

Family Law Quarterly, Vol. 41, No. 2 (Summer 2007)
APPENDIX B
Appointment Provisions for Guardianship Cases

State	Appointment of Advocate	Consideration of Child's Preference	Other Provisions
AL	Discretionary: "If the court determines at any time in the proceeding that the interests of the minor are or may be inadequately represented, it may appoint an attorney to represent the minor, giving consideration to the choice of the minor if 14 or more years of age. An attorney appointed by the court to represent a minor may be granted the powers and duties of a guardian ad litem." ALA. CODE § 26-2A-135 (2004).	<p>The court shall appoint a person nominated by the minor, if the minor is 14 or more years of age, unless the court finds the appointment contrary to the best interest of the minor. ALA. CODE § 26-2A-76.</p> <p>A minor 14 or more years of age who is the subject of a parental appointment may prevent the appointment or cause it to terminate by filing in the court in which the nominating instrument is filed a written objection to the appointment before it is accepted or within 30 days after receiving notice of its acceptance. An objection may be withdrawn. An objection does not preclude appointment by the court in a proper proceeding of the parental nominee or any other suitable person. ALA. CODE § 26-2A-72.</p>	Notice about hearing of petition for guardian appointment must be given to the minor if the minor is 14. ALA. CODE § 26-2A-75.
AK	Discretionary: If, at any time in the proceeding, the court determines that the interests of the minor are or may be inadequately represented, it may appoint an attorney to represent the minor giving consideration to the preference of the minor if minor is 14 or over.... ALASKA STAT. § 13.26.060 (2004).	<p>The court may appoint as guardian any person whose appointment would be in the best interests of the minor. The court shall appoint a person nominated by the minor, if the minor is 14 years of age or older, unless the court finds the appointment contrary to the best interests of the minor. ALASKA STAT. § 13.26.055</p> <p>A minor of 14...may prevent an appointment of a testamentary guardian for the minor from becoming effective, or may cause a previously accepted appointment to terminate, by filing with the court in which the will is probated a written objection to the appointment before it is accepted or within 30 days after notice of its acceptance. ALASKA STAT. § 13.26.040.</p>	Notice about hearing of petition for guardian appointment must be given to the minor, if minor is 14. ALASKA STAT. § 13.26.060.

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AZ	<p>Discretionary: "If, at any time in the proceeding, the court determines that the interests of the minor are or may be inadequately represented, it may appoint an attorney to represent the minor, giving consideration to the preference of the minor if the minor is at least fourteen years of age." ARIZ. REV. STAT. § 14-5207 (2004).</p> <p>Required if proceeding for revocation of a permanent guardianship: The court shall appoint a guardian ad litem for the child in any proceeding for the revocation of permanent guardianship. ARIZ. REV. STAT. § 8-873.</p>	<p>A minor of fourteen or more years may prevent an appointment of his testamentary guardian from becoming effective, or may cause a previously accepted appointment to terminate, by filing with the court in which the will is probated a written objection to the appointment before it is accepted or within thirty days after notice of its acceptance. An objection may be withdrawn. An objection does not preclude appointment by the court in a proper proceeding of the testamentary nominee or any other suitable person. ARIZ. REV. STAT. § 14-5203.</p>	<p>Notice about hearing of petition for guardian appointment must be given to the minor, if minor is 14. ARIZ. REV. STAT. § 14-5207.</p>
AR	<p>Discretionary where custody is an issue: "The Director of the Administrative Office of the Courts is authorized to establish attorney ad litem programs to represent children in guardianship cases in probate court where custody is an issue." ARK. CODE ANN. § 9-13-106.</p>	<p>"The court shall appoint as guardian... having due regard to... any request for the appointment of a person as his or her guardian made by a minor 14 years of age or over." ARK. CODE ANN. § 28-65-204.</p>	<p>Notice about hearing of petition for guardian appointment must be given to the minor if the minor is over 14. ARK. CODE ANN. § 28-65-207.</p>
CA	<p>Discretionary: "The court may appoint private legal counsel for a ward, a proposed ward, a conservatee, or a proposed conservatee in any proceeding under this division if the court determines the person is not otherwise represented by legal counsel and that the appointment would be helpful to the resolution of the matter or is necessary to protect the person's interests." CAL. PROB. CODE § 1470(a).</p>	<p>"If the proposed ward is of sufficient age to form an intelligent preference as to the person to be appointed as guardian, the court shall give consideration to that preference in determining the person to be so appointed." - CAL. PROB. CODE § 1514.</p>	<p>Notice about hearing of petition for guardian appointment must be given to the minor if the minor is 12. CAL. PROB. CODE § 1511.</p> <p>In order to find that a child would not benefit from the appointment of counsel, the court must find all of the following: (A) The child understands the nature of the proceedings; (B) The child is able to communicate and advocate effectively with the court, other counsel, other parties, including social workers, and other professionals involved in the case; and (C) Under the circumstances of the case, the child would not gain any benefit by being represented by counsel.</p> <p>(2) If the court finds that the child would not benefit from representation by counsel,</p>

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			the court must make a finding on the record as to each of the criteria in (1) and state the reasons for each finding. (3) If the court finds that the child would not benefit from representation by counsel, the court must appoint a Court Appointed Special Advocate for the child, to serve as the CAPTA guardian ad litem, as required in section 326.5. Rule 1438 of the CA Rules of Court (2004).
CO	Discretionary: “If the court determines at any stage of the proceeding, before or after appointment, that the interests of the minor are or may be inadequately represented, it may appoint a lawyer to represent the minor, giving consideration to the choice of the minor if the minor has attained twelve years of age.” CO. REV. STAT § 15-14-205 (2004).	<p>“The court shall appoint a guardian nominated by the minor, if the minor has attained twelve years of age, unless the court finds the appointment will be contrary to the best interest of the minor.” CO. REV. STAT § 15-14-206.</p> <p>“Until the court has confirmed an appointee under § 15-14-202, a minor who is the subject of an appointment by a parent or guardian and who has attained twelve years of age has the right to consent or refuse to consent to an appointment of a guardian. If the minor consents to the appointment of the guardian, the minor shall file with the court in which the will is probated or the written instrument is filed a written consent to the appointment before it is accepted or within thirty days after notice of its acceptance. If the minor does not consent to the appointment of a guardian, then the court shall appoint a guardian pursuant to § 15-14-204.” CO. REV. STAT § 15-4-203.</p>	Notice about hearing of petition for guardian appointment must be given to the minor if the minor is 12. CO. REV. STAT § 15-14-205.
CT	<p>Discretionary (attorney): The court “may appoint counsel to represent or appear on behalf of any minor...” CONN. GEN. STAT. § 45A-620 (2005).</p> <p>Required if abuse or neglect: However, if abuse or neglect is alleged, “a minor shall be represented by counsel appointed by the court to</p>	When appointing a guardian, the court shall consider “the minor's wishes, if he or she is over the age of twelve or is of sufficient maturity and capable of forming an intelligent preference.” CONN. GEN. STAT. § 45a-617.	<p>Notice of hearing about the appointment of a guardian shall be given to the minor if the minor is over 12. CONN. GEN. STAT. § 45a-616.</p> <p>Notice about removal of guardian appointment must be given to the minor if</p>

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	<p>represent the minor." CONN. GEN. STAT. § 45A-620.</p> <p>Discretionary (non-attorney guardian ad litem): "In all cases in which the court deems appropriate, the court shall also appoint a person, other than the person appointed to represent the minor, as guardian ad litem for such minor to speak on behalf of the best interests of the minor, which guardian ad litem is not required to be an attorney-at-law but shall be knowledgeable about the needs and protection of children." CONN. GEN. STAT. § 45a-620 (2005).</p>		<p>the minor is over 12. CONN. GEN. STAT. § 45a-613.</p>
DE	<p>Guardian ad litem discretionary: "Any child who is the subject of a... guardianship should have a guardian ad litem appointed by the Court to represent the best interests of the child." DEL. CODE ANN. tit 13, § 701 (2004).</p> <p>Attorney discretionary: "The Court, in its discretion, may also appoint an attorney to represent the child's wishes." DEL. CODE ANN. tit 13, § 701.</p> <p>"Guardian ad litem" means an individual appointed by the Court to represent the best interests of a child, whether or not that reflects the wishes of the child, who by his or her appointment shall be a party to the child welfare proceeding. DEL. CODE ANN. tit 13, § 2302.</p>	<p>"If the child is 14 years of age or older, the Court shall find that the child consents to the guardianship or, if the child does not consent, just cause why the guardian should be appointed." DEL. CODE ANN. tit 13, § 2330.</p>	<p>The guardian ad litem shall be an attorney authorized to practice law in the State or a Court-Appointed Special Advocate. The rights, responsibilities and duties of the attorney serving as guardian ad litem are set forth in section 9007A of Title 29, and the rights, responsibilities and duties of the Court-Appointed Special Advocate serving as guardian ad litem are set forth in Chapter 36 of Title 31. When determining whether to appoint an attorney through the Office of the Child Advocate or a Court-Appointed Special Advocate through the Family Court, the Family Court judge, in his or her discretion, should assign the most complex and serious cases to the Office of the Child Advocate. DEL. CODE ANN. tit 13, § 701 (2004).</p>
D.C.	<p>Discretionary (implied): may also appoint a guardian ad litem: Guardian ad litem means an individual appointed by the court to assist the subject of an intervention proceeding to determine his or her interests in regard to the guardianship or protective proceeding or to make that determination if the subject of the</p>	<p>"If the child is 14 years of age or older, the court shall designate the permanent guardian selected by the child unless the court finds that the designation is contrary to the child's best interests." D.C. CODE ANN. § 16-2383.</p>	<p>A "child through his or her legal representative" may file a motion for permanent guardianship. D.C. CODE ANN. § 16-2384.</p> <p>Notice shall give notice to all parties, including the minor. D.C. CODE ANN. § 16-</p>

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	intervention proceeding is unconscious or otherwise wholly incapable of determining his or her interest in the proceeding even with assistance.” D.C. CODE ANN. § 21-2011		<p>2386.</p> <p>If the court finds it is in the child's best interests, the child may be temporarily excluded from any proceeding. Under no circumstances, however, may counsel in the case be excluded. D.C. CODE ANN. § 16-2387.</p> <p>A motion for permanent guardianship is filed within the neglect case. Thus, everyone who is a part of the neglect case is part of the guardianship proceedings. Administrative order No. 02-05.II.A. says “An attorney who has been appointed to represent a party in a neglect proceeding shall also represent that party in proceedings relating to a motion for permanent guardianship.” CASA’s are not appointed specifically for guardian-ship cases and are only infrequently appointed at all.</p>
FL	<i>Appointment is not contemplated within the guardianship statute.</i>	The court should consider the preference of a minor who is age 14 or over as to who should be appointed guardian. FLA. STAT. ANN. § 744.312	
GA	<p>When a minor is interested in any litigation pending in any court in this state and he has no guardian or his interest is adverse to that of his guardian, such court may appoint a guardian ad litem for the minor. GA. CODE ANN. (O.C.G.A) § 29-4-7.</p> <p>The guardian ad litem shall be responsible to the minor for his conduct in connection with the litigation in the same manner as if he were a regularly qualified guardian. GA. CODE ANN. (O.C.G.A) § 29-4-7.</p>	(b) If a minor who has no guardian is above the age of 14 years before a guardian is appointed, he shall have the privilege of selecting a guardian himself. If the selection is judicious, the judge of the probate court shall appoint the guardian so selected. Having once exercised this privilege, the ward may not do so again, except upon cause shown for the removal of the guardian first selected. GA. CODE ANN. (O.C.G.A) § 29-4-4.	In Georgia, a person can obtain guardianship of a minor from two separate courts, Probate Court and Juvenile Court. Guardianships in Probate Court are based on express or implied consent of the parent, so there is no best interests determination and, therefore, no role for a guardian ad litem.
HI	Discretionary: “At any stage of a proceeding, the	The court shall appoint as guardian a person whose	Notice about hearing of petition for

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	<p>court or the family court may appoint a guardian ad litem if the court or the family court determines that representation of the interest otherwise would be inadequate. If not precluded by a conflict of interest, a guardian ad litem may be appointed to represent several individuals or interests. The court or the family court shall state on the record the duties of the guardian ad litem and its reasons for the appointment.” HAW. REV. STAT. § 560:5-115.</p> <p>If the court determines at any stage of the proceeding, before or after appointment, that the interests of the minor are or may be inadequately represented, it may appoint a lawyer to represent the minor, giving consideration to the choice of the minor if the minor has attained fourteen years of age. HAW. REV. STAT. § 560:5-205</p>	<p>appointment will be in the best interest of the minor. The court shall appoint a person nominated by the minor, if the minor has attained fourteen years of age, unless the court finds the appointment will be contrary to the best interest of the minor. HAW. REV. STAT. § 560:5-206.</p>	<p>guardian appointment must be given to the minor if the minor is 14. HAW. REV. STAT. § 560:5-205</p>
ID	<p>Required: “The court shall appoint an attorney to represent the minor if the court determines that the minor possesses sufficient maturity to direct the attorney. If the court finds that the minor is not mature enough to direct an attorney, the court shall appoint a guardian ad litem for the minor. The court may decline to appoint an attorney or guardian ad litem if it finds in writing that such appointment is not necessary to serve the best interests of the minor or if the Idaho department of health and welfare has legal custody of the child.” ID. CODE § 15-5-207(5).</p>	<p>“The court may appoint as guardian any person whose appointment would be in the best interests of the minor. The court shall appoint a person nominated by the minor, if the minor is 14 or older, unless the court finds the appointment contrary to the best interests of the minor.” ID. CODE § 15-5-206 C.</p> <p>“A minor of 14 may prevent an appointment of his testamentary guardian from becoming effective, or may cause a previously accepted appointment to terminate, by filing with the court in which the will is probated a written objection to the appointment before it is accepted or within thirty (30) days after notice of its acceptance. An objection may be withdrawn. An objection does not preclude appointment by the court in a proper proceeding of the testamentary nominee, or any other suitable person.” ID. CODE § 15-5-203.</p>	<p>The minor may initiate proceedings for the appointment of a guardian if he is 14. ID. CODE § 15-5-207.</p> <p>Notice about hearing of petition for guardian appointment must be given to the minor 14 or older. ID. CODE § 15-5-207.</p>

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IL	<p>Discretionary: "In any proceeding for the appointment of a standby guardian or a guardian the court may appoint a guardian ad litem to represent the minor in the proceeding." 755 ILL. COMP. STAT. § 5/11-10.1.</p> <p>Required if abuse or neglect: Illinois requires the immediate appointment of a guardian ad litem on behalf of a minor who is alleged to be abused, neglected, or dependent. 705 ILL. COMP. STAT. § 405/2-17(1). "The GAL shall represent the best interests of the minor and shall present recommendations to the court consistent with that duty."</p> <p>Discretionary "whenever [the court] finds that there may be a conflict of interest between the minor and his parents or other custodian or that it is otherwise in the minor's best interest to do so." 705 ILL. COMP. STAT. § 405/2-17(3).</p>	<p>"If the minor is 14 years of age or more, the minor may nominate the guardian of the minor's person and estate, subject to approval of the court. If the minor's nominee is not approved by the court or if, after notice to the minor, the minor fails to nominate a guardian of the minor's person or estate, the court may appoint the guardian without nomination." 755 ILL. COMP. STAT. § 5/11-5.</p>	<p>Notice shall be given to the minor if the minor is 14 or older "unless excused by the court for good cause shown." 755 ILL. COMP. STAT. § 5/11-10.1</p>
IN	<p>Required unless: "waived under subsection (b) or if § 4 of this chapter does not apply, the court shall appoint a guardian ad litem to represent the interests of the... minor if the court determines that the... minor is not represented or is not adequately represented by counsel..." IND. CODE ANN. § 29-3-2-3.</p> <p>The court as part of the record of the proceeding shall set out its reasons for appointing a guardian ad litem. IND. CODE ANN. § 29-3-2-3.</p> <p>Appointment of GAL or CASA is required if there is a specialized guardianship proceeding that arises when the custodial parent in a divorce dies and the non-custodial parent had only supervised visitation or was denied any visitation</p>	<p>"The court shall appoint as guardian a qualified person or persons most suitable and willing to serve, having due regard to... any request made by a minor who is at least 14 years of age." IND. CODE ANN. § 29-3-5-4.</p>	<p>Notice of the petition and the hearing on the petition shall be given to: The minor, if at least 14 years of age, unless the minor has signed the petition. IND. CODE ANN. § 29-3-6-1.</p>

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	by the court. IND. CODE ANN. § 29-3-3-6.		
IA	Discretionary: "The court shall determine whether, under the circumstances of the case, the proposed ward is entitled to representation... If the court determines that the proposed ward is entitled to representation, the court shall appoint an attorney to represent the proposed ward." IOWA CODE § 633.561 (2004)	"The court shall give preference to any qualified and suitable person requested by a minor 14 years of age or older..." IOWA CODE § 633.559.	"A guardian may also be appointed by the court upon the verified petition of the proposed ward...if the proposed ward is other than a minor under the age of fourteen years, provided the court determines that such an appointment will inure to the best interest of the applicant." IOWA CODE § 633.557.
KS	Discretionary (implied): "This notice shall be served on the attorney appointed by the court to represent the minor, if one has been appointed..." KAN. STAT. ANN. § 59-3066 (2003).	The court in appointing a guardian or conservator shall give priority in the following order to: (1) The nominee of the proposed ward or proposed conservatee, if such nomination is made within any durable power of attorney; (2) the nominee of a natural guardian; (3) the nominee of a minor who is the proposed ward or proposed conservatee, if the minor is over 14 years of age. KAN. STAT. ANN. § 59-3068.	"Notice shall be served on the attorney appointed by the court to represent the minor, if one has been appointed... The court may order that a copy of this notice shall be served on such other persons, including the minor, as the court determines and in such manner as the court directs." KAN. STAT. ANN. § 59-3066
KY	Discretionary (implied): "Whether appointed pursuant to this statute or pursuant to a provision of the Kentucky Unified Juvenile Code, the duties of a guardian ad litem shall be to advocate for the client's best interest in the proceeding through which the guardian ad litem was appointed. Without an appointment, the guardian ad litem shall have no obligation to initiate action or to defend the client in other proceedings." KY. REV. STAT. ANN. § 387.305 (2004).	If the minor is 14 or older, he or she may nominate his own guardian. KY. REV. STAT. ANN. § 387.050.	Notice of the hearing shall be given to the minor, if the minor is over 14. KY. REV. STAT. ANN. § 387.025.
LA	Discretionary: The court may appoint counsel for the child in a voluntary transfer of custody proceeding. LSA-CH.C. ART. 1518 Counsel shall be appointed for any child in a Child in Need of Care proceeding. LSA-CH.C. ART. 607	<i>Statute does not contemplate consideration of child's preference in the guardianship proceeding.</i>	
ME	Discretionary: "If, at any time in the proceeding, the court determines that the interests of the ward	The court shall appoint a person nominated by the minor, if the minor is 14 years of age or older, unless	Notice of the hearing shall be given to the minor, if the minor is 14 or older. ME. REV.

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	<p>are, or may be, inadequately represented, it may appoint an attorney to represent the minor, giving consideration to the preference of the minor if the minor is 14 or more years of age.” ME. REV. STAT. ANN. tit 18-a, § 5-212.</p>	<p>the court finds the appointment contrary to the best interests of the minor. The court may not appoint a guardian for a minor child who will be removed from this State for the purpose of adoption. ME. REV. STAT. ANN. tit 18-a, § 5-206.</p> <p>A minor of 14 or more years may prevent an appointment of his testamentary guardian from becoming effective, or may cause a previously accepted appointment to terminate, by filing with the court in which the will is probated a written objection to the appointment before it is accepted or within 30 days after notice of its acceptance. An objection may be withdrawn. An objection does not preclude appointment by the court in a proper proceeding of the testamentary nominee, or any other suitable person. ME. REV. STAT. ANN. tit 18-a, § 5-203.</p>	<p>STAT. ANN. tit 18-a, § 5-207.</p>
MD	<p>Required if guardianship with right to consent to adoption: “the court shall appoint separate counsel to represent the individual to be adopted, if the consent of the individual to be adopted is required and the individual has a disability that renders the individual incapable of consenting and otherwise effectively participating in the proceedings.” MD. CODE ANN. FAM. LAW § 5-323. (This is in § adoption and guardianship with right to consent to adoption.)</p> <p>Otherwise discretionary: (9) If the minor or alleged disabled person is represented by an attorney, the name and address of the attorney. Rule 10-201.</p>	<p><i>Statute does not contemplate consideration of child's preference in the guardianship proceeding.</i></p>	<p>“The petitioner shall serve a show cause order... on the minor... [although] service upon a minor under 10 may be waived.” Rule 10-203.</p>
MA	<p>Discretionary: The court “may... appoint a suitable person to appear and act therein as</p>	<p>If minor is above 14, he or she may nominate his own guardian, who, if approved by the court, shall</p>	<p>Notice of the hearing on a petition for a temporary conservatorship or guardianship</p>

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	guardian ad litem or next friend of such minor..." MASS. GEN. LAWS ANN. ch. 201, § 34.	be appointed accordingly. MASS. GEN. LAWS ANN. ch. 201, § 2.	shall be given to the minor if the minor is over 14. Rule 29B in West's MASSACHUSETTS RULES OF COURT GENERAL RULES OF THE PROBATE COURT (2004).
MI	<p>Discretionary:</p> <p>If, at any time in the proceeding, the court determines that the minor's interests are or may be inadequately represented, the court may appoint a lawyer-guardian ad litem to represent the minor, giving a consideration to the preference of the minor if the minor is 14 years of age or older. MICH. COMP. LAWS § 700.5213.</p> <p>If a petition is filed to terminate a guardianship under this section, the court may: Appoint a guardian ad litem or attorney to represent the minor. MICH. COMP. LAWS § 700.5208.</p>	<p>The court may appoint as guardian a person whose appointment serves the minor's welfare, including a professional guardian described in section 5106. If the minor is 14 years of age or older, the court shall appoint a person nominated by the minor, unless the court finds the appointment contrary to the minor's welfare." MICH. COMP. LAWS § 700.5212</p> <p>A minor 14 or older may petition for the appointment or removal of a guardian (removal on the ground that it would serve the ward's welfare or for another order that would serve the ward's welfare.) MICH. COMP. LAWS § 700.5219.</p> <p>A minor 14 years of age or older may prevent an appointment or cause it to terminate by filing with the court in which the nominating instrument is filed a written objection to the appointment before it is accepted or within 28 days after its acceptance. (An objection may be withdrawn. An objection does not preclude appointment by the court in a proper proceeding of the parental nominee or another suitable person.) MICH. COMP. LAWS § 700.5203.</p>	Notice of the hearing shall be given to the minor, if the minor is 14 or older. MICH. COMP. LAWS § 700.5213.
MN	<p>Discretionary: A court may appoint a guardian ad litem if the court determines that representation of the interest otherwise would be inadequate. Sec. 14. MINN. STAT. ANN. § 524.5-115.</p> <p>The court shall state on the record the duties of the guardian ad litem and its reasons for the appointment. Sec. 14. MINN. STAT. ANN. § 524.5-115.</p>	The court shall appoint a person nominated by the minor, if the minor has attained 14 years of age, unless the court finds the appointment will be contrary to the best interest of the minor. Sec. 22. MINN. STAT. ANN. § 524.5-206.	Written notice of the acceptance of appointment if the minor has attained 14 years of age... Sec. 18. MINN. STAT. ANN. § 524.5-202.

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MS	<i>Appointment is not contemplated within the guardianship statute.</i>	<p>The court may allow a minor who is over 14 years and under no legal disability except minority to select a general guardian, by petition to the court, signed and acknowledged before the clerk or a justice of the peace, and duly filed, but if the general guardian so selected by the minor be guardian of the person and estate of the minor or the person only of the minor then such general guardian so selected by said minor shall be a suitable and qualified person who is a resident of this state and the county in which the guardianship proceedings are pending. MISS. CODE ANN. § 93-13-13.</p> <p>And if any such minor over 14 fails to appear and selects a general guardian of his estate only or of his estate and person or of his person only when summoned, or if the general guardian chosen fails to qualify, and no other be chosen in his stead, the court shall appoint a general guardian to the minor as if he were under 14. MISS. CODE ANN. § 93-13-13.</p>	
MO	Discretionary (implied): guardian ad litem: "one appointed by a court, in which particular litigation is pending, to represent a minor, an incapacitated person, a disabled person, or an unborn person in that particular proceeding or as otherwise specified in this code." MO. REV. STAT. § 475.010.	If any minor over 14 has no qualified parent living, a person nominated by the minor, unless the court finds appointment contrary to the best interests of the minor. MO. REV. STAT. § 475.045.	Notice of the petition shall be given to the minor if the minor is over 14. MO. REV. STAT. § 475.070.
MT	Discretionary: "If, at any time in the proceeding, the court determines that the interests of the minor are or may be inadequately represented, it may appoint an attorney to represent the minor, giving consideration to the preference of the minor if the minor is 14 years of age or older." MONT. CODE ANN. §§ 72-5-225, 72-5-234 (2005).	<p>The court may appoint as guardian any person whose appointment would be in the best interests of the minor. The court shall appoint a person nominated by the minor if the minor is 14 years of age or older unless the court finds the appointment contrary to the best interests of the minor. MONT. CODE ANN. § 72-5-223.</p> <p>A minor of 14 or more years may prevent an</p>	Notice of petition of hearing must be given to the minor if the minor is 14 or more. MONT. CODE ANN. § 75-5-225.

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		<p>appointment of his testamentary guardian from becoming effective or may cause a previously accepted appointment to terminate by filing with the court in which the will is probated a written objection to the appointment before it is accepted or within 30 days after notice of its acceptance. An objection may be withdrawn. An objection does not preclude appointment by the court in a proper proceeding of the testamentary nominee or any other suitable person. MONT. CODE ANN. § 72-5-213.</p>	
NE	<p>Discretionary: "If, at any time in the proceeding, the court determines that the interests of the minor are or may be inadequately represented, it may appoint an attorney to represent the minor, giving consideration to the preference of the minor if the minor is fourteen years of age or older." NEB. REV. STAT. § 30-2611.</p>	<p>The court may appoint as guardian any person whose appointment would be in the best interests of the minor. The court shall appoint a person nominated by the minor, if the minor is 14 or older, unless the court finds the appointment contrary to the best interests of the minor. NEB. REV. STAT. § 30-2610.</p> <p>A minor of fourteen or more years may prevent an appointment of his testamentary guardian from becoming effective, or may cause a previously accepted appointment to terminate, by filing with the court in which the will is probated a written objection to the appointment before it is accepted or within thirty days after notice of its acceptance. An objection may be withdrawn. An objection does not preclude appointment by the court in a proper proceeding of the testamentary nominee, or any other suitable person. NEB. REV. STAT. § 30-2607.</p>	<p>Notice shall be given to the minor if the minor is 14 or older. NEB. REV. STAT. § 30-2611.</p>
NV	<p>Discretionary: The court may appoint a person to represent the ward or proposed ward as a guardian ad litem. NEV. REV. STAT. § 159.0455.</p> <p>A minor ward or proposed minor ward who is the subject of proceedings held pursuant to this chapter may be represented by an attorney at all stages of the proceedings. NEV. REV. STAT §</p>	<p>If the child is 14 or older, he or she must consent to the guardianship before the court may appoint a person as a guardian for the child. NEV. REV. STAT § 432B.4665.</p>	

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	159.0483.		
NH	<i>Appointment is not contemplated within the guardianship statute.</i>	<p>A minor 14 years of age or older, or any person or authorized agency interested in the welfare of the minor, may petition for appointment of a guardian of the person or of the estate or of both. N.H. REV. STAT. ANN. § 463:5.</p> <p>The consent of the minor shall not be necessary for the appointment of a guardian, but the court shall in all cases ascertain the minor's preference, and give to it such weight as under the circumstances may seem just. N.H. REV. STAT. ANN. § 463:8.</p>	<p>Notice about the hearing must be given to the minor, if 14 years of age or older and not the petitioner. N.H. REV. STAT. ANN. § 463:6.</p> <p>A minor 14 years of age or older shall attend the hearing unless attendance is excused by the court. All other minors may attend the hearing if authorized or ordered by the court. N.H. REV. STAT. ANN. § 463:8.</p>
NJ	Discretionary: "The court may appoint a guardian ad litem or counsel to represent the child. The court shall consider the preferences of the minor child in the appointment of a standby guardian pursuant to this act." N.J. REV. STAT. § 3B:12-77.	In making its determination about whether to appoint the caregiver as kinship legal guardian, the court shall consider: the wishes of the child if the child is 12 years of age or older, unless unique circumstances exist that make the child's age irrelevant. N.J. REV. STAT. § 3B-12A-6.	Notice of a petition shall be served upon the minor if the minor is 14 years or older. Notice to a minor child less than 14 shall be served at the discretion of the court. N.J. REV. STAT. § 3B:12-77.
NM	<p>Required if parent objects to appointment, otherwise discretionary: The court "may appoint a guardian ad litem for the child upon the motion of a party or solely in the court's discretion. The court shall appoint a guardian ad litem if a parent of the child is participating in the proceeding and objects to the appointment requested." N.M. STAT. ANN. § 40-10B-9.</p> <p>Required in all proceedings for the revocation of the guardianship. N.M. STAT. ANN. 32A-4-32(K).</p> <p>A guardian ad litem appointed by the court in a proceeding pursuant to the Kinship Guardianship Act shall: A. in connection with a petition for guardianship, make a diligent investigation of the circumstances surrounding the petition, including</p>	<p>"The court shall appoint a person nominated by a child who has reached his fourteenth birthday unless the court finds the nomination contrary to the best interests of the child; and... the court shall not appoint a person as guardian if a child who has reached his fourteenth birthday files a written objection in the proceeding before the person accepts appointment as guardian" N.M. STAT. ANN. § 40-10B-11.</p> <p>Any person, including a child who has reached his fourteenth birthday, may move for revocation of a guardianship created pursuant to the Kinship Guardianship Act. N.M. STAT. ANN. § 40-10B-12.</p>	<p>A motion for permanent guardianship may be filed by any party, which includes the child. N.M. STAT. ANN. § 32A-4-32(A).</p> <p>A child may make a motion for revocation of the order granting guardianship. N.M. STAT. ANN. § 32A-4-32(J).</p>

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	<p>visiting the child in the home, interviewing the person proposed as guardian and interviewing the parents of the child if available; B. in connection with a petition or motion for revocation of a guardianship, recommend an appropriate transition plan in the event the guardianship is revoked; and C. at a hearing held in connection with proceedings described in Subsection A or B of this section, report to the court concerning the best interests of the child and the child's position on the requested relief. N.M. STAT. ANN. § 40-10B-10.</p>		
NY	<p>§ 384 of the Social Services Law is “Guardianship and custody of children not in foster care.” § 383 is “Guardianship and custody of children in foster care.”</p> <p>Required if infant: “The court shall appoint a guardian ad litem to represent an infant in a proceeding for the commitment of the guardianship and custody of such infant brought pursuant to section three hundred eighty-four-b of the social services law...” N.Y. SURROGATE’S COURT PROCEDURE ACT, SCP § 403-a.</p>	<p><i>Statute does not contemplate consideration of child’s preference in the guardianship proceeding</i></p>	
NC	<p>Discretionary [regarding Standby Guardianships]: The clerk may appoint a volunteer guardian ad litem, if available, to represent the best interests of the minor child and, where appropriate, express the wishes of the minor child. N.C. GEN. STAT. ANN. § 35A-1379 (2004).</p> <p>Duties of the guardian ad litem: to make an investigation to determine the facts, the needs of the minor child and the available resources within the family to meet those needs, and to protect and promote the best interests of the</p>	<p><i>Statute does not appear to contemplate consideration of child’s preference in the basic guardianship proceeding.</i></p> <p>However, there is a reference to the child’s express wishes in N.C. GEN. STAT. ANN. § 35A-1379 (“The clerk may appoint a volunteer guardian ad litem, if available, to represent the best interests of the minor child and, where appropriate, express the wishes of the minor child.”)</p>	<p>Notice of the hearing upon the minor child at the court’s discretion. N.C. GEN. STAT. § 35A-1373.</p>

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	minor child until formally relieved of the responsibility by the clerk. N.C. GEN. STAT. ANN. § 35A-1379.		
ND	Discretionary: "If, at any time in the proceeding, the court determines that the interests of the minor are or may be inadequately represented, it may appoint an attorney to represent the minor, giving consideration to the preference of the minor if the minor is fourteen years of age or older." N.D. CENT. CODE § 30.1-27-07 (5-207).	<p>"The court shall appoint a person nominated by the minor, if the minor is 14 or older, unless the court finds the appointment contrary to the best interests of the minor." N.D. CENT. CODE § 30.1-27-06 (5-206).</p> <p>"A minor of 14 or more years may prevent an appointment of the minor's testamentary guardian from becoming effective, or may cause a previously accepted appointment to terminate, by filing with the court in which the will is probated a written objection to the appointment before it is accepted or within thirty days after notice of its acceptance. An objection may be withdrawn. An objection does not preclude appointment by the court in a proper proceeding of the testamentary nominee, or any other suitable person." N.D. CENT. CODE § 30.1-27-03 (5-203).</p>	Notice of the hearing shall be given to the minor, if the minor is 14 or older. N.D. CENT. CODE § 30.1-27-07 (5-207).
OH	Required if guardian has an adverse interest, otherwise discretionary: "In a suit or proceeding in which the guardian has an adverse interest, the court shall appoint a guardian ad litem to represent such minor or other person under legal disability." "Whenever a minor...for whom no guardian of the estate or of the person and estate has been appointed, is interested in any suit or proceeding in such court, the court may appoint a guardian or a guardian ad litem." OHIO REV. CODE ANN. § 2111.23.	A minor over 14 "may select a guardian who shall be appointed if a suitable person. If such minor fails to select a suitable person, an appointment may be made without reference to the minor's wishes. The minor shall not select one person to be the guardian of the minor's estate only and another to be the guardian of the person only, unless the court which appoints is of the opinion that the interests of such minor will thereby be promoted." OHIO REV. CODE ANN. § 2111.12.	Notice of the hearing shall be given to the minor, if the minor is over 14. § 2111.04.
OK	Discretionary (implied): "'Guardian ad litem' means, with respect to a guardianship proceeding, a person appointed by the court to assist the subject of the proceeding in making decisions with regard to the guardianship	"If the minor is under 14, the court may name and appoint his guardian. If the minor is 14 or older, the minor may nominate his own guardian, who, if approved by the court, must be appointed accordingly." OKLA. ADMIN. CODE, tit. 30, § 2-103.	Notice of the hearing shall be given to the minor, if the minor is 14. OKLA. ADMIN. CODE, tit. 30, § 2-101.

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	<p>proceeding, or to make said decisions when the subject of the proceeding is wholly incapable of making said decisions even with assistance.” OKLA. ADMIN. CODE, tit. 30, § 1-111.</p>	<p>“When a guardian has been appointed by the court for a minor under 14, the minor, at any time after he has attained age 14, may nominate his own guardian, subject to the approval of the court.” OKLA. ADMIN. CODE, tit. 30, § 2-104.</p> <p>“If a guardian nominated by a minor who has attained the age of 14 years is not approved by the court or if, after being notified by the court, the minor neglects for 10 days to nominate a suitable person, the court may name and appoint a guardian in the same manner as if the minor was under 14.” OKLA. ADMIN. CODE, tit. 30, § 2-105.</p>	
OR	<p><i>Appointment is not contemplated within the guardianship statute.</i></p>	<p><i>Statute does not contemplate consideration of child's preference in the guardianship proceeding.</i></p>	
PA	<p><i>Appointment is not contemplated within the guardianship statute.</i></p>	<p>“A person nominated by a minor over the age of 14, if found by the court to be qualified and suitable, shall be preferred as guardian of his person or estate.” PA STAT. ANN. tit. 20, § 5113</p>	
RI	<p><i>Appointment is not contemplated within the guardianship statute.</i></p>	<p>“A probate court may appoint a guardian of a minor under 14. A minor of the age of 14 or over may nominate his or her own guardian, who, if approved by the probate court, shall be appointed accordingly.” R.I. GEN. LAWS § 33-15.1-5.</p>	<p>Notice of the hearing shall be given to the minor, if the minor is 12 or older. (If the intended ward is a minor under 12, in lieu of personal service, notice may be served upon any of the next of kin of the ward, or other interested person or friend, as the court may direct.) R.I. GEN. LAWS § 33-15.1-10.</p>

State	Appointment of Advocate	Consideration of Child's Preference	Other Provisions
SC	Discretionary: "If, at any time in the proceeding, the court determines that the interests of the minor are or may be inadequately represented, it may appoint an attorney to represent the minor, giving consideration to the choice of the minor if fourteen years of age or older. A lawyer appointed by the court to represent a minor has the powers and duties of a guardian ad litem. If the minor already has an attorney, that attorney shall act as his guardian ad litem." § 62-5-407	<i>Statute does not contemplate consideration of child's preference in the guardianship proceeding.</i>	
SD	Discretionary: "Nothing in this chapter precludes the appointment of an attorney, guardian ad litem, or court representative if the court determines that such an appointment is necessary." S.D. CODIFIED LAWS § 29A-5-117. "The court may appoint an attorney for the minor, if it concludes that an appointment is necessary to protect the minor's interests." S.D. CODIFIED LAWS § 29A-5-205.	"A minor, age 14 or older, may nominate any individual or entity to act as his guardian or conservator. The nomination may be made in writing or by an oral request to the court. The court may appoint the individual or entity so nominated if the nominee is otherwise eligible to act and would serve in the minor's best interests. However, no nomination by a minor may supersede a previous appointment by the court." S.D. CODIFIED LAWS § 29A-5-202.	A petition for the appointment of a guardian, a conservator, or both, may be filed by the minor... § 29A-5-203. Notice of the hearing shall be given to the minor, if the minor is age 10 or older. The court may order that no notice of hearing need be given if all persons entitled to notice waive notice of hearing and the court determines that it would be in the best interests of the minor and the minor's estate to proceed without notice. S.D. CODIFIED LAWS § 29A-5-204.
TN	Required unless waived: May be waived: (1) at court's discretion if petitioner is minor who has attained 14 years of age; or (2) if the court determines such waiver is in the best interests of the minor or disabled person. TENN. CODE ANN. § 34-1-107. Guardian ad litem shall be a lawyer. However, if there are insufficient lawyers within the court's jurisdiction for the appointment of a lawyer as guardian ad litem, the court may appoint a nonlawyer. TENN. CODE ANN. § 34-1-107.	<i>Statute does not appear to contemplate consideration of child's preference in the guardianship proceeding.</i>	
TX	Required (attorney ad litem): "[T]he court shall	<i>Statute does not appear to contemplate</i>	Notice shall be given to the minor if the

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	<p>appoint an attorney ad litem to represent the interests of the proposed ward. The attorney shall be supplied with copies of all of the current records in the case and may have access to all of the proposed ward's relevant medical, psychological, and intellectual testing records.” TEX. PROB. CODE ANN. § 646.</p> <p>Discretionary (guardian ad litem): “The judge may appoint a guardian ad litem to represent the interests of an incapacitated person in a guardianship proceeding.” TEX. PROB. CODE ANN. § 645</p>	<p><i>consideration of child's preference in the guardianship proceeding.</i></p>	<p>minor is 12 or older. TEX. PROB. CODE ANN. § 633</p>
UT	<p>Discretionary: If, at any time in the proceeding, the court determines that the interests of the minor are or may be inadequately represented, it may appoint an attorney to represent the minor, giving consideration to the preference of the minor if the minor is 14 years of age or older. UTAH CODE ANN. § 75-5-207.</p>	<p>“The court shall appoint a person nominated by the minor, if the minor is 14 years of age or older, unless the court finds the appointment contrary to the best interests of the minor.” UTAH CODE ANN. § 75-5-206.</p> <p>However, the court may deny the appointment of a guardian for a minor of school age if it finds that: (a) if the minor is older than 11 years of age: (i) the minor has not secured a certificate ...stating that there have been no criminal charges filed against the minor... or (ii) a release has not been given by or on behalf of the minor to the superintendent of the school district in which the minor would attend school in Utah... the school district has proven by a preponderance of the evidence that the primary purpose for the guardianship is to avoid the payment of tuition... after consideration of relevant evidence, including any presented by the school district in which the petitioner resides, the minor's behavior indicates an ongoing unwillingness to abide by applicable law or school rules. UTAH CODE ANN. § 75-5-205.</p>	<p>Written notice shall be given to the minor if the minor is 14 or older. UTAH CODE ANN. § 75-5-202.5.</p> <p>Notice shall be given to the minor if the minor is 14 years of age or older. UTAH CODE ANN. § 75-5-207.</p>

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VT	Discretionary (implied): “Nothing in this chapter shall take away the power of a court to appoint a guardian to defend the interests of a minor impleaded in such court, or interested in an action or matter therein pending, or its power to appoint or allow a person, as next friend of a minor, to commence, prosecute or defend an action in his behalf.” VT. STAT. ANN. Title 14, part 4, ch. 111, § 2657.	<p>“Minors residing in the state and having reached the age of fourteen years may choose their guardians, subject to the approval of the probate court, and may appear before the court or before a district judge and make their choice. The certificate of such magistrate shall be sufficient evidence to the court of the minor's choice.” VT. STAT. ANN. Title 14, part 4, ch. 111, § 2650.</p> <p>“A person appointed guardian of a minor shall continue to be such until another is appointed. After the minor arrives at the age of fourteen years, he may, from time to time, choose and have appointed another guardian.” VT. STAT. ANN. Title 14, part 4, ch. 111, § 2652.</p>	
VA	<i>Appointment is not contemplated within the guardianship statute.</i>	If the minor is over 14, “may, in the presence of the court or clerk, or in writing acknowledged before any officer qualified to take acknowledgments, nominate his own guardian.” (If the guardian is not approved,... “a guardian may be nominated and appointed in the same manner as if the minor were under the age of fourteen years.”) VA. CODE ANN. § 31-5.	
WA	Discretionary: WASH. REV. CODE ANN. § 11.88.040 & § 11.88.045.	If the minor is 14 or over, his or her consent is necessary. WASH. REV. CODE ANN. § 11.88.040.	Notice shall be given to the minor if the minor is over 14. WASH. REV. CODE ANN. § 11.88.040.
WV	Discretionary: “Prior to any hearing on the petition, the circuit court may appoint a discreet and competent attorney at law as guardian ad litem to represent the child pursuant to section ten, article four, chapter fifty-six of this code.” W. VA. CODE. § 44A-5-3 (2004). [APPLIES TO STANDBY GUARDIANSHIPS]	“If the minor is above the age of fourteen years, he or she may in the presence of the circuit or family court, or in writing acknowledged before any officer authorized to take the acknowledgement of a deed, nominate his or her own guardian, who, if approved by the court, shall be appointed accordingly.” W. VA. CODE. § 44-10-4.	
WI	Appears to be Discretionary: The court shall appoint a guardian ad litem when a petition for	“A minor who is 14 years or older may in writing in circuit court nominate his or her own guardian, but if	

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	<p>appointment of a guardian is brought under certain other provisions (including abuse and neglect proceedings) or at any other time that the court determines it is necessary. WIS. ADMIN. CODE § 54.40. However, it appears to be required in contested cases.</p>	<p>the minor is in the armed service, is outside of the state, or if other good reason exists, the court may dispense with the minor's right of nomination." WIS. ADMIN. CODE § 54.15(4)(b).</p>	
WY	<p>Discretionary. WYO. STAT. ANN. § 3-1-108.</p>	<p>"[Q]ualified persons have priority for appointment as guardian of a minor in the following order: (i) The parent or parents of the minor; (ii) The person nominated as guardian in the will of the custodial parent; (iii) The person requested by a minor who has reached the age of fourteen (14) years." WYO. STAT. ANN. § 3-2-107.</p>	<p>"Notice shall be served on the proposed ward's parents, spouse and adult children who are known or who can be discovered with due diligence, except... when for good cause the court determines that no notice is necessary if the proposed ward is under the age of 18." WYO. STAT. ANN. § 3-3-102.</p>