

Children's Law Center of Indiana



Legal Questions and Answers State GAL/CASA Seminar

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1. What statute provides for a GAL/CASA to be a party to a CHINS case?
IC 31-34-9-7
2. What statute provides for a GAL/CASA to be appointed in a CHINS case?
IC 31-34-10-3
3. What statutes provide for a GAL/CASA to be notified and be given an opportunity to be heard at the following hearings? Who must give the notice?
 - a. Detention hearing. IC 31-34-9-7, which gives GAL/CASA party status.
 - b. Initial hearing and continued initial hearing. IC 31-34-10-2
 - c. Factfinding hearing. IC 31-34-9-7, which gives GAL/CASA party status.
 - d. Dispositional hearing. IC 31-34-19-1.3
 - e. Periodic case review hearing. IC 31-34-21-4(e).
 - f. Permanency hearing. IC 31-34-21-4(e).
 - g. Termination of the parent-child relationship hearing. IC 31-35-2-6.5

DCS must give notice of the hearing unless the person to be notified was present in Court at a prior hearing and was given notice of the next hearing by the Court. IC 31-32-1-4.

4. What statute gives the GAL/CASA access to DCS records regarding the child for whom the GAL/CASA is appointed?
IC 31-33-18-2(7)
5. Does the GAL/CASA have a statutory right to access DCS records for the appointed child's siblings, stepsiblings, or other children who live in the parent's household?

No, but the GAL/CASA could obtain the parents' written permission for DCS to release records to the GAL/CASA regarding the parents' other children.

6. What statutes allow the GAL/CASA report to be admitted into evidence at a hearing even if the report contains hearsay so long as the hearsay is of probative value?

Predispositional report; IC 31-34-19-2. Periodic case review report; IC 31-34-22-3.
Dispositional modification report; IC 31-34-23-4, which references IC 31-34-18 and IC 31-34-19.

7. What statutes allow the GAL/CASA to receive copies of DCS reports prepared for CHINS hearings?

Predispositional report; IC 31-34-18-6(b). Periodic case review report; IC 31-34-22-2.
Dispositional modification report; IC 31-34-23-4, which references IC 31-34-18 and -19.

8. Do any statutes allow a GAL/CASA to file a report for a CHINS factfinding hearing or a termination of the parent-child relationship hearing?

No.

9. What law makes a GAL/CASA a party to an expedited CHINS appeal? Does the GAL/CASA need to do anything to be included in the expedited appeal?

Ind. Appellate Rule 14.1. GAL/CASA has five business days from service of DCS's Notice of Expedited Appeal to file an appearance in the expedited appeal and request any additional items to be included in the record. (This request could include submitting the GAL/CASA report which was filed with the trial court for the hearing to be included in the Appeal record).

10. What law makes a GAL/CASA a party to an appeal of a termination of the parent-child relationship decision?

Ind. Appellate Rule 17(A); In Re Involuntary Term. of Parent-Child Rel., 755 N.E.2d 1090 (Ind. Ct. App. 2001).

11. What statute allows a GAL/CASA to file a Parental Participation Petition?

IC 31-34-16-1

12. What statute allows a GAL/CASA to request a No Contact Order for a child?

IC 31-34-25-1

13. What statute allows a GAL/CASA to request that the Court modify its dispositional order?

IC 31-34-23-1

14. What statute allows the child to be present for the permanency hearing?

IC 31-34-21-7(c) if the child is at least sixteen (16) years old and the proposed plan is independent living.

15. Are Child and Family Team Meetings provided for in Indiana law?

No, they are held according to DCS policy and practice.

16. Are Special Needs Adoption Program Meetings to select adoptive families provided for in Indiana law?

No, they are held according to DCS policy and practice.

17. Is DCS's consent to the adoption needed for a child who is a CHINS to be adopted?

No, if DCS's refusal to consent is not in the child's best interests, the adoption court may decide that DCS's consent is not needed. IC 31-19-9-8(a)(10).

18. Who decides whether a child is eligible for postadoption financial assistance?

DCS, following Federal government guidelines regarding eligibility for the Adoption Assistance Program and DCS guidelines for the Indiana Adoption Subsidy Program.

19. What statute provides for the GAL/CASA to be released from the CHINS case?

The GAL/CASA serves until the court enters an order for discharge, i.e. closes the case. IC 31-32-3-8.

20. Should the court issue a new order appointing a GAL/CASA on a termination of the parent-child relationship case?

Yes, if the parent opposes termination; IC 31-35-2-7.

21. Is a GAL/CASA acting as an expert when the GAL/CASA gives an opinion about the child's best interests in a CHINS case?

No, a GAL/CASA is acting pursuant to the statutory role (IC 31-9-2-28; IC 31-9-2-50) and is allowed to make recommendations at the dispositional hearing (IC 31-34-19-1.3), periodic case review and permanency hearing(s) (IC 31-34-21-4; IC 31-34-22-3), and dispositional modification hearing (IC31-34-23-4) pursuant to statutes.