

How to Request a Guardian Ad Litem (GAL) for Dissolution Cases

When may a GAL be appointed?

A guardian ad litem (GAL) may be appointed when a court case involves custody or visitation rights. In dissolution (divorce) actions, a GAL may be involved when the parties are divorcing or when an action has been filed to modify the parenting plan established previously as part of a dissolution action. Any party to a dissolution proceeding or the judge, may request appointment of a GAL. A GAL may be an attorney, a mental health professional, or a volunteer. [In some counties the GAL may go by a different name such as “Investigator” or “Court Appointed Special Advocate (CASA).”] There may be a fee for the GAL’s services.

You will probably want to ask the court to appoint a GAL if you or your children have been physically or sexually abused. Even when there has not been abuse but there are serious issues as to the other party’s ability to be an adequate parent, it is often necessary to appoint a GAL.

In addition, the court may appoint an attorney to represent the interests of a child with respect to provisions in a parenting plan in a dissolution action, legal separation action, or action to declare the marriage invalid. The court may enter an order against both or one of the parents, or if they are both indigent the costs will be paid for by the county.

What does a GAL do?

The GAL is responsible for investigating the situations of all the parties and the children, and then making a recommendation to the court about what type of custody and visitation arrangement would be in the best interest of the children. The GAL must receive notice of all hearings, copies of papers provided to the court, and must approve any agreed court orders related to the children’s custody. The GAL may investigate past criminal records, court records, and other important papers. The GAL will also interview you and the other parent and, may talk to, or ask for written statements from your friends or other members of the family. The GAL should also interview any professionals (such as counselors), that are involved with the children or the parties. The GAL may also observe you and the children at your home and at the other parent’s home, or in their office or another setting. GALs are required to have training on issues related to the welfare of children, and must meet standards set by law.

What information will the GAL need?

Most judges take the GAL’s recommendations very seriously so it is important to cooperate as best as you can with the GAL. You should give the GAL the names and current phone numbers of people who will tell the GAL that you are a good parent, and you should make sure that those people know that the GAL may be contacting them. You should also be prepared to show the GAL what steps you have taken to overcome any problems you have had or continue to have which affect your ability as a parent. It is important to let the GAL know what the other parent has done or might do to your children which places them at risk. In doing so, do your best to focus on how the other parent’s problems will adversely affect the children. You should also

provide the GAL with names, addresses, and phone numbers of people who can back up your concerns. You should tell these people to expect the GAL to contact them and that it is important for them to cooperate with the GAL.

For more information, please see our publication called “[Working with GALS and Parenting Evaluators: Tips for Parents in Family Law Cases](#),” also available at www.washingtonlawhelp.org.

How do I find a GAL?

If you can afford to pay a GAL, and your county allows parties to choose their GAL, you should look at several different GALs before you decide. Each superior courthouse should have a list or roster of possible GALs who have met the training requirements of the court. You should go to the court clerk’s office and ask for this list. You should be able to review the resumes of the possible GALs as well. If you have time, you may want to call a few of them to find out how much they charge, whether they are available, and whether you like them. Because GALs are often required to spend several hours working on a case, they may require a retainer fee that can range from \$500 to \$3000. The final cost can be much higher.

If you cannot afford to pay a GAL, you may still have options available. Some courts have a Family Court Services or other county-funded social service agency that performs parenting or custody or domestic violence evaluations. Some courts have a Court Appointed Special Advocate (CASA) program, which provides volunteer GALs for free. You should check with your family law facilitator, or the clerk’s office, to see if your county has these resources.

In some situations, you may not be able to choose who serves as your GAL. In some counties, the court appoints GALs off the court’s list, and will give you the next GAL on the list whether you have requested that GAL or not. Finally, when an evaluator or GAL is appointed from a court agency (such as Family Court Services or CASA), the agency chooses the person who will serve as GAL. Once the GAL is appointed, that person is mandated by law to provide the parents with a background statement describing his or her training, information regarding whether they had been removed from a case or from the GAL registry in any other county, and any criminal history or record.

How do I request appointment of a GAL?

If you want to request the appointment of a GAL, you must file a motion to appoint a GAL. To do this, you must complete the following three documents, file them, and serve them on the other parties in your case.

Filling Out the Motion Papers

You will need the following forms:

1. NOTE FOR MOTION DOCKET (A sample Note for Motion is attached. This form varies from county to county.) You can request a copy of your county’s Note from your county court clerk and/or the courthouse facilitator;
2. MOTION AND DECLARATION FOR TEMPORARY ORDER; and
3. ORDER APPOINTING GUARDIAN AD LITEM/LAWYER/INVESTIGATOR ON BEHALF OF MINOR.

The second and third documents are mandatory forms that are sometimes revised by the court each June. You should contact your county court clerk or the courthouse facilitator to get the forms that are being used in your county. If the forms are not available from the county court clerk or they are using the state court mandatory forms, you may use the forms attached to this publication (current as of 6/2006). You can also obtain them free from the Office of the Administrator of the Courts, Temple of Justice, AV-01, Olympia, WA 98504 [Phone number: (360) 753-3365] or download them off of the internet at <http://www.courts.wa.gov/forms>.

Detailed instructions on filling out the necessary forms for appointing a guardian ad litem can be found in our do-it-yourself packet titled "[Filing a Motion for Temporary Orders for Dissolution Actions](#)" at www.washingtonlawhelp.org. Click on the Family Law topic area and then click on Dissolution of Marriage.

Although the mandatory forms assume that a lawyer will be filling them out, you may substitute "Moving Party" wherever "Attorney" or "Lawyer" is used. You may also want to write "pro se" under your name to let the court know you are representing yourself, and you should include a mailing address and telephone number on each court paper so that the court can get in touch with you.

You should use the declaration part of the Motion and Declaration for Temporary Order form to explain to the court why you believe a GAL should be appointed. If you cannot afford to pay a GAL, you should also explain that in your declaration. You may also attach any documents that support your request to your declaration as exhibits.

Also, there is a place on the Motion and Declaration form for you to propose someone to be appointed as the GAL. If you do not know who can serve as GAL, in the blank for the name of the GAL you should write "a person acceptable to the court".

Serving the Motion Papers

Once you have filled out all the papers and signed them, make one copy of each document for each of the other parties, a copy for the judge, and a copy for yourself. You should file the original of the Note for Motion Docket and the original of the Motion of Appointment of GAL with the superior court clerk's office in your county. You also need to mail a copy of the Note for Motion Docket and a copy of the Motion for Appointment of GAL and your proposed Order Appointing GAL to each of the other parties before the date of your hearing. You should check with the court clerk's office, family law facilitator, or your local court rules (available in the law library) to find out how many days in advance of the hearing the other parties and the court must receive your motion. If you mail the materials to the other parties, you should add three (3) days to the notice required. You should also check your county's local rules to determine if the Judge or court commissioner that will be hearing your case needs a copy of these documents a few days before the hearing, and if so, when. The copies for the judge and other parties are called "working papers." If you must provide "working papers" to the judge, it is often best to hand-deliver them to the courthouse by the same date that you are required to serve the other parties. Working papers are usually to be delivered to a different place in the courthouse than the place where the originals are filed; ask the clerk or courthouse facilitator for information about where the working papers should be delivered. If you cannot go to the courthouse to file your originals and to deliver your working papers, call the clerk to see if you can mail them to the judge.

In most counties, you must file and mail the motion papers at least 9 days before the date you set for your hearing. However, some counties, such as King County, require more than 9 days' notice. You must contact the family law facilitator, clerk's office, or law library, to find out how much notice you must give for a family law motion. Keep in mind that you always must add three days for mailing.

Consult with your family law facilitator or court clerk for the specific rules that apply to filing family law motions in your county.

You do not file the original copy of the Order Appointing Guardian Ad Litem. Instead, you take this order with you when you go to court. You need to go to court at the time and on the date stated in your Note for Motion Docket. When your case is called, you should go in front of the Judge and tell him or her that you want a GAL appointed. If the other party does not want a GAL to be appointed, the other party will also have a chance to tell the judge why. If the Judge agrees to appoint a GAL, you then give the judge the original of your Order Appointing Guardian Ad Litem to sign. You should make sure the GAL gets a copy of the order after the judge signs it.

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This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice. This information is current as of the date of its printing, December 2006.

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**Superior Court of Washington
County of _____**

In re the Marriage of:

Petitioner,

and

Respondent.

No. _____

**Motion and Declaration for
Temporary Order
(MTAF)**

I. Motion

Based on the declaration below, the undersigned moves the court for a temporary order which:

- orders temporary maintenance.
- orders child support as determined pursuant to the Washington State Support Schedule.
- approves the parenting plan which is proposed by the husband wife.
- restrains or enjoins the husband wife from transferring, removing, encumbering, concealing or in any way disposing of any property except in the usual course of business or for the necessities of life and requiring each party to notify the other of any extraordinary expenditures made after the order is issued.
- restrains or enjoins the husband wife from disturbing the peace of the other party or of any child.
- restrains or enjoins the husband wife from going onto the grounds of or entering the home, work place or school of the other party or the day care or school of the following named children:
_____.
- restrains or enjoins the husband wife from knowingly coming within or knowingly remaining within _____ (distance) of the home, work place or school of the other party or the day care or school of the following children: _____.
- restrains or enjoins _____ [Name] from molesting, assaulting, harassing, or stalking _____ [Name]. (If the court orders this relief, the restrained person will be prohibited from possessing a firearm or ammunition under

1 federal law for the duration of the order. An exception exists for law enforcement officers and
2 military personnel when carrying department/government-issued firearms. 18 U.S.C.
§ 925(a)(1).)

3 restrains or enjoins the husband wife from removing any of the children from the state of
Washington.

4 restrains or enjoins the husband wife from assigning, transferring, borrowing, lapsing,
surrendering or changing entitlement of any insurance policies of either or both parties whether
medical, health, life or auto insurance.

5 **(If this box is checked clear and convincing reasons for this request must be
presented in the declaration below.)**

6 requires the husband wife to surrender any deadly weapon in his or her immediate possession
or control or subject to his or her immediate possession or control to the sheriff of the county having
jurisdiction of this proceeding, to his or her lawyer or to a person designated by the court.

7 makes each party immediately responsible for their own future debts whether incurred by credit
card or loan, security interest or mortgage.

8 divides responsibility for the debts of the parties.

9 authorizes the family home to be occupied by the husband wife.

10 orders the use of property.

11 requires the husband wife to vacate the family home.

12 requires the husband wife to pay temporary attorney's fees, other professional fees and costs in
the amount of \$_____ to:

13 appoints a guardian ad litem on behalf of the minor children.

14 other:

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17 Dated: _____

Signature of Moving Party or Lawyer/WSBA No.

18
19 _____
Print or Type Name

20 II. Declaration

21 Temporary relief is required because:
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If the surrender of deadly weapons is requested, list reasons:

[] If the nonmoving party is not present and:
a) is on active duty and is a National Guard member or Reservist residing in Washington, or
b) is a dependent of a National Guard member or Reservist residing in Washington on active duty,
list the reasons why this temporary order should be granted despite the absence of the other party:

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at _____ on _____.
[City and State] [Date]

Signature of Moving Party Print or Type Name

Do not attach financial records, personal health care records or confidential reports to this declaration. Such records should be served on the other party and filed with the court using one of these cover sheets:

- 1) Sealed Financial Source Documents (WPF DRPSCU 09.0220) for financial records**
- 2) Sealed Personal Health Care Records (WPF DRPSCU 09.0260) for health records**
- 3) Sealed Confidential Report (WPF DRPSCU 09.270) for confidential reports**

If filed separately using a cover sheet, the records will be sealed to protect your privacy (although they will be available to all parties in the case, their attorneys, court personnel and certain state agencies and boards.) See GR 22(C)(2).

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**Superior Court of Washington
County of _____**

In re the Marriage of:

Petitioner,

and

Respondent.

No. _____

**Order Appointing Guardian ad
Litem on Behalf of Minor
(ORAPGL)**

I. Basis

1.1 Basis for the Appointment

This appointment is being made pursuant to

- RCW 26.09 Dissolution
- RCW 26.26 Parentage Act
- RCW 26.50 Domestic Violence

1.2 Children to Whom the Order Applies

The father mother court moved for appointment of a guardian ad litem for the following minor child(ren) in this action:

<u>Name</u>	<u>Age</u>
_____	_____
_____	_____
_____	_____
_____	_____

1 **II. Findings**

2 After reviewing the case record to date and the basis for the motion, the court ***Finds*** that the motion
3 should be granted because appointment of a guardian ad litem is in the best interest of the
4 child(ren).

5 **III. Order**

6 ***It is Ordered:***

7 **3.1 Appointment of Guardian ad Litem**

8 _____ is appointed as guardian ad litem for
9 the above-named minor child(ren) of the parties and shall receive copies of all pleadings and notice
10 of all court proceedings regarding the child(ren).

11 **3.2 Duties of the Guardian ad Litem**

12 The guardian ad litem shall investigate and report factual information to the court concerning
13 parenting arrangements for the child(ren), and shall represent the child(ren)'s best interests. The
14 guardian ad litem may make recommendations based upon an independent investigation regarding
15 the best interests of the child(ren). The guardian ad litem shall report a child(ren)'s expressed
16 preferences regarding the parenting plan to the court, together with the facts relative to whether any
17 preferences are being expressed voluntarily and the degree of the child(ren)'s understanding.

18 The guardian ad litem shall make a full and complete written report to the court and counsel/parties
19 on or before _____ [Date] and at least 60 days before trial provided that an
20 extension may be granted by the court. This report shall include recommendations and bases for
21 those recommendations.

22 [] other:

23 **3.3 Other Duties**

24 Other duties of the guardian ad litem include appearing at all court hearings and pretrial conferences
within the scope of appointment unless excused by the court and assisting the parties and counsel in
reaching a resolution of the matters involving said child(ren).

3.4 Guardian ad Litem Access to Child(ren), Records and Information

To facilitate reasonable investigation of information pertaining to the best interest of the child(ren),
the guardian ad litem shall have access to the child(ren) and to all records and information,
including authorization to speak with interested persons, from the following sources: law
enforcement agencies; Child Protective Services (or the equivalent out-of-state agency); health care
providers; mental health care providers; child care providers; the Department of Social and Health
Services (or the equivalent agency in another state); and educational institutions.

These agencies may withhold or blackout portions of requested information as warranted by law or
by court order. The guardian ad litem shall maintain the confidentiality of information except as
necessary to fulfill his or her duties as guardian ad litem.

1 Within the scope of appointment, the guardian ad litem shall have access to all Superior Court and
2 Juvenile Court files, including any sealed/confidential portions thereof, other than records sealed
3 pursuant to RCW 13.50.050(7). All information obtained from sealed or confidential files shall
4 remain sealed or confidential, and the guardian ad litem shall inform the court if the guardian ad
5 litem report contains sealed or confidential information.

6 The court clerk shall provide certified copies of this order to the guardian ad litem upon request and
7 without charge.

8 Upon good cause shown, the guardian ad litem or the parties may move that the court make
9 confidential any reports or documents placed in the court file by the guardian ad litem.

10 **3.5 Payment of Fees and Costs**

11 The guardian ad litem fee is \$_____ per hour up to \$_____, the maximum the guardian ad
12 litem may charge without additional court review and approval.

13 The fees and costs of the guardian ad litem shall be paid as follows:

14 _____ % by father and _____ % by mother _____ % by other: _____
15 Other:

16 The total amount awarded shall be at the discretion of the court up to the maximum amount allowed
17 after the guardian ad litem files an itemized statement of time with the court, along with a specific
18 request for fees and a proposed Order. Guardians ad litem who are not volunteers shall provide the
19 parties with an itemized accounting of their time and billing for services each month.

20 **3.6 Consent of Children Over Twelve to Investigation**

21 Does not apply.
22 _____
23 has/have reached the age of twelve. Written consent for the guardian ad litem to consult
24 with and obtain information from medical, psychiatric, or other experts who have served
the child(ren) in the past has has not been given by the child.

25 **3.7 Authorization for Release of Information**

26 Does not apply.
27 Each party's signature hereunder constitutes an authorization for release of information by
28 that party to the agencies listed in paragraph 3.4, above.

29 **3.8 Termination of Appointment**

30 The appointment terminates:

31 Upon entry of the final parenting plan or residential schedule.
32 Other:

33 **3.9 Other**

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Dated: _____

Judge/Commissioner

Presented by:

Approved for entry:
Notice of presentation waived:

Signature of Party or Lawyer/WSBA No.

Signature of Party or Lawyer/WSBA No.

Print or Type Name

Print or Type Name

***Accepted upon approval by
the court***

Guardian Ad Litem

Signatures of the Parties:

Mother's Signature

Father's Signature

Child's Signature
(See Paragraph 3.6)

Child's Signature
(See Paragraph 3.6)

SAMPLE FORM - DO NOT FILE

**SUPERIOR COURT OF WASHINGTON
COUNTY OF EVERGREEN**

In re the Marriage of:

JANE DOE,

Petitioner,

NO. 01-3-99999-9

and

NOTE FOR MOTION DOCKET

JOE DOE,

Respondent.

(No Mandatory Form Developed)

TO THE CLERK OF COURT AND TO: Joe Doe
99 Railway Lane
Treelane, WA 98000

Please take notice that this case will be heard on the date below and the clerk is requested to note this issue on the docket for that day.

HEARING DATE: Monday, May 18th 2000
HEARING TIME: 10:00 a.m.
LOCATION: Evergeen County Superior Courthouse
COURTHOUSE ROOM: 2
ADDRESS: 102 West Broadway
Treelane, WA 98000
NATURE OF MOTION: Order Appointing Guardian Ad litem.

Date: 05-01-2001

Jane Doe
Signature of Moving Party

Jane Doe
P.O. Box 1
Treelane, WN 98536