

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 investigate the facts of the case and interview the child
21 and the parties. Unless the court directs otherwise, the
22 guardian ad litem shall submit to the court and the
23 parties a written report, written recommendations, or a

1 proposed parenting plan, in accordance with the child's
2 best interests, not less than 30 days before a final
3 hearing or trial. The guardian ad litem's written report
4 or written recommendations shall be admitted into evidence
5 without the need for foundation. The guardian ad litem
6 shall be available for deposition before a final hearing
7 or trial notwithstanding any other discovery cutoff. The
8 ~~guardian ad litem shall testify or submit a written report~~
9 ~~to the court regarding his or her recommendations in~~
10 ~~accordance with the best interest of the child. The report~~
11 ~~shall be made available to all parties.~~ The guardian ad
12 litem may be called as a witness for purposes of
13 cross-examination regarding the guardian ad litem's report
14 or recommendations. At the discretion of the court, the
15 guardian ad litem:

16 (i) may be present for all proceedings, including
17 in camera examinations of the child;

18 (ii) may issue subpoenas for records as part of
19 the guardian ad litem's investigation; and

20 (iii) may file pleadings relating to procedural
21 matters. ~~The guardian ad litem shall investigate the~~
22 ~~facts of the case and interview the child and the~~
23 ~~parties.~~

24 (3) Child representative. The child representative
25 shall advocate what the child representative finds to be
26 in the best interests of the child after reviewing the

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

1 consider the position of the child representative for
2 purposes of a settlement conference.

3 (a-3) Additional appointments. During the proceedings the
4 court may appoint an additional attorney to serve in the
5 capacity described in subdivision (a)(1) or an additional
6 attorney to serve in another of the capacities described in
7 subdivision (a)(2) or (a)(3) on the court's own motion or that
8 of a party only for good cause shown and when the reasons for
9 the additional appointment are set forth in specific findings.

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

18 In no event is this Section intended to or designed to
19 abrogate the decision making power of the trier of fact. Any
20 appointment made under this Section is not intended to nor
21 should it serve to place any appointed individual in the role
22 of a surrogate judge.

23 (b) Fees and costs. The court shall enter an order as
24 appropriate for costs, fees, and disbursements, including a
25 retainer, when the attorney, guardian ad litem, or child's
26 representative is appointed. Any person appointed under this

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

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