

Effective 5/13/2014

78A-2-703 Appointment of attorney guardian ad litem in district court matters.

- (1) A district court may appoint an attorney guardian ad litem to represent the best interests of a minor in the following district court matters:
 - (a) protective order proceedings; and
 - (b) district court actions when:
 - (i) child abuse, child sexual abuse, or neglect is alleged in a formal complaint, petition, or counterclaim;
 - (ii) the child abuse, child sexual abuse, or neglect described in Subsection (1)(b)(i) has been reported to Child Protective Services;
 - (iii) the court makes a finding that the adult parties to the case are indigent, as defined in Section 77-32-202; and
 - (iv) the district court determines that there are no private attorney guardians ad litem who are reasonably available to be appointed in the district court action.
- (2)
 - (a) A court may not appoint an attorney guardian ad litem in a criminal case.
 - (b) Subsection (2)(a) does not prohibit the appointment of an attorney guardian ad litem in a case where a court is determining whether to adjudicate a minor for committing an act that would be a crime if committed by an adult.
 - (c) Subsection (2)(a) does not prohibit an attorney guardian ad litem from entering an appearance, filing motions, or taking other action in a criminal case on behalf of a minor, if:
 - (i) the attorney guardian ad litem is appointed to represent the minor in a case that is not a criminal case; and
 - (ii) the interests of the minor may be impacted by:
 - (A) an order that has been, or may be, issued in the criminal case; or
 - (B) other proceedings that have occurred, or may occur, in the criminal case.
- (3) If a court appoints an attorney guardian ad litem in a divorce or child custody case, the court shall:
 - (a) specify in the order appointing the attorney guardian ad litem the specific issues in the proceeding that the attorney guardian ad litem is required to be involved in resolving, which may include issues relating to the custody of children and parent-time schedules;
 - (b) to the extent possible, bifurcate the issues specified in the order described in Subsection (3)(a) from the other issues in the case, in order to minimize the time constraints placed upon the attorney guardian ad litem in the case; and
 - (c) except as provided in Subsection (5), within one year after the day on which the attorney guardian ad litem is appointed in the case, issue a final order:
 - (i) resolving the issues in the order described in Subsection (3)(a); and
 - (ii) terminating the appointment of the attorney guardian ad litem in the case.
- (4) A court shall issue an order terminating the appointment of an attorney guardian ad litem made under this section, if:
 - (a) the court determines that the allegations of abuse or neglect are unfounded;
 - (b) after receiving input from the attorney guardian ad litem, the court determines that the children are no longer at risk of abuse or neglect; or
 - (c) there has been no activity in the case for which the attorney guardian ad litem is appointed for a period of six consecutive months.
- (5) A court may issue a written order extending the one-year period described in Subsection (3)(c) for a time certain, if the court makes a written finding that there is a compelling reason that the

court cannot comply with the requirements described in Subsection (3)(c) within the one-year period.

- (6) When appointing an attorney guardian ad litem for a minor under this section, a court may appoint the same attorney guardian ad litem who represents the minor in another proceeding, or who has represented the minor in a previous proceeding, if that attorney guardian ad litem is available.
- (7) The court is responsible for all costs resulting from the appointment of an attorney guardian ad litem and shall use funds appropriated by the Legislature for the guardian ad litem program to cover those costs.
- (8) An attorney guardian ad litem appointed in accordance with the requirements of this section and Chapter 6, Part 9, Guardian Ad Litem, is, when serving in the scope of duties of an attorney guardian ad litem, considered an employee of this state for purposes of indemnification under the Governmental Immunity Act.

Renumbered and Amended by Chapter 267, 2014 General Session