



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3182

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 a statewide organization advocating for survivors of domestic violence shall offer the training to become a guardian ad litem.

LRB101 10878 LNS 56021 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.

14 (3) Child representative. The child representative
15 shall advocate what the child representative finds to be in
16 the best interests of the child after reviewing the facts
17 and circumstances of the case. The child representative
18 shall meet with the child and the parties, investigate the
19 facts of the case, and encourage settlement and the use of
20 alternative forms of dispute resolution. The child
21 representative shall have the same authority and
22 obligation to participate in the litigation as does an
23 attorney for a party and shall possess all the powers of
24 investigation as does a guardian ad litem. The child
25 representative shall consider, but not be bound by, the
26 expressed wishes of the child. A child representative shall

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

19 (a-3) Additional appointments. During the proceedings the
20 court may appoint an additional attorney to serve in the
21 capacity described in subdivision (a)(1) or an additional
22 attorney to serve in another of the capacities described in
23 subdivision (a)(2) or (a)(3) on the court's own motion or that
24 of a party only for good cause shown and when the reasons for
25 the additional appointment are set forth in specific findings.

26 (a-5) Appointment considerations. In deciding whether to

1 make an appointment of an attorney for the minor child, a
2 guardian ad litem, or a child representative, the court shall
3 consider the nature and adequacy of the evidence to be
4 presented by the parties and the availability of other methods
5 of obtaining information, including social service
6 organizations and evaluations by mental health professions, as
7 well as resources for payment.

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

13 (b) Fees and costs. The court shall enter an order as
14 appropriate for costs, fees, and disbursements, including a
15 retainer, when the attorney, guardian ad litem, or child's
16 representative is appointed. Any person appointed under this
17 Section shall file with the court within 90 days of his or her
18 appointment, and every subsequent 90-day period thereafter
19 during the course of his or her representation, a detailed
20 invoice for services rendered with a copy being sent to each
21 party. The court shall review the invoice submitted and approve
22 the fees, if they are reasonable and necessary. Any order
23 approving the fees shall require payment by either or both
24 parents, by any other party or source, or from the marital
25 estate or the child's separate estate. The court may not order
26 payment by the Department of Healthcare and Family Services in

1 cases in which the Department is providing child support
2 enforcement services under Article X of the Illinois Public Aid
3 Code. Unless otherwise ordered by the court at the time fees
4 and costs are approved, all fees and costs payable to an
5 attorney, guardian ad litem, or child representative under this
6 Section are by implication deemed to be in the nature of
7 support of the child and are within the exceptions to discharge
8 in bankruptcy under 11 U.S.C.A. 523. The provisions of Sections
9 501 and 508 of this Act shall apply to fees and costs for
10 attorneys appointed under this Section.

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