



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4121

Introduced 9/3/2021, by Rep. Maurice A. West, II

SYNOPSIS AS INTRODUCED:

750 ILCS 5/506

from Ch. 40, par. 506

Amends the Illinois Marriage and Dissolution of Marriage Act. Requires any individual serving in the role of guardian ad litem or child representative to meet with both parties and the child every 90 days. Provides that the first meeting shall occur within 90 days of appointment and a meeting shall occur in every subsequent 90-day period until the conclusion of the case. Requires the guardian ad litem or child representative to file with the court, within 90 days of his or her appointment and once in every subsequent 90-day period during the course of his or her representation, a document confirming that the guardian ad litem or child representative has met with both parties.

LRB102 19262 LNS 28028 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 (3) Child representative. The child representative
6 shall advocate what the child representative finds to be
7 in the best interests of the child after reviewing the
8 facts and circumstances of the case. The child
9 representative shall meet with the child and the parties,
10 investigate the facts of the case, and encourage
11 settlement and the use of alternative forms of dispute
12 resolution. The child representative shall have the same
13 authority and obligation to participate in the litigation
14 as does an attorney for a party and shall possess all the
15 powers of investigation as does a guardian ad litem. The
16 child representative shall consider, but not be bound by,
17 the expressed wishes of the child. A child representative
18 shall have received training in child advocacy or shall
19 possess such experience as determined to be equivalent to
20 such training by the chief judge of the circuit where the
21 child representative has been appointed. The child
22 representative shall not disclose confidential
23 communications made by the child, except as required by
24 law or by the Rules of Professional Conduct. The child
25 representative shall not render an opinion,
26 recommendation, or report to the court and shall not be

1 called as a witness, but shall offer evidence-based legal
2 arguments. The child representative shall disclose the
3 position as to what the child representative intends to
4 advocate in a pre-trial memorandum that shall be served
5 upon all counsel of record prior to the trial. The
6 position disclosed in the pre-trial memorandum shall not
7 be considered evidence. The court and the parties may
8 consider the position of the child representative for
9 purposes of a settlement conference.

10 (a-3) Additional appointments. During the proceedings the
11 court may appoint an additional attorney to serve in the
12 capacity described in subdivision (a)(1) or an additional
13 attorney to serve in another of the capacities described in
14 subdivision (a)(2) or (a)(3) on the court's own motion or that
15 of a party only for good cause shown and when the reasons for
16 the additional appointment are set forth in specific findings.

17 (a-5) Appointment considerations. In deciding whether to
18 make an appointment of an attorney for the minor child, a
19 guardian ad litem, or a child representative, the court shall
20 consider the nature and adequacy of the evidence to be
21 presented by the parties and the availability of other methods
22 of obtaining information, including social service
23 organizations and evaluations by mental health professions, as
24 well as resources for payment.

25 In no event is this Section intended to or designed to
26 abrogate the decision making power of the trier of fact. Any

1 appointment made under this Section is not intended to nor
2 should it serve to place any appointed individual in the role
3 of a surrogate judge.

4 (b) Fees and costs. The court shall enter an order as
5 appropriate for costs, fees, and disbursements, including a
6 retainer, when the attorney, guardian ad litem, or child's
7 representative is appointed. Any person appointed under this
8 Section shall file with the court within 90 days of his or her
9 appointment, and every subsequent 90-day period thereafter
10 during the course of his or her representation, a detailed
11 invoice for services rendered with a copy being sent to each
12 party. The court shall review the invoice submitted and
13 approve the fees, if they are reasonable and necessary. Any
14 order approving the fees shall require payment by either or
15 both parents, by any other party or source, or from the marital
16 estate or the child's separate estate. The court may not order
17 payment by the Department of Healthcare and Family Services in
18 cases in which the Department is providing child support
19 enforcement services under Article X of the Illinois Public
20 Aid Code. Unless otherwise ordered by the court at the time
21 fees and costs are approved, all fees and costs payable to an
22 attorney, guardian ad litem, or child representative under
23 this Section are by implication deemed to be in the nature of
24 support of the child and are within the exceptions to
25 discharge in bankruptcy under 11 U.S.C.A. 523. The provisions
26 of Sections 501 and 508 of this Act shall apply to fees and

1 costs for attorneys appointed under this Section.

2 (c) Responsibilities. Any individual serving in the role
3 of guardian ad litem or child representative is required to
4 meet with both parties and the child every 90 days. The first
5 meeting shall occur within 90 days of appointment. A meeting
6 shall occur in every subsequent 90-day period until the
7 conclusion of the case. The guardian ad litem or child
8 representative shall file with the court, within 90 days of
9 his or her appointment and once in every subsequent 90-day
10 period during the course of his or her representation, a
11 document, signed by both parties and the guardian ad litem or
12 child representative, confirming that the guardian ad litem or
13 child representative has met with both parties.

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