



COURT OF COMMON PLEAS, MONTGOMERY COUNTY
DOMESTIC RELATIONS DIVISION

DENISE L. CROSS, ADMINISTRATIVE JUDGE

JUDITH A. KING, JUDGE

GUIDELINES FOR *GUARDIAN AD LITEM* APPOINTMENTS

The purpose of the appointment of a guardian ad litem for a child/children is to assist the court in determining a custody and/or visitation issue. The guardian ad litem is not to be an advocate for either party or for the child/children but should make a recommendation as to the best interests of the child/children.

At the time the guardian ad litem is appointed, the court will decide how to apportion payment of the guardian ad litem's fees. The maximum fee is \$650 pursuant to Mont. D.R. Rule 4.29. If the issues are extremely complex and time-consuming, the guardian ad litem may apply to the assigned judge for consideration of fees in excess of the maximum fee per the rules. It is the guardian ad litem's responsibility to make all arrangements deemed necessary to obtain payment up front. Failure to obtain payment will not excuse failure to make timely submission of the guardian ad litem's written report. If the payment of fees appears to be a problem early in the appointment, the guardian ad litem should request permission to withdraw from the case rather than delay the performance of the guardian ad litem's tasks causing the hearing to be continued.

The written report should be submitted to the court with copies to both attorneys at least one week before the scheduled hearing unless another date is specified in the appointment entry. The party contesting the guardian ad litem's recommendation is responsible for arranging for the evaluator's appearance at the hearing.

The focus of the guardian ad litem's report is to determine and represent to the court what would be in the best interest of the child/children and to ascertain the child's wishes and concerns. The usual procedure is to conduct interviews with all involved parties, including any significant others, who may have extensive contact with the child, such as household members other than the parents, grandparents, child-care providers, teachers, etc. The child should be observed in the presence of family members or significant others. The home environment should be investigated by conducting a visit in each party's home. Attempts should be made to confirm allegations of neglect and abuse, involvement with law enforcement agency, the status of any involvement by Children Services Board, mental health services, and any history of substance abuse.

The guardian ad litem's report should summarize the contacts and interviews and the results thereof. The guardian ad litem must make specific recommendations on the issues referred. If the issue is sole custody, one parent should be recommended. If the issue is whether the parents should enter into a shared parenting arrangement as set forth in one or more filed shared parenting plans, the report should include a recommendation as to that issue and in the alternative who should be awarded sole custody if the shared parenting plan is not adopted. If the guardian ad litem's opinion is that a proposed shared parenting plan should be modified to reach the best result, the report should contain the recommended modifications but an alternative recommendation of sole custody is still necessary. If neither party has filed a shared parenting plan, the recommendation should be limited to sole custody. If the issue is parenting time either alone or in conjunction with the custody issue, the guardian ad litem's report should include specific recommendations on the times, places, any restrictions and conditions for the recommended parenting time.