



ARIZONA CHILD SAFETY AND FAMILY SERVICES (CSFS) DIVISION AND GUARDIAN AD LITEM (GAL) LAWS

By: Michelle Kirby, Associate Analyst

ARIZONA - CSFS AND GALS

- The Arizona governor recently created the Division of Child Safety and Family Services (CSFS) within the governor's cabinet.
- CSFS replaces the Division of Children, Youth, and Families and, among other things, will handle complaints and investigations of child abuse and neglect.
- The Arizona rules of family law procedure governs the appointment, training, and general duties of certain representatives of children.
- These representatives include best-interests attorneys and court-appointed advisors.

QUESTION

Provide a summary of (1) Arizona Executive Order 2014-01 and (2) the state's guardian ad litem (GAL) requirements under family law.

SUMMARY

Arizona Executive Order 2014-01 establishes the Child Safety and Family Services Division (CSFS) within the governor's cabinet and replaces the Division of Children, Youth, and Families. The order transfers the oversight of the state's child welfare program to CSFS, including the handling of abuse and neglect complaints and investigations.

In the context of family law, Arizona's statutes do not generally use the term "GAL." However, the court may appoint one or more representatives of children, including attorneys and advisors. An attorney may be appointed either to (1) serve as the child's advocate (i.e., the child's attorney) or (2) represent his or her best interests (i.e., a best-interests attorney). An

advisor may be a qualified individual or a nonprofit or government organization of qualified individuals. The attorney and court advisor must have training or experience in the type of proceeding in which the appointment is made. The attorney must participate in the litigation as would an attorney for a party. The advisor can testify or submit a report providing his or her recommendations regarding the best interests of the child and the basis for these recommendations.

EXECUTIVE ORDER 2014-01

On January 13, 2014, the governor of Arizona issued [Executive Order 2014-01](#), which established the Division of Child Safety and Family Services (CSFS), a cabinet-level division over which the governor has direct oversight. Under the executive order, the governor abolished the Division of Children, Youth, and Families and transferred oversight of the state child welfare program to CSFS. This means that, among other things, CSFS now handles complaints and investigations of child abuse and neglect. The CSFS director reports directly to the governor.

Executive Order 2014-01 requires the CSFS director to:

1. administer the budgets of the state child welfare program and the Office of Child Welfare Investigations separate and distinct from each other;
2. consider recommendations of the Independent Child Advocate Response Examination Team (CARE Team) to improve services, practices, and outcomes for children, youth and families; and
3. collaborate with the governor's office and the state legislature to develop a permanent, separate agency for state child welfare programs and services that is autonomous from the Department of Economic Security (http://azgovernor.gov/dms/upload/EO_011314_2014-01.pdf).

ARIZONA GAL LAW

Best-Interests Attorney, Child's Attorney, and Court Advisor

Definition. Arizona law defines a GAL as a person appointed by the court to protect the interest of a child, minor, or an incompetent person in certain types of court cases (Ariz. Rev. Stat. § 8-531(7)).

Appointment. In the context of family law, Arizona's statutes do not generally use the term "GAL." However, a court may appoint one or more of the following representatives of children: a best-interests attorney, child's attorney, or advisor (Ariz. Fam. Law Proc. Rule 10(A)(1)). The court may make such an appointment in a family law case if it finds any of the following:

1. there is an allegation of child abuse or neglect;
2. the parents are persistently in significant conflict;
3. there is a history of substance abuse by either parent or family violence;
4. there are serious concerns about either parent's mental health or behavior;
5. the child is an infant or toddler, or has special needs; or
6. any other reason the court deems appropriate (Ariz. Fam. Law Proc. Rule 10(A)(1)).

An attorney may be appointed either to serve as the child's advocate (i.e., the child's attorney) or to represent his or her best interests (i.e., a best-interests attorney). The court may also appoint an advisor. The advisor must be a qualified individual or a nonprofit or government organization of qualified individuals (Ariz. Fam. Law Proc. Rule 10(C)).

The appointment order must clearly state its terms, including the reasons why it was made and its duration, rights of access, and compensation terms (Ariz. Fam. Law Proc. Rule 10(A)(3)).

The court must also issue an order of access along with an order of appointment, authorizing the child's attorney, best-interests attorney, or advisor to have immediate access to the child and any otherwise privileged or confidential information relating to the child (Ariz. Fam. Law Proc. Rule 10(D)(1)).

Training. To be qualified, an attorney or advisor must have training or experience in the type of proceeding in which the appointment is made, according to any standards established by Arizona law or rule and, in the case of an attorney, as determined by the court (Ariz. Fam. Law Proc. Rules 10(B-C)).

The court may not appoint an attorney or advisor from a state or county-funded juvenile dependency roster unless it finds that a child may be a victim of child abuse or neglect (Ariz. Fam. Law Proc. Rules 10(G)).

Responsibilities. An attorney must participate in the litigation as would an attorney for a party (Ariz. Fam. Law Proc. Rule 10(E)(1)). An advisor can testify or submit a report with his or her recommendations regarding the best interests of the child and the basis for these recommendations (Ariz. Fam. Law Proc. Rule 10(E)(4)). An advisor may not take any action that may be taken only by an attorney, including making opening and closing statements, examining witnesses, and engaging in discovery other than as a witness (Ariz. Fam. Law Proc. Rule 10(E)(3)). An attorney appointed as the advisor may take only those actions that a non-attorney may take (Ariz. Fam. Law Proc. Rule 10(C)).

MK:ro