

# Guardian ad Litem

How can Missouri improve its Guardian ad Litem system?

**Guardian ad Litem are court appointed attorneys usually for minors.**

MO statute does not define a Guardian ad Litem (GAL). Instead, statute dictates when GALs must be versus when they may be appointed (**Table 1**). In 2011, the MO Supreme Court adopted and implemented mandatory statewide standards for GALs ([RSMo 484.350](#)).

To summarize, the standards state that a GAL must be a practicing lawyer who has taken GAL-specific training. GALs can access the child's reports and records that are case relevant.

GALs represent the child's best interest (not the child's wishes or a third party's wishes). They must meet with the child and people in their community (teachers, doctors, etc.), engage in court meetings and case-related activities, and inform the child about court activities. Based on their findings, GALs recommend to the court the course of action that is in the child's best interest ([MO Courts 2011](#)).

Though they may do similar things, GALs are not social workers or mediators who resolve disputes between parties ([MO Bar Assoc 2020](#)).



## Research Highlights

The Missouri Supreme Court has standards for guardian ad litem (GAL) that are meant to be mandatory but function more like guidelines.

In MO, judges' varying expectations for GALs result in mixed satisfaction levels with their performance.

Apart from the Missouri Bar Association's report, only two studies address improving the GAL system.

## Experience with and expectations of GALs vary.

In MO, 40% of judges usually adopt the recommendation of GALs while about 60% sometimes do so. If GAL appointments were discretionary, 40% of judges would appoint fewer GALs. One in four judges have removed a GAL for failure to perform their duties. Half of the judges have faced GAL availability issues, but almost all judges agreed that GALs are not paid enough ([MO Bar Assoc 2020](#)).

These differing experiences with GALs are partly because judges disagree on how often a GAL should

- interview collateral parties
- prepare a parenting plan or written report
- mediate a resolution to the case
- oppose an agreed to parenting plan
- make home visits
- meet with a child immediately (**Supplemental Figure 1**; [MO Bar Assoc 2020](#)).

GAL standards were made to be mandatory and

**Table 1.** The following are situations in which a GAL must be appointed (right) or may be appointed based on either request or the judge’s determination (left) [MO Bar Assoc 2020](#).

Optional Appointment	Mandatory Appointment
<ul style="list-style-type: none"> <li>• Contested Custody, Visitation, or Child Support</li> <li>• Grandparent Visitation</li> <li>• Best Interest of the Child</li> <li>• Civil Action by Minors</li> <li>• Mentally or Physically Infirm Persons</li> <li>• Probate Matters</li> </ul>	<ul style="list-style-type: none"> <li>• Cases of alleged child abuse or neglect</li> <li>• Termination of Parental Rights</li> <li>• Minor, Mentally Ill, or Otherwise Incompetent Parent</li> <li>• Ex Parte Order of Protection</li> <li>• Conflicting Interests</li> <li>• Suits Against Infants</li> <li>• Civil Action Against Minors</li> </ul>

statewide, but they are not applied uniformly ([MO Courts 2009](#)). Inconsistent resources across circuits impact GAL’s ability to meet the standards. Also, the best course of action for an individual child and case may conflict with a standard. This creates uncertainty around which standards are mandatory and which are to be applied to the best of the GALs’ ability and judgment ([MO Bar Assoc 2020](#)).

Finally, interactions between GALs and other case participants (e.g. the child’s guardians) can be contentious. Judges report that families complain when the GAL does not investigate witnesses they feel are important, does not respond to the family’s requests, or is biased. These complaints usually occur in court for child custody. Therefore, it is challenging to discern the legitimacy of complaints against GALs, as they may stem from dissatisfaction with court rulings ([MO Bar Assoc 2020](#)).

However, interviews with court participants identified that many do not know that they should bring complaints about their GAL to the judge. Others did not voice their complaint due to fear of retribution ([MO Bar Assoc 2020](#)).

### There is little literature about how to improve the GAL system.

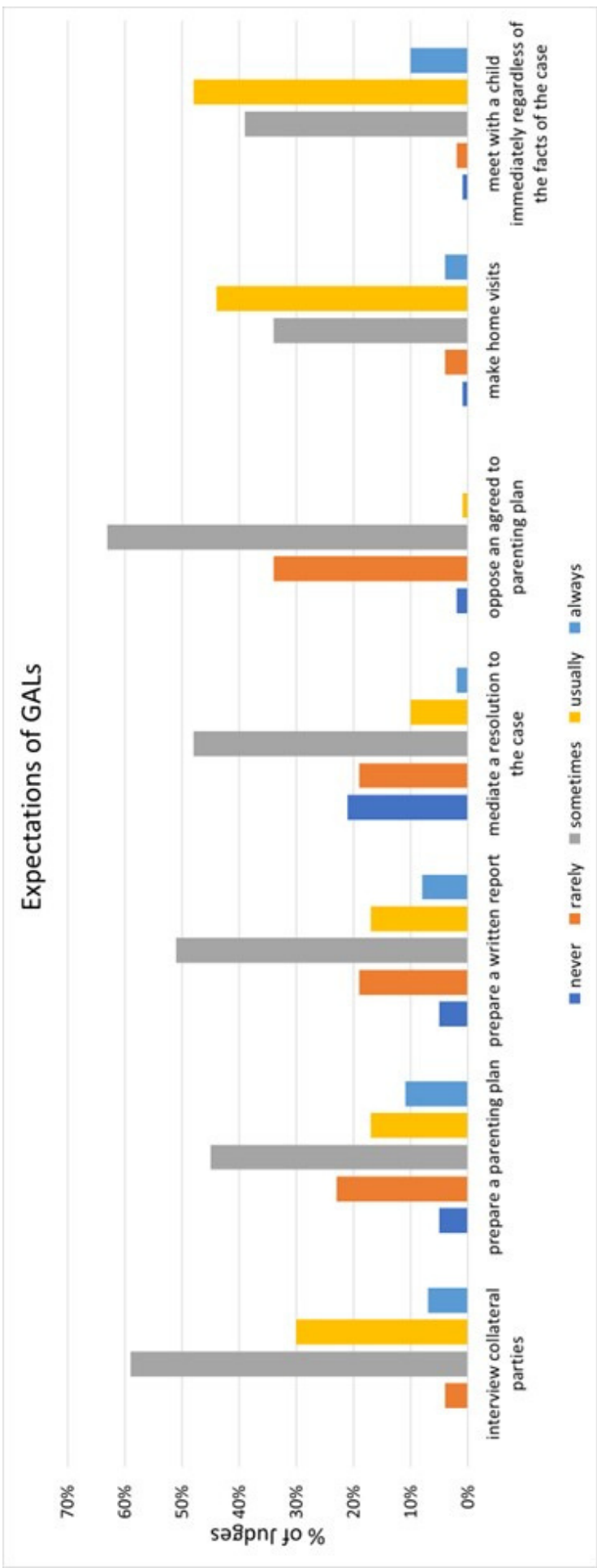
Most legal literature debates whether the GAL system should be in place at all, with some in favor ([Pappalardo 2019](#); [DOJ 2006](#)) and some against ([Prescott 2014](#); [Ferdele 2011](#)).

One study of the MN state GAL system recommended against continuing to use volunteer GALs. Volunteers were less effective than employees at completing continuing education and maintaining appropriate behavior, boundaries, and expectations as a GAL ([MN 2023](#)).

The report also suggests setting expectations and systems of accountability, enhancing data systems and practices, supporting program staff, clarifying the roles of court participants, and improving communication among all parties (GALs, program leadership, families) regarding GAL roles, responsibilities, and policies ([MN 2023](#)).

An evaluation of GAL laws in MS recommended increasing clarity for GALs by defining their roles and responsibilities. This includes having uniform and easily accessible standards, establishing a procedure in appointing GALs, and determining and uniformly applying applicable court rules ([Simpson 2015](#)).

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**Supplemental Figure 1.** Judges have varying expectations of GALs when it comes to interviewing collateral parties, preparing a parenting plan, preparing a written report, mediating a resolution to the case, opposing an agreed to parenting plan, making home visits, and meeting with a child immediately regardless of the facts of the case.