

SECOND REGULAR SESSION

HOUSE BILL NO. 2805

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE UNSICKER.

3777H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 210.160, 211.021, 452.423, 453.015, 455.010, and 475.010, RSMo, and to enact in lieu thereof eight new sections relating to guardians ad litem.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 210.160, 211.021, 452.423, 453.015, 455.010, and 475.010, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 210.006, 210.160, 211.021, 452.005, 452.423, 453.015, 455.010, and 475.010, to read as follows:

210.006. As used in this chapter, "guardian ad litem" means a person appointed to represent the needs and best interests of another person.

210.160. 1. In every case involving an abused or neglected child which results in a judicial proceeding, the judge shall appoint a guardian ad litem to appear for and represent:

(1) A child who is the subject of proceedings pursuant to sections 210.110 to 210.165 except proceedings under subsection 6 of section 210.152, sections 210.700 to 210.760, sections 211.442 to 211.487, or sections 453.005 to 453.170~~], or proceedings to determine custody or visitation rights under sections 452.375 to 452.410];~~ or

(2) A parent who is a minor, or who is a mentally ill person or otherwise incompetent, and whose child is the subject of proceedings under sections 210.110 to 210.165, sections 210.700 to 210.760, sections 211.442 to 211.487, or sections 453.005 to 453.170.

2. **(1) If no conflict of interest exists, a guardian ad litem may be appointed to represent multiple persons or interests; however, the same person shall not be appointed as guardian ad litem to serve both a parent under subdivision (2) of subsection 1 of this section and a child under subdivision (1) of subsection 1 of this section.**

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 **(2) The guardian ad litem shall not be the same person as the attorney**
15 **representing a respondent in the case.**

16 **(3) When making the appointment, the court shall state in its written**
17 **appointment order the duties of the guardian ad litem and the reasons for the**
18 **appointment.**

19 **3. The judge, either sua sponte or upon motion of a party, may appoint a guardian ad**
20 **litem to appear for and represent an abused or neglected child involved in proceedings arising**
21 **under subsection 6 of section 210.152 or under sections 455.500 to 455.538.**

22 **4. Upon appointment of a guardian ad litem, all parties shall be notified by the**
23 **court of the parties' rights to request one disqualification of a guardian ad litem upon a**
24 **written motion to the court alleging the reason for disqualifying a guardian ad litem.**
25 **Causes for which a guardian ad litem may be disqualified include, but are not limited**
26 **to:**

27 **(1) Failure to communicate with the court, other attorneys, or custodial**
28 **guardians in the same manner as an attorney for a party;**

29 **(2) Failure to present information on relevant issues through the presentation of**
30 **evidence or in other appropriate ways; or**

31 **(3) Failure to follow up on or investigate reasonable issues of child abuse or**
32 **neglect that the guardian ad litem has been informed of or to gather nonrepetitive**
33 **information that the guardian ad litem does not already possess from a witness, medical**
34 **professional, child care provider, or any other person who may hold information that**
35 **the guardian ad litem has been made aware of about allegations of abuse or neglect.**

36 ~~[3-]~~ **5. All agencies, law enforcement, or any other person with legal custody of a**
37 **minor child shall provide the guardian ad litem [~~shall be provided~~] with the location of the**
38 **minor child and all reports relevant to the case made to or by any agency, law enforcement,**
39 **or person~~]~~. The guardian ad litem shall be provided with contact information for all**
40 **relevant parties, shall have access to all records of such agencies, law enforcement, or**
41 **persons relating to the child or such child's family members or placements of the child, and**
42 **upon appointment by the court to a case, shall be informed of and have the right to attend any**
43 **and all family support team meetings involving the child and any meeting in which the best**
44 **interests of the of the child are being determined. Any person, law enforcement, or**
45 **agency with legal custody of the minor child shall execute all releases for information**
46 **required by the guardian ad litem. The legal custodian of the minor child, employees of**
47 **the division, officers of the court, and employees of any agency involved shall fully inform**
48 **the guardian ad litem of all aspects of the case of which they have knowledge or belief. The**
49 **department of social services and law enforcement shall provide to the guardian ad**

50 **litem all reasonable information requested by the guardian ad litem within thirty days**
51 **of the request.**

52 **6. The guardian ad litem shall hold the client file including, but not limited to,**
53 **documents and records under subsection 5 of this section, under the same rules as**
54 **holding a client file for an individual client. If a successor guardian ad litem is**
55 **appointed, under a court order, the initial guardian ad litem shall give the client file,**
56 **excluding any work product or opinions, to the successor guardian ad litem. The initial**
57 **guardian ad litem may keep a copy of the file for his or her records.**

58 ~~[4-]~~ **7.** The appointing judge shall require the guardian ad litem to faithfully discharge
59 such guardian ad litem's duties **as provided in the supreme court standards with**
60 **comments for guardians ad litem**, and upon failure to do so shall discharge such guardian
61 ad litem and appoint another. The appointing judge shall have the authority to examine the
62 general and criminal background of persons appointed as guardians ad litem, including
63 utilization of the family care safety registry and access line pursuant to sections 210.900 to
64 ~~[210.937]~~ **210.936**, to ensure the safety and welfare of the children such persons are
65 appointed to represent. The judge in making appointments pursuant to this section shall give
66 preference to persons who served as guardian ad litem for the child in the earlier proceeding,
67 unless there is a reason on the record for not giving such preference. **The court shall provide**
68 **a parent or parents with a copy of the standards with comments for guardians ad litem.**

69 ~~[5-]~~ **8.** The guardian ad litem may be awarded a reasonable fee for such services to be
70 set by the court. The court, in its discretion, may award such fees as a judgment to be paid by
71 any party to the proceedings or from public funds. However, no fees as a judgment shall be
72 taxed against a party or parties who have not been found to have abused or neglected a child
73 or children **except as provided under sections 452.375 to 452.410.** Such an award of
74 guardian fees shall constitute a final judgment in favor of the guardian ad litem. Such final
75 judgment shall be enforceable against the parties in accordance with chapter 513.

76 ~~[6-]~~ **9.** The court may designate volunteer advocates, who may or may not be
77 attorneys licensed to practice law, to assist in the performance of the guardian ad litem duties
78 for the court. Nonattorney volunteer advocates **may assist in the performance of guardian**
79 **ad litem duties but shall not serve as guardians ad litem or** provide legal representation.
80 The court shall have the authority to examine the general and criminal background of persons
81 designated as volunteer advocates, including utilization of the family care safety registry and
82 access line pursuant to sections 210.900 to ~~[210.937]~~ **210.936**, to ensure the safety and
83 welfare of the children such persons are designated to represent. The volunteer advocate shall
84 be provided with all reports relevant to the case made to or by any agency or person, shall
85 have access to all records of such agencies or persons relating to the child or such child's
86 family members or placements of the child, and upon designation by the court to a case, shall

87 be informed of and have the right to attend any and all family support team meetings
88 involving the child. Any such designated person shall receive no compensation from public
89 funds. This shall not preclude reimbursement for reasonable expenses.

90 ~~[7.]~~ **10.** Any person appointed to perform guardian ad litem duties shall have
91 completed a training program in permanency planning and shall advocate for timely court
92 hearings whenever possible to attain permanency for a child as expeditiously as possible to
93 reduce the effects that prolonged foster care may have on a child. A nonattorney volunteer
94 advocate shall have access to a court appointed attorney guardian ad litem should the
95 circumstances of the particular case so require.

96 **11. On or before January 1, 2024, the office of chief disciplinary counsel (OCDC)**
97 **shall establish and facilitate a complaint procedure for parties dissatisfied with the**
98 **services of a guardian ad litem, including allegations that the guardian ad litem did not**
99 **properly behave under the rules of professional conduct as set forth by the Missouri**
100 **supreme court. The complaint procedure shall be in writing and made available to the**
101 **public.**

102 **12. In any proceeding under sections 210.110 to 210.165, except proceedings**
103 **under subsection 6 of section 210.152, sections 210.700 to 210.760, sections 211.442 to**
104 **211.487, or sections 453.005 to 453.170, the guardian ad litem shall perform all duties**
105 **required by the Missouri supreme court standards with comments for guardians ad**
106 **litem, which shall include, but are not limited to, the following:**

107 **(1) Within a reasonable time frame following the appointment of the guardian**
108 **ad litem and considering the age and emotional, physical, and psychological situation of**
109 **the minor child, establishing contact with the minor child. Any meeting with the minor**
110 **child shall occur in a private setting at a time and place that allows the guardian ad**
111 **litem to observe the child and ascertain the child's wishes, safety, and needs, to the**
112 **extent reasonably possible, and the need for further meetings and investigation. The**
113 **guardian ad litem shall continue to maintain contact with the child for the duration of**
114 **the appointment;**

115 **(2) Being the legal representative of the best interests of the child at the hearing.**
116 **The guardian ad litem may examine, cross-examine, and subpoena witnesses; may offer**
117 **testimony and evidence; and shall submit a proposed parenting plan, if required or**
118 **requested by the court or as deemed necessary as part of the guardian ad litem's**
119 **recommendation, on behalf of the best interests of the minor child before the case is**
120 **submitted to the court;**

121 **(3) Prior to a hearing, conducting all reasonably necessary interviews, as soon as**
122 **reasonably possible, with persons having contact with or knowledge of the child in order**

123 to ascertain the child's wishes, feelings, attachments, and attitudes, including the
 124 parents or guardians of the child;

125 (4) If the guardian ad litem's current caseload does not permit timely execution
 126 of duties, declining an appointment by the court; and

127 (5) Responding to all requests for communication in a timely manner.

128 13. Any party aggrieved by a guardian ad litem's failure to satisfy the duties
 129 enumerated under this section or under section 484.350 may apply by in camera motion
 130 for appointment of a substitute guardian ad litem for cause shown.

131 14. A court-appointed guardian ad litem may request permission from the court
 132 to withdraw in any proceeding for cause shown.

211.021. As used in this chapter, unless the context clearly requires otherwise:

2 (1) "Adult" means a person eighteen years of age or older;

3 (2) "Child" means any person under eighteen years of age;

4 (3) **"Guardian ad litem", a person appointed to represent the needs and best
 5 interests of another person;**

6 (4) "Juvenile court" means the juvenile division or divisions of the circuit court of the
 7 county, or judges while hearing juvenile cases assigned to them;

8 ~~[(4)]~~ (5) "Legal custody" means the right to the care, custody and control of a child
 9 and the duty to provide food, clothing, shelter, ordinary medical care, education, treatment
 10 and discipline of a child. Legal custody may be taken from a parent only by court action and
 11 if the legal custody is taken from a parent without termination of parental rights, the parent's
 12 duty to provide support continues even though the person having legal custody may provide
 13 the necessities of daily living;

14 ~~[(5)]~~ (6) "Parent" means either a natural parent or a parent by adoption and if the child
 15 is illegitimate, "parent" means the mother;

16 ~~[(6)]~~ (7) "Shelter care" means the temporary care of juveniles in physically
 17 unrestricting facilities pending final court disposition. These facilities may include:

18 (a) "Foster home", the private home of foster parents providing twenty-four-hour care
 19 to one to three children unrelated to the foster parents by blood, marriage or adoption;

20 (b) "Group foster home", the private home of foster parents providing twenty-four-
 21 hour care to no more than six children unrelated to the foster parents by blood, marriage or
 22 adoption;

23 (c) "Group home", a child care facility which approximates a family setting, provides
 24 access to community activities and resources, and provides care to no more than twelve
 25 children.

**452.005. As used in this chapter, "guardian ad litem" means a person appointed
 2 to represent the needs and best interests of another person.**

452.423. 1. In all proceedings for child custody or for dissolution of marriage or legal
2 separation where custody, visitation, or support of a child is a contested issue **or in any**
3 **proceeding under section 210.830**, the court **at any time** may appoint a guardian ad litem
4 **for a child if the court determines that the disposition of the action may, as a practical**
5 **matter, impair or impede the child's ability to protect that interest, unless the court**
6 **determines that the child's interest is adequately represented by existing parties.**
7 ~~[Disqualification of a guardian ad litem shall be ordered in any legal proceeding only~~
8 ~~pursuant to this chapter, upon the filing of a written application by any party within ten days~~
9 ~~of appointment, or within ten days of August 28, 1998, if the appointment occurs prior to~~
10 ~~August 28, 1998. Each party shall be entitled to one disqualification of a guardian ad litem~~
11 ~~appointed under this subsection in each proceeding, except a party may be entitled to~~
12 ~~additional disqualifications of a guardian ad litem for good cause shown.] **If no conflict of**~~
13 **interest exists, a guardian ad litem may be appointed to represent multiple persons or**
14 **interests.**

15 2. The court shall appoint a guardian ad litem in any proceeding in which child abuse
16 or neglect is alleged.

17 3. The guardian ad litem shall not be the same person as the attorney
18 representing a person who is or has been the legal or physical guardian of that person.

19 4. (1) For any guardian ad litem appointed under this chapter, the court shall
20 make a written order when making the appointment that names the specific attorney to
21 be appointed as the guardian ad litem and state the grounds upon which the guardian
22 ad litem is appointed. The order shall state the duties of the guardian ad litem.

23 (2) The written order shall be accessible by the legal guardian of the person for
24 whom the guardian ad litem is being appointed to represent.

25 ~~[3-]~~ 5. The guardian ad litem shall perform all duties required by the Missouri
26 supreme court standards with comments for guardians ad litem including, but not
27 limited to:

28 (1) ~~[Be]~~ Within a reasonable time frame following the appointment of the
29 guardian ad litem and considering the age and emotional, physical, and psychological
30 situation of the minor child, establishing contact with the minor child. Any meeting
31 with the minor child shall occur in a private setting at a time and place that allows the
32 guardian ad litem to observe the child and ascertain the child's wishes, safety, and
33 needs, to the extent reasonably possible, and the need for further meetings and
34 investigation. The guardian ad litem shall continue to maintain contact with the child
35 for the duration of the appointment;

36 (2) **Being** the legal representative of the **best interests of the child** at the hearing~~;~~
37 ~~and].~~ **The guardian ad litem** may examine, cross-examine, subpoena witnesses, and offer

38 testimony and shall submit a proposed parenting plan, if required or requested by the
39 court or as deemed necessary as part of the guardian ad litem's recommendation, on
40 behalf of the best interests of the minor child before the case is submitted to the court;

41 ~~[(2)]~~ (3) Prior to ~~[the]~~ a hearing, ~~[conduct]~~ conducting all reasonably necessary
42 interviews, as soon as reasonably possible, with persons having contact with or knowledge
43 of the child in order to ascertain the child's wishes, feelings, attachments and attitudes[-],
44 including the parents or guardians of the child, and, if appropriate, the child ~~[should be~~
45 ~~interviewed]~~;

46 (4) If the guardian ad litem's current caseload does not permit timely execution
47 of duties, declining an appointment by the court;

48 (5) Responding to all reasonable requests for communication in a timely
49 manner; and

50 ~~[(3) Request]~~ (6) Requesting the juvenile officer to cause a petition to be filed in the
51 juvenile division of the circuit court if the guardian ad litem believes the child alleged to be
52 abused or neglected is in danger.

53 ~~[4-]~~ 6. The appointing judge shall require the guardian ad litem to faithfully discharge
54 such guardian ad litem's duties, and upon failure to do so shall discharge such guardian ad
55 litem and appoint another. **The appointing judge shall have the authority to examine the**
56 **general and criminal background of persons appointed as guardians ad litem, including**
57 **utilization of the family care safety registry and access line under sections 210.900 to**
58 **210.936, to ensure the safety and welfare of the children such persons are appointed to**
59 **represent.** The judge in making appointments pursuant to this section shall give preference
60 to persons who served as guardian ad litem for the child in the earlier proceeding, unless there
61 is a reason on the record for not giving such preference.

62 7. All parties shall be notified by the court of the parties' rights to request
63 without cause one disqualification of a guardian ad litem within ten days of
64 appointment. Outside of the ten-day period or after one disqualification has been
65 made by a party, the party may make a written motion to the court alleging the reason
66 for disqualifying a guardian ad litem. Causes for which a guardian ad litem may be
67 disqualified include, but are not limited to:

68 (1) Failure to communicate with the court, other attorneys, or custodial
69 guardians in the same manner as an attorney for a party;

70 (2) Failure to present information on relevant issues through the presentation of
71 evidence or in other appropriate ways; or

72 (3) Failure to follow up on or investigate reasonable issues of child abuse or
73 neglect that the guardian ad litem has been informed of or to gather nonrepetitive
74 information that the guardian ad litem does not already possess from a witness, medical

75 **professional, child care provider, or any other person who may hold information that**
76 **the guardian ad litem has been made aware of about allegations of abuse or neglect.**

77 ~~[5-]~~ **8. The guardian ad litem shall be awarded a reasonable fee for such services to be**
78 **set by the court. Every ninety days during the appointment and prior to each hearing,**
79 **the guardian ad litem shall provide the parties to the proceeding with a statement**
80 **reflecting each date services were rendered, a generalized description of services, the**
81 **hourly rate charged, and the time spent on the date services were rendered.** The court, in
82 its discretion, may:

83 (1) Issue a direct payment order to the parties~~[- If a party fails to comply with the~~
84 ~~court's direct payment order, the court may find such party to be in contempt of court]; [or]~~

85 (2) **Allocate reasonable costs and fees for services provided by the guardian ad**
86 **litem to the parties to the proceeding. Upon motion of the court or the guardian ad**
87 **litem, the court may order one or both parties to pay the guardian ad litem a deposit to**
88 **be applied to such fees and costs; or**

89 (3) Award such fees as a judgment to be paid by any party to the proceedings or from
90 public funds. Such an award of guardian fees shall constitute a final judgment in favor of the
91 guardian ad litem. Such final judgment shall be enforceable against the parties in accordance
92 with chapter 513.

93 **9. The guardian ad litem shall hold the client file under the same rules as holding**
94 **a client file for an individual client. If a successor guardian ad litem is appointed under**
95 **a court order, the initial guardian ad litem shall give the client file, excluding any work**
96 **product or opinions, to the successor guardian ad litem. The initial guardian ad litem**
97 **may keep a copy of the file for his or her records.**

98 **10. In any proceeding where the court has appointed a guardian ad litem, the**
99 **legal custodian or party to the proceeding shall, upon the request of the guardian ad**
100 **litem, provide to the guardian ad litem:**

101 (1) **The location of and all relevant information concerning the minor child;**

102 (2) **Reasonable access to the minor child upon request of the guardian ad litem;**

103 **and**

104 (3) **Any release required by the guardian ad litem to obtain reasonable**
105 **information and records concerning the minor child.**

106 **11. The department of social services and law enforcement shall provide to the**
107 **guardian ad litem all reasonable information requested by the guardian ad litem within**
108 **thirty days of the request.**

109 **12. Any party aggrieved by a guardian ad litem's failure to satisfy the duties**
110 **enumerated under this section or under section 484.350 may apply by motion for**
111 **appointment of a substitute guardian ad litem for cause shown.**

112 **13. A court-appointed guardian ad litem may request permission from the court**
113 **to withdraw in any proceeding for cause shown.**

114 **14. On or before January 1, 2024, the office of chief disciplinary counsel (OCDC)**
115 **shall establish and maintain a complaint procedure for parties dissatisfied with the**
116 **services of a guardian ad litem, including allegations that the guardian ad litem did not**
117 **properly behave under the rules of professional conduct as set forth by the Missouri**
118 **supreme court. The complaint procedure shall be in writing and made available to the**
119 **public.**

453.015. As used in sections 453.010 to 453.400, the following terms mean:

2 (1) **"Guardian ad litem", a person appointed to represent the needs and best**
3 **interests of another person;**

4 (2) "Minor" or "child", any person who has not attained the age of eighteen years or
5 any person in the custody of the children's division who has not attained the age of twenty-
6 one;

7 ~~[(2)]~~ (3) "Parent", a birth parent or parents of a child, including the putative father of
8 the child, as well as the husband of a birth mother at the time the child was conceived, or a
9 parent or parents of a child by adoption. The putative father shall have no legal relationship
10 unless he has acknowledged the child as his own by affirmatively asserting his paternity;

11 ~~[(3)]~~ (4) "Post adoption contact agreement", a voluntary written agreement executed
12 by one or both of a child's birth parents and each adoptive parent describing future contact
13 between the parties to the agreement and the child; provided, that such agreement shall be
14 approved by the court under subsection 4 of section 453.080;

15 ~~[(4)]~~ (5) "Putative father", the alleged or presumed father of a child including a person
16 who has filed a notice of intent to claim paternity with the putative father registry established
17 in section 192.016 and a person who has filed a voluntary acknowledgment of paternity
18 pursuant to section 193.087;

19 ~~[(5)]~~ (6) "Stepparent", the spouse of a biological or adoptive parent. The term does
20 not include the state if the child is a ward of the state. The term does not include a person
21 whose parental rights have been terminated.

455.010. As used in this chapter, unless the context clearly indicates otherwise, the
2 following terms shall mean:

3 (1) "Abuse", includes but is not limited to the occurrence of any of the following acts,
4 attempts or threats against a person who may be protected pursuant to this chapter, except
5 abuse shall not include abuse inflicted on a child by accidental means by an adult household
6 member or discipline of a child, including spanking, in a reasonable manner:

- 7 (a) "Abusing a pet", purposely or knowingly causing, attempting to cause, or
8 threatening to cause physical injury to a pet with the intent to control, punish, intimidate, or
9 distress the petitioner;
- 10 (b) "Assault", purposely or knowingly placing or attempting to place another in fear
11 of physical harm;
- 12 (c) "Battery", purposely or knowingly causing physical harm to another with or
13 without a deadly weapon;
- 14 (d) "Coercion", compelling another by force or threat of force to engage in conduct
15 from which the latter has a right to abstain or to abstain from conduct in which the person has
16 a right to engage;
- 17 (e) "Harassment", engaging in a purposeful or knowing course of conduct involving
18 more than one incident that alarms or causes distress to an adult or child and serves no
19 legitimate purpose. The course of conduct must be such as would cause a reasonable adult or
20 child to suffer substantial emotional distress and must actually cause substantial emotional
21 distress to the petitioner or child. Such conduct might include, but is not limited to:
- 22 a. Following another about in a public place or places;
- 23 b. Peering in the window or lingering outside the residence of another; but does not
24 include constitutionally protected activity;
- 25 (f) "Sexual assault", causing or attempting to cause another to engage involuntarily in
26 any sexual act by force, threat of force, duress, or without that person's consent;
- 27 (g) "Unlawful imprisonment", holding, confining, detaining or abducting another
28 person against that person's will;
- 29 (2) "Adult", any person seventeen years of age or older or otherwise emancipated;
- 30 (3) "Child", any person under seventeen years of age unless otherwise emancipated;
- 31 (4) "Court", the circuit or associate circuit judge or a family court commissioner;
- 32 (5) "Domestic violence", abuse or stalking committed by a family or household
33 member, as such terms are defined in this section;
- 34 (6) "Ex parte order of protection", an order of protection issued by the court before
35 the respondent has received notice of the petition or an opportunity to be heard on it;
- 36 (7) "Family" or "household member", spouses, former spouses, any person related by
37 blood or marriage, persons who are presently residing together or have resided together in the
38 past, any person who is or has been in a continuing social relationship of a romantic or
39 intimate nature with the victim, and anyone who has a child in common regardless of whether
40 they have been married or have resided together at any time;
- 41 (8) "Full order of protection", an order of protection issued after a hearing on the
42 record where the respondent has received notice of the proceedings and has had an
43 opportunity to be heard;

44 (9) **"Guardian ad litem", a person appointed to represent the needs and best**
45 **interests of another person;**

46 (10) "Order of protection", either an ex parte order of protection or a full order of
47 protection;

48 ~~[(10)]~~ (11) "Pending", exists or for which a hearing date has been set;

49 ~~[(11)]~~ (12) "Pet", a living creature maintained by a household member for
50 companionship and not for commercial purposes;

51 ~~[(12)]~~ (13) "Petitioner", a family or household member who has been a victim of
52 domestic violence, or any person who has been the victim of stalking or sexual assault, or a
53 person filing on behalf of a child pursuant to section 455.503 who has filed a verified petition
54 pursuant to the provisions of section 455.020 or section 455.505;

55 ~~[(13)]~~ (14) "Respondent", the family or household member alleged to have committed
56 an act of domestic violence, or person alleged to have committed an act of stalking or sexual
57 assault, against whom a verified petition has been filed or a person served on behalf of a child
58 pursuant to section 455.503;

59 ~~[(14)]~~ (15) "Sexual assault", as defined under subdivision (1) of this section;

60 ~~[(15)]~~ (16) "Stalking", is when any person purposely engages in an unwanted course
61 of conduct that causes alarm to another person, or a person who resides together in the same
62 household with the person seeking the order of protection when it is reasonable in that
63 person's situation to have been alarmed by the conduct. As used in this subdivision:

64 (a) "Alarm", to cause fear of danger of physical harm; and

65 (b) "Course of conduct", two or more acts that serve no legitimate purpose including,
66 but not limited to, acts in which the stalker directly, indirectly, or through a third party
67 follows, monitors, observes, surveils, threatens, or communicates to a person by any action,
68 method, or device.

475.010. When used in this chapter, unless otherwise apparent from the context, the
2 following terms mean:

3 (1) "Adult", a person who has reached the age of eighteen years;

4 (2) "Claims", liabilities of the protectee arising in contract, in tort or otherwise, before
5 or after the appointment of a conservator, and liabilities of the estate which arise at or after the
6 adjudication of disability or after the appointment of a conservator of the estate, including
7 expenses of the adjudication and of administration. The term does not include demands or
8 disputes regarding title of the protectee to specific assets alleged to be included in the estate;

9 (3) "Conservator", one appointed by a court to have the care and custody of the estate
10 of a minor or a disabled person. A "limited conservator" is one whose duties or powers are
11 limited. The term "conservator", as used in this chapter, includes limited conservator unless
12 otherwise specified or apparent from the context;

13 (4) "Conservator ad litem", one appointed by the court in which particular litigation is
14 pending regarding the management of financial resources on behalf of a minor, a disabled
15 person, or an unborn person in that particular proceeding or as otherwise specified in this
16 chapter;

17 (5) "Custodial parent", the parent of a minor who has been awarded sole or joint
18 physical custody of such minor, or the parent of an incapacitated person who has been
19 appointed as guardian of such person, by an order or judgment of a court of this state or of
20 another state or territory of the United States, or if there is no such order or judgment, the
21 parent with whom the minor or incapacitated person primarily resides;

22 (6) "Disabled" or "disabled person", one who is:

23 (a) Unable by reason of any physical, mental, or cognitive condition to receive and
24 evaluate information or to communicate decisions to such an extent that the person lacks
25 ability to manage the person's financial resources; or

26 (b) The term disabled or disabled person, as used in this chapter includes the terms
27 partially disabled or partially disabled person unless otherwise specified or apparent from the
28 context;

29 (7) "Eligible person" or "qualified person", a natural person, social service agency,
30 corporation or national or state banking organization qualified to act as guardian of the person
31 or conservator of the estate pursuant to the provisions of section 475.055;

32 (8) "Guardian", one appointed by a court to have the care and custody of the person of
33 a minor or of an incapacitated person. A "limited guardian" is one whose duties or powers are
34 limited. A "standby guardian" is one approved by the court to temporarily assume the duties
35 of guardian of a minor or of an incapacitated person under section 475.046. The term
36 guardian, as used in this chapter, includes limited guardian and standby guardian unless
37 otherwise specified or apparent from the context;

38 (9) "Guardian ad litem", ~~[one appointed by a court, in which particular litigation is~~
39 ~~pending on behalf of a minor, an incapacitated person, a disabled person, or an unborn person~~
40 ~~in that particular proceeding or as otherwise specified in this code]~~ **a person appointed to**
41 **represent the needs and best interests of another person;**

42 (10) "Habilitation", a process of treatment, training, care, or specialized attention that
43 seeks to enhance and maximize the ability of a person with an intellectual disability or a
44 developmental disability to cope with the environment and to live as determined by the
45 person as much as possible, as is appropriate for the person considering his or her physical
46 and mental condition and financial means;

47 (11) "Incapacitated person", one who is unable by reason of any physical, mental, or
48 cognitive condition to receive and evaluate information or to communicate decisions to such
49 an extent that the person, even with appropriate services and assistive technology, lacks

50 capacity to manage the person's essential requirements for food, clothing, shelter, safety or
51 other care such that serious physical injury, illness, or disease is likely to occur. The term
52 incapacitated person as used in this chapter includes the term partially incapacitated person
53 unless otherwise specified or apparent from the context;

54 (12) "Interested persons", spouses, children, parents, adult members of a ward's or
55 protectee's family, creditors or any others having a property right or claim against the estate of
56 a protectee being administered, trustees of a trust of which the ward or protectee is a
57 beneficiary, agents of a durable power of attorney for a ward or protectee, and children of a
58 protectee who may have a property right or claim against or an interest in the estate of a
59 protectee. This meaning may vary at different stages and different parts of a proceeding and
60 shall be determined according to the particular purpose and matter involved;

61 (13) "Least restrictive alternative", with respect to the guardianship order and the
62 exercise of power by the guardian, a course of action or an alternative that allows the
63 incapacitated person to live, learn, and work with minimum restrictions on the person, as are
64 appropriate for the person considering his or her physical and mental condition and financial
65 means. Least restrictive alternative also means choosing the decision or approach that:

66 (a) Places the least possible restriction on the person's personal liberty and exercise of
67 rights and that promotes the greatest possible inclusion of the person into his or her
68 community, as is appropriate for the person considering his or her physical and mental
69 condition and financial means; and

70 (b) Is consistent with meeting the person's essential requirements for health, safety,
71 habilitation, treatment, and recovery and protecting the person from abuse, neglect, and
72 financial exploitation;

73 (14) "Manage financial resources", either those actions necessary to obtain,
74 administer, and dispose of real and personal property, intangible property, business property,
75 benefits, income or any assets, or those actions necessary to prevent waste, loss or dissipation
76 of property, or those actions necessary to provide for the care and support of such person or
77 anyone legally dependent upon such person by a person of ordinary skills and intelligence
78 commensurate with his or her training and education;

79 (15) "Minor", any person who is under the age of eighteen years;

80 (16) "Parent", the biological or adoptive mother or father of a child whose parental
81 rights have not been terminated under chapter 211, including:

82 (a) A person registered as the father of the child by reason of an unrevoked notice of
83 intent to claim paternity under section 192.016;

84 (b) A person who has acknowledged paternity of the child and has not rescinded that
85 acknowledgment under section 193.215; and

86 (c) A person presumed to be the natural father of the child under section 210.822;

87 (17) "Partially disabled person", one who is unable by reason of any physical, mental,
88 or cognitive condition to receive and evaluate information or to communicate decisions to
89 such an extent that such person lacks capacity to manage, in part, his or her financial
90 resources;

91 (18) "Partially incapacitated person", one who is unable by reason of any physical,
92 mental, or cognitive condition to receive and evaluate information or to communicate
93 decisions to the extent that such person lacks capacity to meet, in part, essential requirements
94 for food, clothing, shelter, safety, or other care without court-ordered assistance;

95 (19) "Protectee", a person for whose estate a conservator or limited conservator has
96 been appointed or with respect to whose estate a transaction has been authorized by the court
97 under section 475.092 without appointment of a conservator or limited conservator;

98 (20) "Seriously ill", a significant likelihood that a person will become incapacitated or
99 die within twelve months;

100 (21) "Social service agency", a charitable organization organized and incorporated as
101 a not-for-profit corporation under the laws of this state and which qualifies as an exempt
102 organization within the meaning of Section 501(c)(3), or any successor provision thereto of
103 the federal Internal Revenue Code;

104 (22) "Standby guardian", one who is authorized to have the temporary care and
105 custody of the person of a minor or of an incapacitated person under the provisions of section
106 475.046;

107 (23) "Treatment", the prevention, amelioration or cure of a person's physical and
108 mental illnesses or incapacities;

109 (24) "Ward", a minor or an incapacitated person for whom a guardian, limited
110 guardian, or standby guardian has been appointed.

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