



## **Guardian Ad Litem: The Children's Lawyer**

For centuries, children were regarded as the property of their parents. They were viewed as having no legal interests of their own, but were subject to whatever decisions their parents made for them or the court made in disputes between the parents.

More recently, Wisconsin has recognized that children have interests that are deeply affected by court cases that involve them, and that their interests are not always well represented by the other parties. Wisconsin law requires that an attorney be appointed to represent the best interests of the children in any case where their interests are significantly affected. The attorney is called a guardian ad litem (GAL).

The presiding judge appoints the GAL, who is then empowered to do for the child whatever a privately retained attorney would do for an adult client. This means the GAL may interview, present and cross-examine witnesses, make arguments to the court, and may hire experts, if necessary, to prepare and present the case. The GAL must advise the court of the child's wishes regarding the issues in dispute, but the GAL is not bound by those wishes. For example, in divorce cases, questions regarding custody and physical placement (visitation) must be resolved with the best interests of the children as the criteria; the GAL may determine that what the child wants is not in the child's best interest, and urge the court to do something completely different.

GALs are appointed in family law cases if the parents are not able to resolve the issues of custody and placement by agreement, and when an adoption petition is filed. A GAL is required where a child has been injured, and is pursuing or settling a personal injury claim. A GAL will also be appointed if the county has filed a petition, alleging that the child has been abused, neglected or is otherwise in need of protection or services that the parents are unable or unwilling to provide.

Ordinarily, the GAL's fees are approved by the court, and paid by the parents. In some cases, the county may advance the GAL's fees, but the court will usually order that the parents pay the county back.

All DV&B attorneys have received training to serve as GALs, and have been appointed to serve in that capacity in Green and/or Lafayette Counties.

