conduct of attorneys appointed in child welfare cases (GAL and CAC). See FCRPP 35-38.
- Established statewide standards of conduct for appointed attorneys. See FCRPP Appendix D.
 - Based, in large part, on standards and guidelines developed from the American Bar Association and National Council of Juvenile and Family Court Judges.



2020 Revisions to Court Rules

- FCRPP 35 – Standards for Court-Appointed Counsel
- FCRPP 36 – Appointment and Retention
- FCRPP 37 – Required Training
- FCRPP 38 – Duties Regarding Representation and Repayment
- Appendix D - Statewide Standards of Expected Conduct for Court-Appointed Counsel





GAL Appointment

Appointment in Dependency, Neglect and Abuse Case

- Court shall appoint GAL for the child. KRS 620.100.



Appointment in Termination of Parental Rights (TPR) Case Voluntary vs. Involuntary

Voluntary TPR

- GAL appointed
- If Cabinet for Health and Family Services(CHFS) receives custody, the fee is paid by the Finance and Administration Cabinet (Finance).
 - Otherwise, petitioner pays the fee

Involuntary TPR

- GAL appointed
- Finance pays fee if CHFS is seeking post-TPR custody
 - Otherwise, the court apportions fees
- GAL files report triggering 60-day deadline for hearing



Appointment in Adoption Case

Post-TPR (Public Adoption) or Adoption with Consent

- GAL appointed for the child
 - Unless it is a step-parent adoption and both parties are parties
- GAL appointed for minor parent consenting to adoptions

Adoption without Consent

- GAL does not need to be appointed
- Indigent parents who do not consent are entitled to counsel
 - If petitioner(s) is blood relative or fictive kin, Finance pays
 - If not, petitioner pays



FCRPP 36(1)-(3)

- Requires court to maintain list of appointment attorneys, along with the attorneys' contact information
- Prohibits “exclusive” or “closed” lists, by making lists open to any attorney who wants to be included and who has completed the required training
- Authorizes sanctions (including removal) for any attorney who does not comply with rules and standards
- Prohibits removal of attorney if it would harm client



FCRPP 36(4)

- Requires that, prior to appointment, the court must determine the party is indigent and the file must contain an affidavit of indigency
- Allows courts to appoint without affidavit by making specific findings of indigency, but the party must file the affidavit within 5 days of appointment, or the appointment is vacated



FCRPP 36(5)-(7)

- Courts must review list every 4 years and make it available upon request
- Courts must appoint attorneys sequentially from the list unless: another attorney previously represented the party, the appointment would create a conflict, or there are unique circumstances requiring a different appointment



DNA Cases with a GAL Appointment

- Fiscal Year 2023 – 18,515 DNA cases
- Fiscal Year 2024 – 19,069 DNA cases



Fees

COURT	FAMILY	Circuit	District
ACTIONS	All Child Welfare Cases	TPR, Adoption	DNA
MAX. FEE	\$500	\$500	\$250

Fee is maximum per proceeding, Regardless of parties (siblings)



GAL Fees

- Unchanged since the 1986 creation of the Unified Juvenile Code (1986 Ky, Acts Ch. 423, § 71.)





Training

Statutory Training Requirement

- The court shall appoint counsel for the child to be paid for by the Finance and Administration Cabinet. Counsel shall document participation in training on the role of counsel that includes training in early childhood, child, and adolescent development. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for Health and Family Services, of the order appointing counsel. The fee to be fixed by the court shall not exceed five hundred dollars (\$500); however, if the action has final disposition in the District Court, the fee shall not exceed two hundred fifty dollars (\$250). KRS 620.100(1)(a).



FCRPP Training Requirements

- (1) Each attorney seeking appointment in an action under KRS Chapters 199, 620, and 625 shall have completed the required dependency, neglect and abuse training provided by the Administrative Office of the Courts. FCRPP 37(1).



FCRPP Training Requirements

- (2) Each attorney shall complete a minimum of four hours of relevant legal or multi-disciplinary training every two years. Relevant legal education must include instruction on improved practice and current law regarding dependency, neglect and abuse, termination of parental rights, or related proceedings. Multi-disciplinary training must include instruction on child development, trauma-informed care and approaches, substance abuse disorder, child welfare forensics, impact of the Americans with Disabilities Act, or other matters related to practice in actions under KRS Chapters 199, 600, and 625. Court-appointed counsel shall provide proof that he or she has completed the required training to the appointing authority in each Circuit or District to remain eligible for appointments. FCRPP 37(2).



Legal Training for Dependency, Neglect and Abuse Cases

- AKA: “DNA Training”
- Offered by the Administrative Office of the Courts
- Required by FCRPP 37(1)
- Developed by the DNA Training Team within the Kentucky Judicial Commission on Mental Health
- In-Person
- Full Day



Legal Training for Dependency, Neglect and Abuse Cases

- The training includes sessions on:
 - Dependency, neglect and abuse law
 - Termination of parental rights law
 - Ethics of professionalism and duty
 - Impact of trauma on behavior and opportunities to advocate for positive experiences for children
 - Parenting challenges and potentials for overcoming those challenges
- The highlight has been the panel of lived experts who have shared their experiences and the impact that an attorney's actions, or often lack of action, has on the client



Legal Training for Dependency, Neglect and Abuse Cases

2025 Spring/Summer DNA Training Schedule

May 16, 2025

Laurel County Health
Department
525 Whitley Street
London, KY 40741

May 23, 2025

Pennyriple Area
Development District
300 Hammond Drive
Hopkinsville, KY 42240

June 16, 2025

AOC
1001 Vandalay Drive
Frankfort, KY 40601



Legal Training for Dependency, Neglect and Abuse Cases

To register for a DNA Training, or to find more information, go here:

<https://www.kycourts.gov/Court-Programs/Family-and-Juvenile-Services/Pages/Dependency-Neglect-Abuse.aspx>





Questions?