

AUTHORITY FOR OCR MANDATORY APPOINTMENTS

Type of Proceeding	Authority to Appoint	Payment of Services	Role of GAL	Termination of appointment
Dependency and neglect	<p>19-1-111(1) - The court <i>shall</i> appoint a GAL in all D&N cases.</p> <p>§19-3-203 - Upon the filing of a petition, that alleges child abuse or neglect, the court <i>shall</i> appoint a GAL.</p> <p>§19-3-203(4) – Appointed GAL shall begin acting as counsel immediately upon the youth’s 18th birthday unless the youth is deemed incapacitated pursuant to § 19-3-704, in which case the GAL shall remain in GAL role and separate counsel for the youth <i>shall</i> be appointed.</p>	Any costs* associated with these mandated services are paid by the state.	A party to the action.	The appointment continues until entry of final decree of adoption or until the jurisdiction of the juvenile court is terminated either by operation of law or by court order.
Transition Age Youth Program/	<p>§19-7-308(1)—A youth participating in Colorado’s Transition Age Youth Program <i>has a right</i> to counsel provided by the OCR.</p> <p>§19-7-308(2) - The court <i>may</i> also appoint a GAL for a youth with diminished capacity. See § 19-3-704 for determination of diminished capacity/ incapacity.</p>	Mandated cost. OCR pays, no indigency determination required.		
D&N minor respondent parents	19-3-602(3)- If a respondent parent is a minor, a GAL <i>shall</i> be appointed and shall serve in addition to any counsel requested by the parent. Court also has the discretion to appoint a GAL for a minor respondent parent at any phase of the proceeding. C.R.C.P. 17(c). See <i>also</i> 19-1-111(2)(c); <i>People in the Interest of M.M.</i> , 726 P.2d 1108 (Colo. 1986).	Mandated cost. State will bear the costs.	Not a party to the action.	

Alcohol or drug abuse	27-81-112(4) – In cases involving involuntary commitment of persons with alcohol use disorders, the person shall be present for relevant court hearings unless the court believes his/her presence would be injurious to him/her; in this event, the court <i>shall</i> appoint a GAL to represent the person throughout the proceeding.	If the person with an alleged alcohol use disorder is under the age 18, the GAL services shall be provided by the OCR. Mandated cost. State will bear all costs		
Mental health	27-65-103(3) – Application for hospitalization on behalf of a minor (under age of 15) who is in need of care and treatment due to mental illness, and who is a ward of the department of human services, <i>shall</i> be appointed a GAL. 27-65-103(7)(b)- If a minor under 15 does not consent or objects to continued hospitalization then the minor can request a GAL (minors 15 and older can request an attorney). The court <i>shall</i> appoint a GAL, who can then petition for an attorney.	Mandated cost. State will pay and bear all costs.		
Marriage license for minors	14-12-106(b)(1)—The court <i>shall</i> appoint a GAL to investigate the best interests of a minor (age 16 and older) seeking judicial approval for a marriage license. <i>See also</i> 19-1-111(d).	Mandated cost. State will pay and bear all costs.		
Other Civil	C.R.C.P. 17(c), In any civil suit where a minor is suing or being sued, the court <i>shall</i> appoint a GAL. 13-22-101(1)(c) – Any person under the age of 18 may not sue or be sued without someone acting on his/her behalf or the appointment of a GAL.	OCR shall bear the costs for GAL services provided to a minor in civil cases only when the court makes indigency findings re the minor's estate or parti(es) ordered to be responsible for the costs. CJD IV(A)(1)(d).		

AUTHORITY FOR OCR DISCRETIONARY APPOINTMENTS

Type of Proceeding	Authority to Appoint	Payment of Services	Role of GAL	Termination of appointment
Delinquency	§19-1-111(2)(a) – The court <i>may</i> appoint a GAL when no parent, guardian or custodian appears; or there is a conflict of interest between child and parent; or if the court finds that the best interest of the child will be served.	Any costs* associated with these mandated services are paid by the state.	Not a party to the action.	19-1-111(4)(b) – Appointment of a GAL <i>shall</i> terminate when a sentence is imposed (unless the child is sentenced to a residential or community out-of-home placement as a condition of probation), the child reaches 18 (unless a developmental disability), 19-1-111(4)(c) – The court <i>may</i> terminate the appointment on its own motion or GAL's motion when appointment is no longer necessary because a parent, guardian or custodian appears, the conflict of interest no longer exists, or the appointment no longer serves the best interests of the child.
Criminal - child charged as adult	19-2-517(8) – For child defendants, the court, <i>in its discretion</i> , <i>may</i> appoint a for a juvenile charged in adult criminal proceeding.	Any costs* associated with these mandated services are paid by the state.	Not a party to the action.	
Juvenile Delinquency and Criminal—child victim	24-4.1-302(5)—Victims' Rights Amendment, deems any person under the age of 18 to be incapacitated unless legally emancipated. Incapacitated victim's parent, grandparent, sibling, etc., "or other lawful representative" may exercise rights under act. Other lawful representative is defined as "any person who is designated by the victim or appointed by the court to act in the best interests of the victim." 24-4.1-302(3).	Any costs* associated with these mandated services are paid by the state.	Not a party to the action.	
Counsel for Children	19-1-105(2)- If the court finds that it is in the best interest and welfare of the child, the court <i>may</i> appoint counsel in addition to the GAL. See also CJD(III)(B)(clarifying discretion of court to appoint counsel for children/youth in D&N	Any costs associated with these mandated services are paid by the state.	The attorney is not a party to the action but is client-directed.	

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Truancy	<p>proceedings).</p> <p>19-1-111(2)(b) – The court <i>may</i> appoint a GAL for a child in proceedings under the school attendance law when the court finds the appointment is necessary due to exceptional and extraordinary circumstances.</p> <p>19-1-105(2) – In all proceedings under the school attendance law of 1963, the court <i>may</i> appoint counsel <i>or</i> a GAL unless the child is already represented by counsel. If the court finds it is in the best interest and welfare of the child, the court may appoint both defense counsel and a GAL for the child.</p>	Any costs* associated with these mandated services are paid by the state.	A party to the action.	
Domestic Relations-- Child's Legal Representative	14-10-116(1) – The court <i>may</i> appoint an individual to serve either as the Child's Legal Representative. The Child's Legal Representative must be a licensed attorney. The representative cannot be the same person as the Child and Family Investigator (defined in 14-116.5).	<p>OCR shall bear the costs for GAL services provided to a minor in DR cases only when the parti(es) ordered to be responsible for the costs are deemed to be indigent. CJD IV(A)(1)(a).</p> <p>14-10-116(3)(a) – The parties are responsible for all costs unless the parties are determined indigent, and then the costs shall be borne by the state.</p> <p>14-10-116(3)(b)- If a proceeding for dissolution of marriage or legal separation the court shall not enter an order for the state to bear the costs unless both parties are determined to be indigent after considering the combines income and assets of the parties.</p> <p>14-10-116(3)(c)- If the appointment is in a case involving unmarried parties, the court shall make every</p>	The Child's Legal Representative shall actively participate in all aspects of the case, must be a licensed attorney who may not be called as a witness. 14-10-116(2).	<i>See In re Marriage of Finer</i> , 920 P.2d 325 (Colo. App. 1996)(holding that it was abuse of a court's discretion to continue GAL/CLR appointment after permanent orders but acknowledging that GAL /CLR appointment could continue through appeal and a motion to modify would give the court discretion to reappoint GAL/CLR).

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		reasonable effort to apportion costs between parties that will minimize the burden on the state.		
Paternity and support	§19-4-110 – The court <i>may</i> appoint a GAL in a paternity action.	OCR shall bear the costs for GAL services provided to a minor in paternity cases only when the parti(es) ordered to be responsible for the costs are deemed to be indigent. CJD IV(A)(1)(b). 19-4-117 – The costs are to be paid by the parties in proportions as determined by the court.	Not a party to the action. <i>In Interest of A.R.W.</i> , 903 P.2d 10 (Colo. App. 1994); <i>but see</i> 19-1-111(3).	“Once a determination of paternity has been made, and permanent orders enter resolving parental responsibility and/or child support, the appointment terminates ...there is no reason why the child and parents should suffer the expense and continued invasion of privacy caused by an indefinite appointment “ <i>In Interest of A.R.W.</i> , 903 P.2d 10.
Probate—minors	15-14-115 – At any stage of a probate proceeding, the court <i>may</i> appoint a GAL if the court determines that the representation of the interests otherwise would be inadequate. Court shall state on the record the duties of the GAL and its reasons for appointment.	OCR shall bear the costs for GAL services provided to a minor in probate cases only when the court makes indigency findings regarding the minor’s estate or parti(es) ordered to be responsible for the costs. CJD IV(A)(1)(d).	The GAL acts as a special fiduciary and makes informed decisions for the allegedly incapacitated person whereas counsel is advocate for and represents legal interests, <i>Estate of Milstein</i> , 955 P.2d 78 (Colo App. 1998).	
Adoption and Relinquishment	19-5-103 (9) (a)--In a relinquishment proceeding, a GAL <i>may</i> be appointed if there is a conflict with of interest between child and his or her parent or guardian, it is otherwise in the child’s best interest or welfare, or the child is 12 years or older and the court determines that the welfare of the child mandates the appointment.	19-5-103 (9)(b) requires the relinquishing parent pay for GAL services unless the parties are indigent. OCR shall bear the costs for adoption and relinquishment cases only when the court makes indigency findings re the parties ordered to be responsible for the costs. CJD IV(A)(1)(c).		<i>People in the interest of M.C.P.</i> , 768 P.2d1253 (1988), A GAL appointment serves until entry of final decree of adoption or until the juvenile court’s jurisdiction is terminated.

* CJD 04-06(IV)(A)(2)(b) provides that a court shall not order representation to be at state expense absent completion of the form JDF 208, a finding of indigency and an order of the court. CJD 04-06(IV)(B)(1) prohibits OCR from paying for activities performed prior to appointment order and indigency findings and states that the OCR shall not process payment pursuant to any nunc pro tunc indigency findings.