



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB0795

Introduced 2/10/2021, by Rep. Deanne M. Mazzochi

SYNOPSIS AS INTRODUCED:

750 ILCS 5/506

from Ch. 40, par. 506

Amends the Illinois Marriage and Dissolution of Marriage Act. Provides that, in a case involving dissolution of marriage, declaration of invalidity of marriage, allocation of parental responsibilities, or domestic violence, the court shall only appoint a guardian ad litem if the guardian ad litem has completed 20 hours of classroom training and 20 hours of training by a domestic abuse advocate to become a guardian ad litem. Provides that the training to become a guardian ad litem shall be offered by a statewide organization advocating for survivors of domestic violence. Provides that the new requirements do not apply to a unit of State or local government providing services, or a public defender's office associated with a unit of State or local government.

LRB102 15807 LNS 21174 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Marriage and Dissolution of
5 Marriage Act is amended by changing Section 506 as follows:

6 (750 ILCS 5/506) (from Ch. 40, par. 506)

7 Sec. 506. Representation of child.

8 (a) Duties. In any proceedings involving the support,
9 custody, visitation, allocation of parental responsibilities,
10 education, parentage, property interest, or general welfare of
11 a minor or dependent child, the court may, on its own motion or
12 that of any party, appoint an attorney to serve in one of the
13 following capacities to address the issues the court
14 delineates:

15 (1) Attorney. The attorney shall provide independent
16 legal counsel for the child and shall owe the same duties
17 of undivided loyalty, confidentiality, and competent
18 representation as are due an adult client.

19 (2) Guardian ad litem. The guardian ad litem shall
20 testify or submit a written report to the court regarding
21 his or her recommendations in accordance with the best
22 interest of the child. The report shall be made available
23 to all parties. The guardian ad litem may be called as a

1 witness for purposes of cross-examination regarding the
2 guardian ad litem's report or recommendations. The
3 guardian ad litem shall investigate the facts of the case
4 and interview the child and the parties.

5 In a case involving dissolution of marriage,
6 declaration of invalidity of marriage, allocation of
7 parental responsibilities, or domestic violence, the court
8 shall only appoint a guardian ad litem if the guardian ad
9 litem has completed 20 hours of classroom training and 20
10 hours of training by a domestic abuse advocate to become a
11 guardian ad litem. The training to become a guardian ad
12 litem shall be offered by a statewide organization
13 advocating for survivors of domestic violence. This
14 subsection does not apply to a unit of State or local
15 government providing services, or a public defender's
16 office associated with a unit of State or local
17 government.

18 (3) Child representative. The child representative
19 shall advocate what the child representative finds to be
20 in the best interests of the child after reviewing the
21 facts and circumstances of the case. The child
22 representative shall meet with the child and the parties,
23 investigate the facts of the case, and encourage
24 settlement and the use of alternative forms of dispute
25 resolution. The child representative shall have the same
26 authority and obligation to participate in the litigation

1 as does an attorney for a party and shall possess all the
2 powers of investigation as does a guardian ad litem. The
3 child representative shall consider, but not be bound by,
4 the expressed wishes of the child. A child representative
5 shall have received training in child advocacy or shall
6 possess such experience as determined to be equivalent to
7 such training by the chief judge of the circuit where the
8 child representative has been appointed. The child
9 representative shall not disclose confidential
10 communications made by the child, except as required by
11 law or by the Rules of Professional Conduct. The child
12 representative shall not render an opinion,
13 recommendation, or report to the court and shall not be
14 called as a witness, but shall offer evidence-based legal
15 arguments. The child representative shall disclose the
16 position as to what the child representative intends to
17 advocate in a pre-trial memorandum that shall be served
18 upon all counsel of record prior to the trial. The
19 position disclosed in the pre-trial memorandum shall not
20 be considered evidence. The court and the parties may
21 consider the position of the child representative for
22 purposes of a settlement conference.

23 (a-3) Additional appointments. During the proceedings the
24 court may appoint an additional attorney to serve in the
25 capacity described in subdivision (a)(1) or an additional
26 attorney to serve in another of the capacities described in

1 subdivision (a) (2) or (a) (3) on the court's own motion or that
2 of a party only for good cause shown and when the reasons for
3 the additional appointment are set forth in specific findings.

4 (a-5) Appointment considerations. In deciding whether to
5 make an appointment of an attorney for the minor child, a
6 guardian ad litem, or a child representative, the court shall
7 consider the nature and adequacy of the evidence to be
8 presented by the parties and the availability of other methods
9 of obtaining information, including social service
10 organizations and evaluations by mental health professions, as
11 well as resources for payment.

12 In no event is this Section intended to or designed to
13 abrogate the decision making power of the trier of fact. Any
14 appointment made under this Section is not intended to nor
15 should it serve to place any appointed individual in the role
16 of a surrogate judge.

17 (b) Fees and costs. The court shall enter an order as
18 appropriate for costs, fees, and disbursements, including a
19 retainer, when the attorney, guardian ad litem, or child's
20 representative is appointed. Any person appointed under this
21 Section shall file with the court within 90 days of his or her
22 appointment, and every subsequent 90-day period thereafter
23 during the course of his or her representation, a detailed
24 invoice for services rendered with a copy being sent to each
25 party. The court shall review the invoice submitted and
26 approve the fees, if they are reasonable and necessary. Any

1 order approving the fees shall require payment by either or
2 both parents, by any other party or source, or from the marital
3 estate or the child's separate estate. The court may not order
4 payment by the Department of Healthcare and Family Services in
5 cases in which the Department is providing child support
6 enforcement services under Article X of the Illinois Public
7 Aid Code. Unless otherwise ordered by the court at the time
8 fees and costs are approved, all fees and costs payable to an
9 attorney, guardian ad litem, or child representative under
10 this Section are by implication deemed to be in the nature of
11 support of the child and are within the exceptions to
12 discharge in bankruptcy under 11 U.S.C.A. 523. The provisions
13 of Sections 501 and 508 of this Act shall apply to fees and
14 costs for attorneys appointed under this Section.

15 (Source: P.A. 99-90, eff. 1-1-16.)