

2018 Kansas Statutes

38-2205. Right to counsel; guardian ad litem. (a) *Appointment of guardian ad litem and attorney for child; duties.* Upon the filing of a petition, the court shall appoint an attorney to serve as guardian ad litem for a child who is the subject of proceedings under this code. The guardian ad litem shall make an independent investigation of the facts upon which the petition is based and shall appear for and represent the best interests of the child. When the child's position is not consistent with the determination of the guardian ad litem as to the child's best interests, the guardian ad litem shall inform the court of the disagreement. The guardian ad litem or the child may request the court to appoint a second attorney to serve as attorney for the child, and the court, on good cause shown, may appoint such second attorney. The attorney for the child shall allow the child and the guardian ad litem to communicate with one another but may require such communications to occur in the attorney's presence.

(b) *Attorney for parent or custodian.* A parent of a child alleged or adjudged to be a child in need of care may be represented by an attorney, in connection with all proceedings under this code. At the first hearing in connection with proceedings under this code, the court shall distribute a pamphlet, designed by the court, to the parents of a child alleged or adjudged to be a child in need of care, to advise the parents of their rights in connection with all proceedings under this code.

(1) If at any stage of the proceedings a parent desires but is financially unable to employ an attorney, the court shall appoint an attorney for the parent. It shall not be necessary to appoint an attorney to represent a parent who fails or refuses to attend the hearing after having been properly served with process in accordance with K.S.A. 2018 Supp. 38-2237, and amendments thereto. A parent or custodian who is not a minor, a mentally ill person or a disabled person may waive counsel either in writing or on the record.

(2) The court shall appoint an attorney for a parent who is a minor, a mentally ill person or a disabled person unless the court determines that there is an attorney retained who will appear and represent the interests of the person in the proceedings under this code.

(3) As used in this subsection: (A) "Mentally ill person" shall have the meaning ascribed thereto in K.S.A. 59-2946, and amendments thereto; and (B) "disabled person" shall have the meaning ascribed thereto in K.S.A. 77-201, and amendments thereto.

(c) *Attorney for interested parties.* A person who, pursuant to K.S.A. 2018 Supp. 38-2241, and amendments thereto, is an interested party in a proceeding involving a child alleged to be a child in need of care may be represented by an attorney in connection with all proceedings under this code. At the first hearing in connection with proceedings under this code, the court shall distribute a pamphlet, designed by the court, to interested parties in a proceeding involving a child alleged or adjudged to be a child in need of care, to advise interested parties of their rights in connection with all proceedings under this code. It shall not be necessary to appoint an attorney to represent an interested party who fails or refuses to attend the hearing after having been properly served with process in accordance with K.S.A. 2018 Supp. 38-2237, and amendments thereto. If at any stage of the proceedings a person who is an interested party under subsection (d) of K.S.A. 2018 Supp. 38-2241, and amendments thereto, desires but is financially unable to employ an attorney, the court may appoint an attorney for the interested party.

(d) *Continuation of representation.* A guardian ad litem appointed to represent the best interests of a child or a second attorney appointed for a child as provided in subsection (a), or an attorney appointed for a parent or custodian shall continue to represent the client at all subsequent hearings in proceedings under this code, including any appellate proceedings, unless relieved by the court upon a showing of good cause or upon transfer of venue.

(e) *Fees for counsel.* An attorney appointed pursuant to this section shall be allowed a reasonable fee for services, which may be assessed as an expense in the proceedings as provided in K.S.A. 2018 Supp. 38-2215, and amendments thereto.

History: L. 2006, ch. 200, § 5; Jan. 1, 2007.