



The Roles of Guardians Ad Litem, Court Appointed Special Advocates, and Social Workers in Kentucky’s Child Welfare System

The Role of a Guardian Ad Litem (GAL)

In Kentucky, a Guardian Ad Litem (GAL) is an attorney appointed by the court in every dependency, neglect, and abuse (DNA) case. In the Kentucky Supreme Court case *Morgan v. Getter* in 2014, the court affirmed the GAL role, in custody actions and in DNA and TPR cases. The court found that GALs must use the “best interest of the child” approach (pages 41, 46 of the opinion).

The role of the GAL included in KRS 387.305(5) states that “the duties of a GAL shall be to advocate for the client’s [the Child’s] best interests in the proceeding through which the GAL was appointed.” This GAL may also represent a child’s wishes unless a conflict arises. This is different than client directed or legal best interests of a child.

The GAL, as the child’s attorney, represents the child at a hearing and makes oral arguments to the court on behalf of their client. The GAL can determine best interest by speaking with stakeholders, such as social workers and the CASA volunteer, and with the child’s caregiver, family, service providers, and teachers. The GAL may be unable to meet with their client outside of court given time constraints, assuming the child is of appropriate age to attend their hearing. The GAL is a party to the case.

A GAL cannot serve as a fact witness and cannot provide testimony. They generally do not submit information via court reports as CASA volunteers and social workers do. Their advocacy must be that of any other attorneys on the case – they file and argue motions, briefs, and other legal pleadings and can cross examine witnesses.

A GAL is paid \$500 per case in Family Court and \$250 per case in District Court. They are appointed by the Family Court or District Court judge and may also serve in the rotation as parents’ attorneys in some local jurisdictions.

The Role of a Court Appointed Special Advocate (CASA) Volunteers

A Court Appointed Special Advocate (CASA) is a screened and trained community volunteer who provides best interest advocacy in the form of a written report and verbal testimony to the court in DNA cases.

The CASA volunteer spends countless hours learning about the child, their parents, and extended family through personal interviews and review of records. The volunteer meets with school officials and attends meetings relating to the child’s well-being, health, or education. The volunteer is altruistically motivated to complete these duties as they are not financially compensated for their advocacy. They provide mentoring as “one caring adult” in the life of the

child who is involved in the family court system through no fault of their own. A CASA volunteer can be called as a fact witness in a case.

There are not enough CASA volunteers in the Commonwealth to serve on every DNA case. Most local CASA programs have volunteers who are appointed and assigned to 15-20% of new DNA cases each year. Because of the supply issue of available volunteers, judges tend to appoint CASA to the most egregious and complex cases. Currently, CASA programs do not serve every county in Kentucky, unlike GALs which by statute must be appointed to every new DNA case.

Per KRS 620.525 (Duties of CASA volunteers), CASA volunteers should:

- Attend all court hearings,
- Submit written reports and recommendations, consistent with the child's best interests,
- Monitor and visit the child,
- Participate in treatment planning conferences,
- Interview parties, and
- Remain actively involved with child's case until dismissed.

In Kentucky, the CASA model is a "Friend of the Court" and not a legal party to the case.

Children generally have a strong bond with their CASA volunteer, as the volunteer is often the longest serving person on the case and is child focused. CASA volunteers agree to stay on the case for its duration, while a social worker, therapist, or other affiliated party may change multiple times during the lifespan of the case. CASA volunteers are only assigned to one to two cases at a time, thereby giving them more time and attention to that child. The National CASA/GAL Association for Children provides outcomes data that indicate nationally, children with a CASA volunteer do better in school, are referred to more services, and achieve permanency quicker than those without a volunteer. By the very nature of their volunteerism, CASA volunteers empower themselves through their commitment of time and energy and outside perspective to the child welfare system.

The Role of a Social Worker

The Cabinet for Health and Family Services (CHFS) receives and assesses all reports of suspected child abuse and neglect. Workers are required to initiate investigations promptly to determine the level of risk that exists to children. CHFS may request removal of children from the home or make referrals for community-based services to mitigate risk (KRS 620.040(b); KRS 620.050(4); KRS 620.072; 922 KAR 1:330).

When necessary, CHFS social workers initiate court action through dependency, neglect, and abuse petitions or requests for emergency custody orders (KRS 620.070; KRS 620.060(1)).

Once a case is opened, CHFS social workers engage directly with families to provide a variety of services through home visits, case plans that include recommendations for services, assessments and providing for a child's educational needs, facilitation of visitation with parents, and support for those families with children placed with fictive kin or relatives. Social workers also monitor case progress, constantly assess for changing needs of the family, and collaborate with

community partners to address any barriers to safe reunification of children with parents (KRS 620.142; KRS 620.145; KRS 620.150; 922 KAR 1:430; 922 KAR 1:400).

CHFS social workers also provide information and updates for the court. Social workers file permanency plans, case progress plans, and any other reports or testimony as required by the court (KRS 620.230; KRS 620.240). Further, as a participant in the court system, social workers discuss and work in partnership with parents' attorneys, GALs, CASA volunteers, relatives/fictive kin, or foster parents.

Additionally, some social workers are assigned to support foster parents. CHFS social workers provide training and support while facilitating services for children in foster care (KRS 620.360). At times, permanency is achieved for a child through a termination of parental rights case. In that context, social workers guide foster parents through the adoption process and even provide post-adoption support if needed by the child (922 KAR 1:530).

Social workers have multiple cases at a time and most recently with staff retention issues are carrying large caseloads. Depending on the county, workers can have more than 50 cases assigned to them as they pick up cases for departing colleagues.