

People in Interest of J.E.B., 854 P.2d 1372 (Colo.App. 1993).

- §19-3-203(1), C.R.S. (1992 Cum.Supp.) of the Children's Code makes appointment of a GAL mandatory, and §19-3-203(3), C.R.S. (1992 Cum.Supp.), charges the GAL with representation of the child's interests. The GAL shall:
  - Make such further investigations as he deems necessary to ascertain the facts;
  - Talk with or observe the child involved;
  - Examine and cross-examine witnesses in both the adjudicatory and dispositional hearings;
  - Introduce and examine his own witnesses;
  - Make recommendations to the court concerning the child's welfare;
  - Appeal matters to the court of appeals or the supreme court; and
  - Participate further in the proceedings to the degree necessary to adequately represent the child.
- The Children's Code provides for a GAL at the termination phase of a D&N proceeding. The GAL shall be an attorney appointed to represent the child's best interests in any hearing determining the involuntary termination of the parent-child relationship. The GAL shall be experienced, when possible, in juvenile law. Representation shall continue until an appropriate permanent placement of the child is effected or until termination of the court's jurisdiction. §19-3-602(3), C.R.S. (1992 Cum.Supp.).
- These provisions define the role of a GAL a representative of the best interests of the child but do not specify the precise method that should be utilized in performing this role.
- The requirement that a GAL make recommendations to the court may be satisfied
  - By presenting his or her opinions based upon the GAL's independent investigation;
  - By advocating a specific result based upon evidence presented before the court;
  - or
  - By some combination of these two approaches.
- Whether a GAL may be examined/cross-examined depends on the manner in which the GAL fulfilled the statutory requirements of the role:
  - If the GAL presents recommendations as an opinion based on an independent investigation, the facts of which have not otherwise been introduced into evidence, the GAL functions as a witness and should be subject to examination and cross-examination as to the bases of the opinion and recommendation.
  - If the recommendations are based upon evidence received by the court from other sources, they are analogous to arguments of counsel as to how the evidence should be viewed by the trier of fact. Opinions and recommendations so based and presented are not those of a witness, but are merely arguments of

counsel and examination and cross-examination concerning these should not be permitted. See RPC 3.7 and Comment.