

Rule 24. Guardian Ad Litem

24.01 Appointment

Subdivision 1. Generally. A guardian ad litem appointed to serve in a juvenile protection matter, as defined in Rule 2.01(19) of the Minnesota Rules of Juvenile Protection Procedure, shall continue to serve in the adoption matter following a transfer of guardianship to the Commissioner of Human Services. In any other adoption matter, the court may appoint a guardian ad litem pursuant to the Rules of Guardian ad Litem Procedure. The guardian ad litem shall advocate for the best interests of the child and shall continue to serve until the adoption decree is entered pursuant to Rule 45.

Subd. 2. Guardian Ad Litem Not Also Attorney for Child. Counsel for the child shall not also serve as the child's guardian ad litem or as legal counsel for the guardian ad litem.

(Amended effective January 1, 2007; amended effective July 1, 2014; amended effective September 1, 2019; amended effective January 1, 2025.)

2004 Advisory Committee Comment

Rule 24.01, subdivision 1, is consistent with Minnesota Statutes, section 259.65, which provides: "In any adoption proceeding, the court may appoint an attorney or a guardian ad litem, or both, for the person being adopted."

Rule 24.01 is intended to reflect the clear legislative mandate that the guardian ad litem in a juvenile protection matter shall continue to serve until the adoption decree is entered. See Minnesota Statutes, section 260C.317, subdivision 3, paragraph (b), and Minn. R. Juv. Prot. P. 26.03. It is preferable that the same individual serve continuously as the child's guardian ad litem for both the juvenile protection matter and the adoption matter. However, if that is not practicable, the guardian ad litem program shall assign another individual to serve as the child's guardian ad litem in the adoption matter following the termination of parental rights in the juvenile protection matter. Upon the assignment of a new individual to serve as guardian ad litem, the court shall issue a new appointment order.

24.02 Responsibilities

The guardian ad litem shall carry out the responsibilities set forth in the Minnesota Rules of Guardian Ad Litem Procedure. The guardian ad litem shall have the rights and powers set forth in the Minnesota Rules of Guardian Ad Litem Procedure.

24.03 Reimbursement

The court may inquire into the ability of the adopting parent to pay for the guardian ad litem's services and, after giving the adopting parent a reasonable opportunity to be heard, may order the adopting parent to pay the guardian ad litem's fees.

2004 Advisory Committee Comment

Rule 24.03 is consistent with Minnesota Statutes, section 259.65, which provides: "The court may order the adopting parents to pay the costs of services rendered by guardians or attorneys appointed,...provided that such parents shall be given a reasonable opportunity to be heard."