

PARENTS AS GUARDIANS ad LITEM IN DELINQUENCY CASES

**What to Expect from the Court
What the Court Expects from You**

This booklet is for parents who serve as their child's Guardian ad Litem when their child is involved in a delinquency case in the Vermont Superior Court's Family Division. The court process may be confusing. This booklet will help you understand what to expect from the court system and your child's attorney. Keep this booklet with you to help answer your questions during your child's case.



Vermont Court Administrator's Office

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A. Introduction

This booklet helps you:

- understand the court process
- make decisions with your child during the process
- get the services your child needs during and after the court case.

When a child is charged with a **delinquent** act in court, a parent usually acts as the child's **Guardian ad Litem**. This is a very important job.

This booklet gives you information on how to help your child as a **Guardian ad Litem**.

B. What Does “Delinquent” Mean?

In Vermont, a “**delinquent act**” is:

an act designated a crime under the laws of this state, or of another state if the act occurred in another state, or under federal law.

That same law says a “**delinquent child**” is a child who is found by the court to have committed a delinquent act. Your child is charged with being a “delinquent child” because the State’s Attorney believes that he or she did something that would be a crime if done by an adult. Children often need help in these situations. Instead of filing a case in adult court, the State’s Attorney files a “delinquency” petition in the Family Division of Vermont Superior Court.

C. What is a Guardian ad Litem?

The court wants to be sure that your child’s best interests are protected. Sometimes, not everyone in the case agrees about what is best for your child. The court appoints one person to keep the child’s best interests in mind, no matter what else is going on.

That person is called the **Guardian ad Litem**, or **GAL**. Whenever possible, the court appoints a parent to be the GAL. In most cases a parent is only at court because his or her child has been charged with a delinquent act. In those situations, the parent’s role is to make sure that decisions are made in the child’s best interest.

In some cases, the court will have a trained volunteer act as the GAL instead of the parent. This happens when the child is charged with a delinquent act **AND**

- it’s against you, the parent, or
- it’s against a brother, sister or other family member, or
- there are other conflicts between you and your child, or
- your child is placed in foster care

This booklet will explain your child’s court case and what you have to do as your child’s GAL.

D. What is Your Role as Guardian *ad Litem*?

As your child's GAL, you will have to:

- **Understand your child's case and the court process.** Juvenile cases can be complicated. Please ask your child's attorney about parts of the case you do not understand.
- **Be sure your child understands the case.** Sometimes, your child will tell the attorney that they understand what is going on, but really, the child is confused. You know your child much better than the lawyer does. Please let your child's attorney know if your child needs help understanding what is happening.
- **Help your child to make choices in the case.** Any decisions that your child makes in the case will be made with your child's attorney. The three of you should work together to make those decisions. This does not mean that you will always agree with a decision.
 - Your child may want to do something that you think is not in your child's best interest. Your job is to always keep your child's best interest in mind. Sometimes a disagreement may occur. Be sure to talk with your child and your child's attorney so that all of you understand each other.
 - Sometimes, you will have to tell the Judge that you do not agree with your child's decision and why. Tell your child's attorney about your disagreement before you tell the Judge in court.
- **Keep in touch with your child's attorney.** Your child will be appointed a public defender or a private attorney if you meet income requirements. The role of your child's attorney is described more on page 7 of this booklet.
 - What you and your child tell the attorney is **confidential**. It is private and cannot be used against your child.
 - The attorney needs to know if anything changes in your child's life or if anything new happens that could affect the court case.
 - Help your child by giving information to the attorney about:
 - facts in the case
 - your child in general
 - other people named in the delinquency petition
 - other people who are important in your child's life

E. What is the Role of the Court?

When a child commits a delinquent act, it may be that the child is having some kind of problem. The court wants to help your child sort out those problems.

The Judge has two main parts to play in your child's case:

1. The Judge will determine if the charges in the petition are true. This is the **"merits"** stage of the case. It is like the trial in a criminal case, except there is no jury and it is not open to the public.
2. If the Judge decides that the petition has **"merit,"** the Judge figures out what should be done so that your child doesn't commit more delinquent acts. The child might be asked to repair the harm the child caused. This part of the case is called the **"disposition"** and is like the sentencing in a criminal case.

F. Who Else is Involved in the Case?

You will work with several people during your child's case:

The State's Attorney (Prosecutor)

The State's Attorney's Office files all juvenile petitions in the court. The State's Attorney will:

- file the delinquency petition against your child
- provide evidence that supports the charge in the petition

The State's Attorney may negotiate to settle the case by:

- reducing the charges in the original delinquency petition
- dismissing some or all of the charges

If no agreement is reached, the State's Attorney will present the evidence and witnesses that the State believes will prove that your child committed the delinquent act.

Your child may be referred to a Court Diversion Program in your community to:

- allow your child to make amends
- do community service
- write letters of apology
- pay money to a victim ("make restitution")
- possibly have the case dismissed
- avoid a court record

Your Child's Attorney

Your child will be appointed a public defender, or another assigned attorney, prior to the first court hearing.

As the GAL, you should work closely with your child's attorney to make sure that:

- the attorney has enough time to talk with your child
- the attorney has all of the information about your child that is needed
- your child understands the court proceedings

Sometimes, you will meet with your child and the child's attorney. Other times, your child's attorney will need to meet with your child alone. It is important that both kinds of meetings happen.

Who will be in the Courtroom?

- The **Judge** is in charge of the courtroom. The Judge makes all the final decisions in your child's case.
- The **Court Officer** is in charge of keeping order in the courtroom. The Court Officer makes sure the right parties are in the courtroom at the right time for the right hearing.
- The **Court Recorder** makes sure that there is a record of everything that happens in the courtroom so that there is a complete record of all of the hearings.
- The **Court Clerk** manages the court office and schedules court hearings.
- The **State's Attorney** presents the delinquency charges.
- The **Public Defender** (or other assigned attorney) represents your child.
- **Your Child**
- **You, as parent and GAL**
- **The DCF Social Worker:**
 - May be in court for some or all of the hearings.
 - If the court finds your child is delinquent, a Department for Children and Families ("DCF") Social Worker will supervise your child's juvenile probation. Social Workers from DCF work to help children and their families.
 - If the court decides that your child committed a delinquent act, the DCF Social Worker will:
 - talk to people who know your child;
 - talk to any victims;
 - recommend to the Judge what could be done to help your child; and
 - write a **disposition case plan** for the court with information about your child, the offense, and a plan for your child to take responsibility and repair the harm done by the delinquent act. The court will hold a hearing to talk about the case plan. The DCF Social Worker will come to that hearing.

G. What is Your Role in the Court Process?

As your child's GAL, you want to make sure your child's best interests are protected. So, what exactly do you have to do as GAL?

There are important parts to your role:

- ***Come to court with your child.*** You and your child must come to every court hearing. If there is a reason why either of you cannot be there for a hearing, let your child's attorney know ***as soon as possible*** so that the attorney can ask the court to change the hearing date.
- ***Tell your child's attorney your thoughts about the case.*** Your child's attorney needs information from you. You know your child better than the attorney and you know what is happening with your child day to day.
- ***Give the Judge your opinion about the case – but only if the Judge asks you!*** Like everyone else in the Courtroom, you can only talk when the Judge asks you to say something. Again, tell your child's attorney if you want to speak in court.

When will the Judge ask you to talk in Court?

- If your child intends to admit to the delinquency charges, the Judge will ask you if you think it is a good idea (in your child's best interest) to admit to the charge.
- If the Judge finds your child committed the delinquent act, the Judge will be ordering services and conditions. You will be asked your opinion about those conditions and services.

When will you NOT talk in court?

- If there is a hearing with evidence and witnesses, the Judge will not ask for your opinion. The Judge is the only one deciding if the State's Attorney has proven the charge in the petition.

H. What are the Stages in a Delinquency Case?

You and your child will be required to attend court hearings. The court will let you know when you and your child need to attend. The kinds of hearings you will have to attend are:

Temporary Care Hearing

A Temporary Care Hearing will be the first hearing **IF** your child is taken into **state custody**.

- A child is taken into state custody if the Judge believes that your child is in danger of hurting him or herself, or hurting another person.

Sometimes the court issues an ***Emergency Care Order***, which places a child in DCF custody before any hearing is held. Either way, the court has to have a **temporary care hearing** within seventy two hours.

- At a **temporary care hearing**, the Judge decides whether the child will stay in state custody while the court case is open if:
 - it is the best thing *for the child* overall to be in state custody **or**
 - it is the best thing *for members of the public* that the child stays in state custody.

Otherwise, your child will return to your family.

Preliminary Hearing

This is the first hearing IF your child is NOT in state custody because of the delinquency charge. A police officer will give a citation to your child to appear in court, and notice of this citation will be sent to the parents as well. Before the **preliminary hearing**, you and your child will meet with your child’s attorney.

At the **preliminary hearing** your child will tell the court what the **“plea”** will be. There are two pleas in court:

1. An **“admission”** – Your child says that he or she committed the act in the petition.

OR

2. A **“denial”** – Your child says that he or she did not commit the act in the petition.

If your child denies the charges, the court will set a **merits hearing**. (See page 12)

If there is a denial, the court may set **Conditions of Release**. These are rules your child must follow while the case is ongoing. *Conditions of Release may include:*

- follow the rules of your house
- give the child’s attorney and the court your child’s address and telephone numbers to reach your child
- attend school, do assigned schoolwork, and follow school rules
- don’t get into any other trouble

Other conditions may be imposed by the judge such as:

- don’t associate with certain people (the alleged victim, or other people charged in the same case)
- be home by curfew
- don’t go to certain places

At the **preliminary hearing**, there might also be discussion about the other hearings that will happen later in the case.

Pre-Trial Hearing and Status Conferences

The court may schedule one or more **status conferences** after the **preliminary or temporary care hearing** to find out how the case is going.

- Court time is hard to come by, and cases often settle, so the court wants to keep track of what progress is being made in your child's case.
- If it doesn't look like the case will settle, the court will see how much time will be needed for the **merits hearing**. The court will then schedule the hearing and let you know when it will be held.

Merits Hearing

The **merits hearing** is like a criminal court "trial," except there is no jury and the proceeding is not open to the public.

The **merits hearing** is usually held within 60 days of the preliminary hearing.

At a **merits hearing**:

- The State's Attorney must present enough evidence to the court to prove "**beyond a reasonable doubt**" that your child committed the delinquent act.
- Your child's attorney will cross-examine the State's witnesses, and present evidence on behalf of your child.

Your role in the merits hearing is limited. Generally,

- the case **against** your child will be presented by the State's Attorney,
- the defense **for** your child will be presented by your child's attorney, and
- the Judge will make a decision.

Disposition Hearing

If the court finds that your child did not commit the delinquent act, the case will be **DISMISSED** and it will be over.

If the court decides your child committed the delinquent act, the court will schedule a disposition hearing. The disposition hearing must be held 35 days after the court finds your child committed a delinquent act.

At the **disposition hearing**, the court will prepare a **disposition order** to:

- protect the community, and
- help your child gain skills to lower their risk to commit another delinquent act, and to be successful in the future.

In the disposition order, the court may place your child on probation. The court may also place your child in the custody of one or both parents, a relative, another person, or DCF.

If your child is placed on **juvenile probation**, he or she will be supervised by a DCF Social Worker.

Juvenile Probation

Your child's conditions of probation may be some or all of the following:

- paying **restitution** (the cost) for any damages caused by the delinquent act
- doing **community service**
- going to counseling sessions, such as:
 - **anger management** evaluation and treatment
 - **substance abuse** evaluation and treatment
 - individual or group **counseling**
- participating in a **Restorative Justice Panel** and following their plan to repair the harm.

The Judge will issue a **Juvenile Probation Certificate** that lists all of the conditions that your child must follow while on probation.

You are required to sign the probation certificate. Your signature means:

- you understand and agree to the probation terms
- you will help your child comply with probation and attend treatment and other services

The certificate is signed by:

- the Judge
- your child
- you as your child's GAL
- the DCF Social Worker

Review Hearings

If your child is in state custody, the court will hold review hearings to talk about the case. At those hearings, the Judge will make sure that your child is getting the services and help that he or she needs. The court will decide if the child should stay in state custody.

Probation Violation Hearings

Sometimes a child does not follow the conditions of probation. If that happens, the DCF Social Worker may file a **Notice of Probation Violation** with the court. You and your child will then come to court for a **probation violation hearing** with the Judge.

Several things can happen at a **probation violation hearing**:

- the Judge can let your child go with a warning and make no changes to the probation conditions
- the Judge can set up extra or different probation conditions
- the Judge can order that your child come into state custody

It is important for you to help your child understand the seriousness of violating his or her probation.

I. What Services are Available to Your Child and Your Family?

The court wants to see your child receive the services he or she needs. Those services may include:

- **Mental health Counseling** for children and/or parents, including:
 - individual counseling
 - family counseling
 - drug and alcohol abuse evaluation and treatment
 - anger management evaluation and treatment
 - psychosexual evaluation and treatment
- **Educational Assessments**
- **Mentoring** (such as Big Brother/Big Sister programs)
- **Job Referrals and Job Training** (for older youth)
- **Help with parenting**, including:
 - parenting classes
 - parenting education
- **Credit or budget counseling**

Your child's **DCF Social Worker** can help your child and your family figure out which services are best for the situation, and then help you to get those services in place.

NOTES:

This booklet was a result of collaboration between the Vermont Guardian ad Litem Program of the Court Administrator's Office and the Department for Children and Families (DCF).

Please direct any inquiries to the Vermont Guardian ad Litem Program, Office of the Court Administrator, 109 State Street, Montpelier, VT 05609-0701, email: jud-vermontgal@vermont.gov

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