

§ 35A-1107. Right to counsel or guardian ad litem.

(a) The respondent is entitled to be represented by counsel of the respondent's own choice or by an appointed guardian ad litem. Upon filing of the petition, an attorney shall be appointed as guardian ad litem to represent the respondent unless the respondent retains counsel, in which event the guardian ad litem may be discharged. Appointment and discharge of an appointed guardian ad litem shall be in accordance with rules adopted by the Office of Indigent Defense Services.

(b) An attorney appointed as a guardian ad litem under this section shall represent the respondent until any of the following occurs:

- (1) The petition is dismissed.
- (2) A guardian is appointed under Subchapter II of this Chapter.
- (3) Other relief is granted under Article 2 of this Subchapter.

(c) After being appointed, the guardian ad litem shall personally visit the respondent as soon as possible and shall make every reasonable effort to determine the respondent's wishes regarding the incompetency proceeding and any proposed guardianship. During the personal visit, and at any time upon request by the respondent, the guardian ad litem shall explain the notice of rights required under G.S. 35A-1117 to the respondent. The guardian ad litem shall present to the clerk the respondent's express wishes at all relevant stages of the proceedings. The guardian ad litem also may make recommendations to the clerk concerning the respondent's best interests if those interests differ from the respondent's express wishes. In appropriate cases, the guardian ad litem shall consider the possibility of a limited guardianship and shall make recommendations to the clerk concerning the rights, powers, and privileges that the respondent should retain under a limited guardianship. (1987, c. 550, s. 1; 2000-144, s. 33; 2003-236, s. 3; 2022-64, s. 6; 2023-124, s. 7.3.)