

HOW TO WOW A **JUDGE** AND ADVOCATE FOR YOUR WARD!



G GOALS



A ACCURACY



L LEGALITIES

SECTION 2151.281

GUARDIAN AD LITEM

B (1) EXCEPT AS PROVIDED IN DIVISION (K) OF THIS SECTION, THE COURT **SHALL** APPOINT A GUARDIAN AD LITEM, SUBJECT TO RULES ADOPTED BY THE SUPREME COURT, TO PROTECT THE INTEREST OF A CHILD IN ANY PROCEEDING CONCERNING AN ALLEGED ABUSED OR NEGLECTED CHILD AND IN ANY PROCEEDING HELD PURSUANT TO SECTION 2151.414 OF THE REVISED CODE. THE GUARDIAN AD LITEM APPOINTED **SHALL** NOT BE THE ATTORNEY RESPONSIBLE FOR PRESENTING THE EVIDENCE ALLEGING THAT THE CHILD IS AN ABUSED OR NEGLECTED CHILD AND **SHALL** NOT BE AN EMPLOYEE OF ANY PARTY IN THE PROCEEDING.



SECTION 2151.281 GUARDIAN AD LITEM

(D) THE COURT **SHALL** REQUIRE THE GUARDIAN AD LITEM TO FAITHFULLY DISCHARGE THE GUARDIAN AD LITEM'S DUTIES AND, UPON THE GUARDIAN AD LITEM'S FAILURE TO FAITHFULLY DISCHARGE THE GUARDIAN AD LITEM'S DUTIES, **SHALL** DISCHARGE THE GUARDIAN AD LITEM AND APPOINT ANOTHER GUARDIAN AD LITEM. THE COURT MAY FIX THE COMPENSATION FOR THE SERVICE OF THE GUARDIAN AD LITEM, WHICH COMPENSATION **SHALL** BE PAID FROM THE TREASURY OF THE COUNTY, SUBJECT TO RULES ADOPTED BY THE SUPREME COURT.



SECTION 2151.281 GUARDIAN AD LITEM

- (I) THE GUARDIAN AD LITEM FOR AN ALLEGED OR ADJUDICATED ABUSED, NEGLECTED, OR DEPENDENT CHILD **SHALL** PERFORM WHATEVER FUNCTIONS ARE NECESSARY TO PROTECT THE BEST INTEREST OF THE CHILD, INCLUDING, BUT NOT LIMITED TO, INVESTIGATION, MEDIATION, MONITORING COURT PROCEEDINGS, AND MONITORING THE SERVICES PROVIDED THE CHILD BY THE PUBLIC CHILDREN SERVICES AGENCY OR PRIVATE CHILD PLACING AGENCY THAT HAS TEMPORARY OR PERMANENT CUSTODY OF THE CHILD...



RULE 48.03

GENERAL RESPONSIBILITIES OF GUARDIAN AD LITEM

The responsibilities of a guardian ad litem SHALL include, but are not limited to, the following:

1. Provide the court recommendations of the best interest of the child. Recommendations of the best interest of the child may be inconsistent with the wishes of the child or other parties.
2. Maintain independence, objectivity, and fairness, as well as the appearance of fairness, in dealings with parties and professionals, both in and out of the courtroom, and have no ex parte communications with the court regarding the merits of the case.
3. Act with respect and courtesy in the performance of the responsibilities of the guardian ad litem.
4. Attend any hearing relevant to the responsibilities of the guardian ad litem.
5. Upon becoming aware that the recommendations of the guardian ad litem differ from the wishes of the child, immediately notify the court in writing with notice to the parties or affected agencies. The court shall take action as it deems necessary.

RULE 48.03

GENERAL RESPONSIBILITIES OF GUARDIAN AD LITEM

6. If necessary, request timely court reviews and judicial intervention in writing with notice to the parties or affected agencies.

7. If the guardian ad litem is an attorney, file pleadings, motions, and other documents as appropriate and call, examine, and cross-examine witnesses pursuant to the applicable rules of procedure.

8. Be available to testify at any relevant hearing. Attorneys who are to serve as both guardian ad litem and attorney in any dual appointments shall comply with Rule 3.7 of the Rules of Professional Conduct.


9. If the guardian ad litem is not an attorney, avoid engaging in conduct that constitutes the unauthorized practice of law and be vigilant in performing the duties of the guardian ad litem.

10. If the guardian ad litem is not an attorney, request the court to appoint an attorney for the guardian ad litem to file pleadings, motions, and other documents as appropriate and call, examine, and cross-examine witnesses pursuant to the applicable rules of procedure. The court shall take action as it deems necessary.

RULE 48.03
GENERAL RESPONSIBILITIES OF GUARDIAN AD LITEM

CONFLICTS OF INTEREST

1. A guardian ad litem **SHALL** avoid any actual or apparent conflict of interest arising from any relationship or activity, including but not limited to those of employment or business or from professional or personal contacts with parties or others involved in the case. A guardian ad litem **SHALL** avoid self-dealing or associations that might directly or indirectly benefit except from compensation for services as a guardian ad litem.



2. Upon becoming aware of any actual or apparent conflict of interest, a guardian ad litem **SHALL** immediately notify the court in writing. The court **SHALL** take action as it deems necessary.

RULE 48.03

RESPONSIBILITIES OF GAL



DUTIES:

1. Become informed about the facts of the case and contact all relevant persons.

2. Observe the child with each parent, foster parent, guardian or physical custodian.

3. Interview the child, if age and developmentally appropriate, where no parent, foster parent, guardian, or physical custodian is present.

4. Visit the child at the residence or proposed residence of the child in accordance with any standards established by the court.

5. Ascertain the wishes and concerns of the child.

6. Interview the parties, foster parents, guardians, physical custodian, and other significant individuals who may have relevant knowledge regarding the issues of the case. The guardian ad litem may require each individual to be interviewed without the presence of others. Upon request of the individual, the attorney for the individual may be present.

RULE 48.03

DUTIES:

7. Interview relevant school personnel, medical and mental health providers, child protective services workers, and court personnel and obtain copies of relevant records.

8. Review pleadings and other relevant court documents in the case.

9. Obtain and review relevant criminal, civil, educational, mental health, medical, and administrative records pertaining to the child and, if appropriate, the family of the child or other parties in the case.

10. Request that the court order psychological evaluations, mental health or substance abuse assessments, or other evaluations or tests of the parties as the guardian ad litem deems necessary or helpful to the court.

11. Review any necessary information and interview other persons as necessary to make an informed recommendation regarding the best interest of the child.

SATISFACTION OF TRAINING REQUIREMENTS OF TRAINING REQUIREMENTS

A GUARDIAN AD LITEM **SHALL** MEET THE QUALIFICATIONS AND SATISFY ALL PRE-SERVICE AND CONTINUING EDUCATION REQUIREMENTS OF SUP.R. 48.04 AND 48.05 AND ANY LOCAL COURT RULES GOVERNING GUARDIANS AD LITEM.

A GUARDIAN AD LITEM SHALL DO BOTH OF THE FOLLOWING:

1. MEET THE QUALIFICATIONS FOR THE GUARDIANS AD LITEM FOR EACH COURT AND PROMPTLY ADVISE THE COURT OF ANY GROUNDS FOR DISQUALIFICATION OR ANY ISSUES AFFECTING THE ABILITY TO SERVE.
2. PROVIDE THE COURT DOCUMENTATION INDICATING COMPLIANCE WITH PRE-SERVICE AND CONTINUING EDUCATIONAL REQUIREMENTS SO THE COURT MAY MAINTAIN THE FILES REQUIRED PURSUANT TO SUP.R.48.07. THE DOCUMENTATION **SHALL** INCLUDE INFORMATION DETAILING THE DATE, LOCATION, CONTENTS, AND CREDIT HOURS RECEIVED FOR ANY RELEVANT EDUCATION.



RESPONSIBILITIES OF GAL

IDENTIFICATION:

A GUARDIAN AD LITEM **SHALL** IMMEDIATELY IDENTIFY HIMSELF OR HERSELF AS A GUARDIAN AD LITEM WHEN CONTACTING INDIVIDUALS AND INFORM THE INDIVIDUALS ABOUT THE ROLE OF THE GUARDIAN AD LITEM, INCLUDING AS AN ATTORNEY IF A DUAL APPOINTMENT, THE SCOPE OF APPOINTMENT, AND THAT DOCUMENTS AND INFORMATION OBTAINED BY THE GUARDIAN AD LITEM MAY BECOME PART OF COURT PROCEEDINGS.

CONFIDENTIALITY:

A GUARDIAN AD LITEM **SHALL** MAKE NO DISCLOSURES ABOUT A CASE OR INVESTIGATION, EXCEPT TO THE PARTIES AND THEIR LEGAL COUNSEL, IN REPORTS TO THE COURT, OR AS NECESSARY TO PERFORM THE DUTIES OF A GUARDIAN AD LITEM, INCLUDING AS A MANDATED REPORTER. THE GUARDIAN AD LITEM **SHALL** MAINTAIN THE CONFIDENTIAL NATURE OF PERSONAL IDENTIFIERS, AS DEFINED IN SUP. R. 44, AND ADDRESS WHERE THERE ARE ALLEGATIONS OF DOMESTIC VIOLENCE OR RISK TO THE SAFETY OF A PARTY OR CHILD. UPON APPLICATION, THE COURT MAY ORDER DISCLOSURE OF OR ACCESS TO THE INFORMATION NECESSARY TO CHALLENGE THE TRUTH OF THE INFORMATION RECEIVED FROM A CONFIDENTIAL SOURCE. THE COURT MAY IMPOSE CONDITIONS NECESSARY TO PROTECT WITNESSES FROM POTENTIAL HARM.



RESPONSIBILITIES OF A GAL

TIMELINESS:

A GUARDIAN AD LITEM **SHALL** PERFORM RESPONSIBILITIES IN A PROMPT AND TIMELY MANNER.

RECORD-KEEPING:

1. A GUARDIAN AD LITEM **SHALL** KEEP ACCURATE RECORDS OF THE TIME SPENT, SERVICES RENDERED, AND EXPENSES INCURRED IN EACH CASE WHILE PERFORMING THE RESPONSIBILITIES OF A GUARDIAN AD LITEM.
2. IN ALLOCATION OF PARENTAL RIGHTS AND RESPONSIBILITIES CASES, A GUARDIAN AD LITEM **SHALL** PROVIDE A MONTHLY STATEMENT OF FEES AND EXPENSES TO ALL PARTIES.
3. A GUARDIAN AD LITEM **SHALL** FILE AN ITEMIZED STATEMENT AND ACCOUNTING WITH THE COURT AND PROVIDE A COPY TO EACH PARTY OR OTHER ENTITY RESPONSIBLE FOR PAYMENT UPON ORDER OF THE COURT OR UPON THE CONCLUSION OF THOSE RESPONSIBILITIES.



BEST INTEREST

- (B)(1) EXCEPT AS PROVIDED IN DIVISION (B)(2) OF THIS SECTION, THE COURT **MAY** GRANT PERMANENT CUSTODY OF A CHILD TO A MOVANT IF THE COURT DETERMINES AT THE HEARING HELD PURSUANT TO DIVISION (A) OF THIS SECTION, BY CLEAR AND CONVINCING EVIDENCE, THAT IT IS IN THE **BEST INTEREST** OF THE CHILD TO GRANT PERMANENT CUSTODY OF THE CHILD TO THE AGENCY THAT FILED THE MOTION FOR PERMANENT CUSTODY AND THAT **ANY** OF THE FOLLOWING APPLY.



section 2151.414
Hearing on motion requesting permanent custody

LESS THAN 12 MONTHS?

(a) The child is not abandoned or orphaned, **HAS NOT BEEN** in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two-month period, or **HAS NOT BEEN** in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two-month period if, as described in division (D)(1) of section 2151.413 of the Revised Code, the child was previously in the temporary custody of an equivalent agency in another state, **AND** the child **CANNOT BE PLACED** with either of the child's parents within a reasonable time or **SHOULD NOT BE PLACED** with the child's parents.



REMOVAL DATE? ADJUDICATION DATE?

FOR THE PURPOSES OF DIVISION (B)(1) OF THIS SECTION, A CHILD **SHALL** BE CONSIDERED TO HAVE ENTERED THE **TEMPORARY CUSTODY** OF AN AGENCY ON THE EARLIER OF THE DATE THE CHILD IS ADJUDICATED PURSUANT TO SECTION 2151.28 OF THE REVISED CODE **OR** THE DATE THAT IS SIXTY DAYS AFTER THE **REMOVAL** OF THE CHILD FROM HOME.



ABANDONED OR ORPHANED?

(B) THE CHILD IS ABANDONED.

(C) THE CHILD IS ORPHANED,
AND THERE ARE NO RELATIVES OF
THE CHILD WHO ARE ABLE TO TAKE
PERMANENT CUSTODY.

MORE THAN 12 MONTHS?

(d) The child **HAS BEEN** in the temporary custody of one or more public children services agencies or private child placing agencies **FOR TWELVE** or more months of a consecutive twenty-two-month period, **OR** the child has been in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two-month period and, as described in division (D)(1) of section 2151.413 of the Revised Code, the child was previously in the temporary custody of an equivalent agency in another state.





CAN / SHOULD CHILD BE PLACED BACK WITH PARENT ?

(2) ...THE COURT SHALL GRANT PERMANENT CUSTODY OF THE CHILD TO THE MOVANT IF THE COURT DETERMINES IN ACCORDANCE WITH DIVISION (E) OF THIS SECTION THAT THE CHILD **CANNOT** BE PLACED WITH ONE OF THE CHILD'S PARENTS WITHIN A REASONABLE TIME OR **SHOULD NOT** BE PLACED WITH EITHER PARENT....



SECTION 2151.414
HEARING ON MOTION REQUESTING PERMANENT CUSTODY

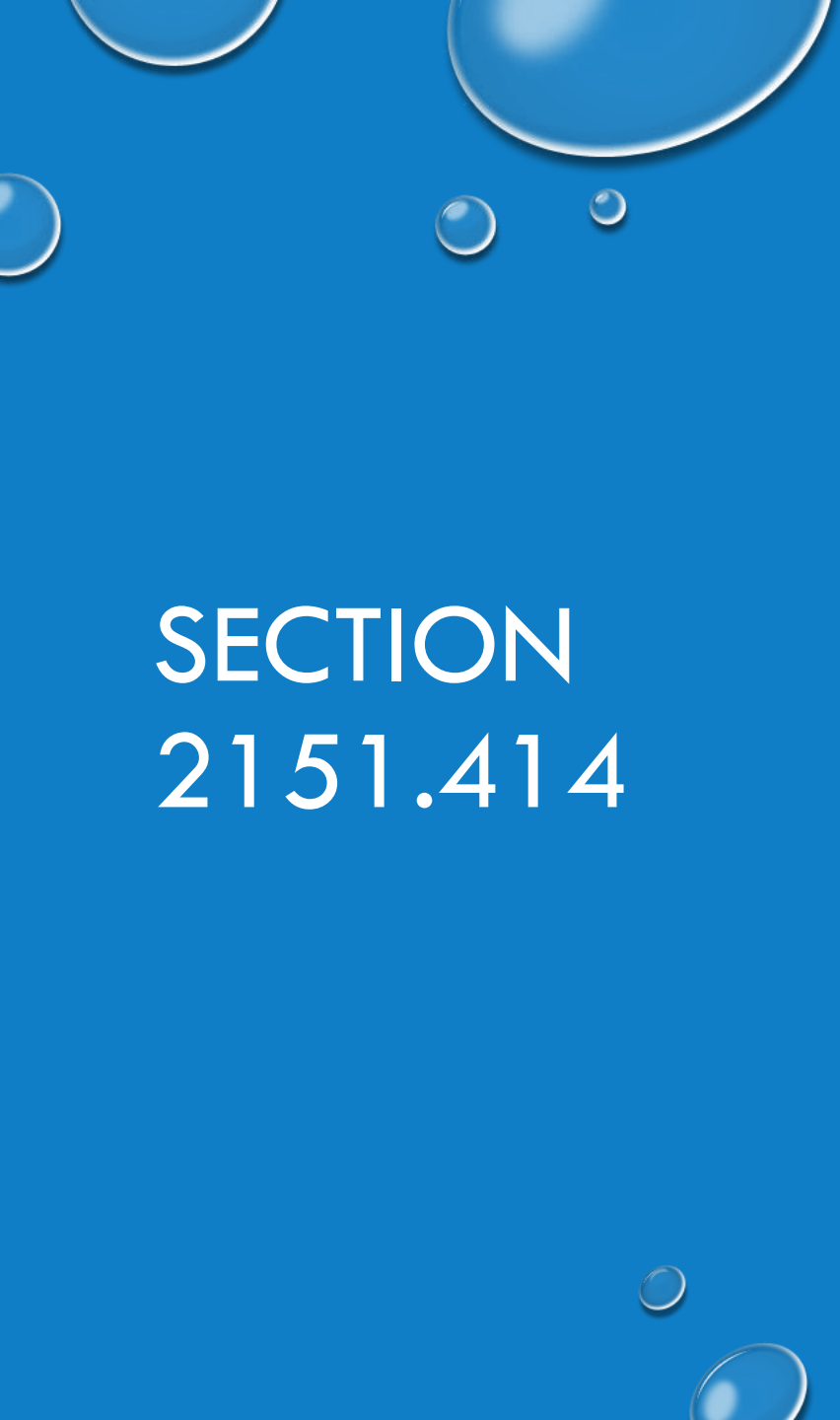
ADJUDICATE / REMOVED ON THREE TIMES ?

(E) THE CHILD OR ANOTHER CHILD IN THE CUSTODY OF THE PARENT OR PARENTS FROM WHOSE CUSTODY THE CHILD HAS BEEN REMOVED HAS BEEN ADJUDICATED AN ABUSED, NEGLECTED, OR DEPENDENT CHILD ON THREE SEPARATE OCCASIONS BY ANY COURT IN THIS STATE OR ANOTHER STATE.

“E” FACTORS IN DETERMINING RETURN OF CHILD

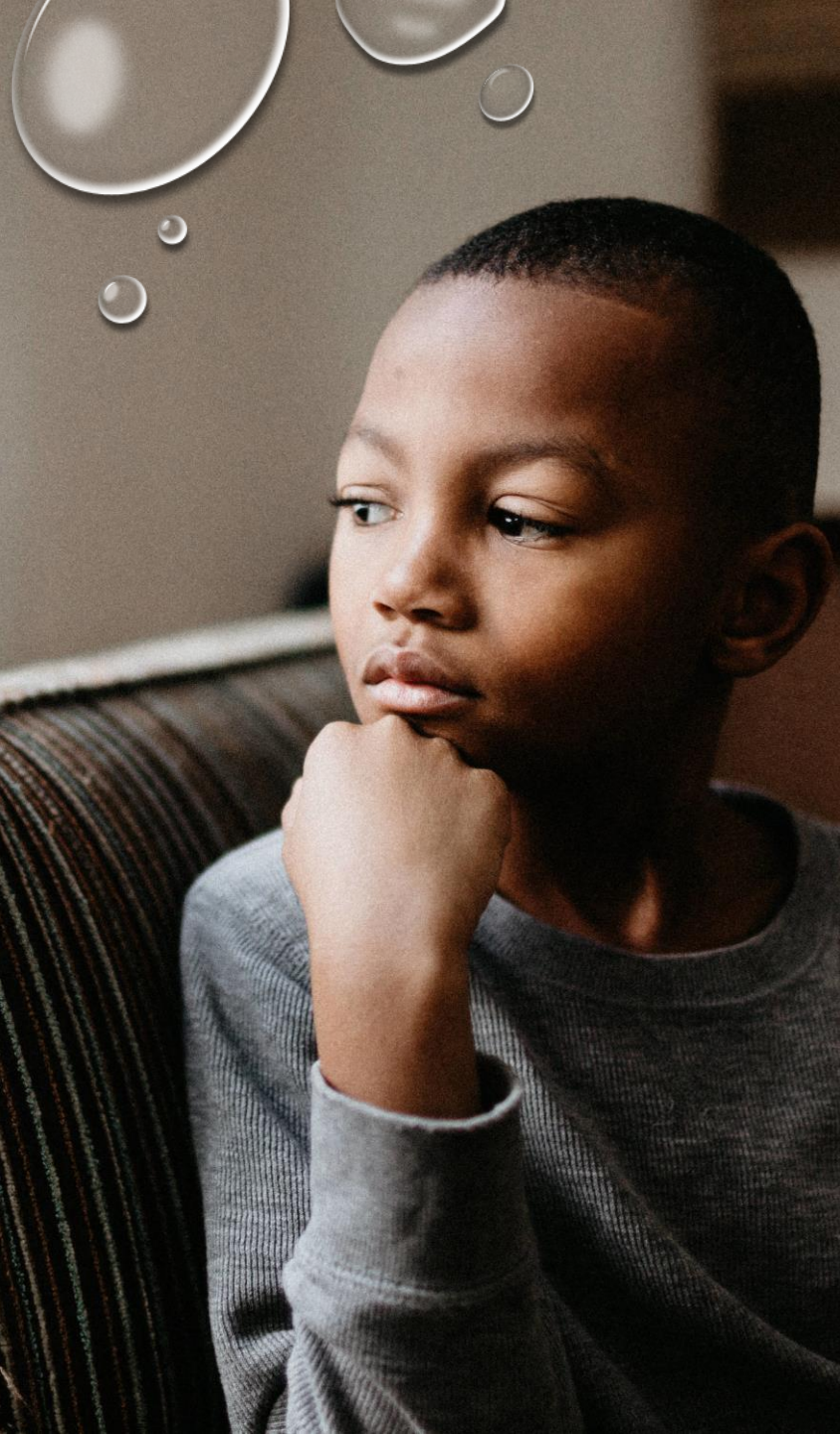
(1) FOLLOWING THE PLACEMENT OF THE CHILD OUTSIDE THE CHILD'S HOME AND NOTWITHSTANDING REASONABLE CASE PLANNING AND DILIGENT EFFORTS BY THE AGENCY TO ASSIST THE PARENTS TO REMEDY THE PROBLEMS THAT INITIALLY CAUSED THE CHILD TO BE PLACED OUTSIDE THE HOME, THE PARENT HAS FAILED CONTINUOUSLY AND REPEATEDLY TO SUBSTANTIALLY REMEDY THE CONDITIONS CAUSING THE CHILD TO BE PLACED OUTSIDE THE CHILD'S HOME. IN DETERMINING WHETHER THE PARENTS HAVE SUBSTANTIALLY REMEDIED THOSE CONDITIONS, THE COURT **SHALL** CONSIDER PARENTAL UTILIZATION OF MEDICAL, PSYCHIATRIC, PSYCHOLOGICAL, AND OTHER SOCIAL AND REHABILITATIVE SERVICES AND MATERIAL RESOURCES THAT WERE MADE AVAILABLE TO THE PARENTS FOR THE PURPOSE OF CHANGING PARENTAL CONDUCT TO ALLOW THEM TO RESUME AND MAINTAIN PARENTAL DUTIES.



The left side of the image features a solid blue background decorated with several realistic water droplets of varying sizes. Some droplets are at the top, some in the middle, and some at the bottom, creating a fresh and clean aesthetic.

SECTION 2151.414

(2) CHRONIC MENTAL ILLNESS, CHRONIC EMOTIONAL ILLNESS, INTELLECTUAL DISABILITY, PHYSICAL DISABILITY, OR CHEMICAL DEPENDENCY OF THE PARENT THAT IS SO SEVERE THAT IT MAKES THE PARENT UNABLE TO PROVIDE AN ADEQUATE PERMANENT HOME FOR THE CHILD AT THE PRESENT TIME AND, AS ANTICIPATED, WITHIN ONE YEAR AFTER THE COURT HOLDS THE HEARING PURSUANT TO DIVISION (A) OF THIS SECTION OR FOR THE PURPOSES OF DIVISION (A)(4) OF SECTION 2151.353 OF THE REVISED CODE.



SECTION 2151.414

(4) THE PARENT HAS DEMONSTRATED A LACK OF COMMITMENT TOWARD THE CHILD BY FAILING TO REGULARLY SUPPORT, VISIT, OR COMMUNICATE WITH THE CHILD WHEN ABLE TO DO SO, OR BY OTHER ACTIONS SHOWING AN UNWILLINGNESS TO PROVIDE AN ADEQUATE PERMANENT HOME FOR THE CHILD.

9) THE PARENT HAS PLACED THE CHILD AT SUBSTANTIAL RISK OF HARM TWO OR MORE TIMES DUE TO ALCOHOL OR DRUG ABUSE AND HAS REJECTED TREATMENT TWO OR MORE TIMES OR REFUSED TO PARTICIPATE IN FURTHER TREATMENT TWO OR MORE TIMES AFTER A CASE PLAN ISSUED PURSUANT TO SECTION 2151.412 OF THE REVISED CODE REQUIRING TREATMENT OF THE PARENT WAS JOURNALIZED AS PART OF A DISPOSITIONAL ORDER ISSUED WITH RESPECT TO THE CHILD OR AN ORDER WAS ISSUED BY ANY OTHER COURT REQUIRING TREATMENT OF THE PARENT.

(10) THE PARENT HAS ABANDONED THE CHILD.

* NO VISITS OR CONTACT FOR MORE THAN 90 DAYS.

SECTION 2151.141

HEARING ON MOTION REQUESTING
PERMANENT CUSTODY

**BEST INTEREST OF A
CHILD**

(D)(1) In determining the best interest of a child at a hearing held pursuant to division (A) of this section or for the purposes of division (A)(4) or (5) of section 2151.353 or division (C) of section 2151.415 of the Revised Code, the court **SHALL** consider **ALL** relevant factors, including, but not limited to, the following:

(a) The interaction and interrelationship of the child with the child's parents, siblings, relatives, foster caregivers and out-of-home providers, and any other person who may significantly affect the child.

(b) The wishes of the child, as expressed directly by the child or through the child's guardian ad litem, with due regard for the **MATURITY** of the child.

HEARING ON MOTION REQUESTING PERMANENT CUSTODY



(c) The custodial history of the child...



(d) The child's need for a legally secure permanent placement and whether that type of placement can be achieved without a grant of permanent custody to the agency.



(e) Whether any of the factors in divisions (E)(7) to (11) of this section apply in relation to the parents and child.an equivalent agency in another state.

SECTION 2151.414

HEARING ON MOTION REQUESTING PERMANENT CUSTODY

If **ALL** of the following apply, permanent custody is in the best interest of the child, and the court SHALL commit the child to the permanent custody of a public children services agency or private child placing agency.

(a) The court determines by clear and convincing evidence that one or more of the factors in division. (E) of this section exist and the child cannot be placed with one of the child's parents within a reasonable time or should not be placed with either parent.

(b) The child has been in an agency's custody for two years or longer, and no longer qualifies for temporary custody pursuant to division (D) of section 2151.415 of the Revised Code.

(c) The child does not meet the requirements for a planned permanent living arrangement pursuant to division (A)(5) of section 2151.353 of the Revised Code.

(d) Prior to the dispositional hearing, no relative or other interested person has filed, or has been identified in, a motion for legal custody of the child.

RULE 48.06

GUARDIAN AD LITEM REPORT REQUIREMENTS

1. A GUARDIAN AD LITEM **SHALL** PREPARE A WRITTEN FINAL REPORT, INCLUDING RECOMMENDATIONS TO THE COURT, WITHIN THE TIMES SET FORTH IN THIS DIVISION. THE REPORT **SHALL** AFFIRMATIVELY STATE THAT RESPONSIBILITIES HAVE BEEN MET AND **SHALL** DETAIL THE ACTIVITIES PERFORMED, HEARINGS ATTENDED, PERSONS INTERVIEWED, DOCUMENTS REVIEWED, EXPERTS CONSULTED, AND ALL OTHER RELEVANT INFORMATION CONSIDERED BY THE GUARDIAN AD LITEM IN REACHING THE RECOMMENDATIONS AND IN ACCOMPLISHING THE DUTIES REQUIRED BY STATUTE, BY COURT RULE, AND IN THE ORDER OF APPOINTMENT FROM THE COURT.
2. ALL REPORTS **SHALL** INCLUDE THE FOLLOWING WARNING: "THE GUARDIAN AD LITEM REPORT **SHALL** BE PROVIDED TO THE COURT, UNREPRESENTED PARTIES, AND LEGAL COUNSEL. ANY OTHER DISCLOSURE OF THE REPORT MUST BE APPROVED IN ADVANCE BY THE COURT. UNAUTHORIZED DISCLOSURE OF THE REPORT MAY BE SUBJECT TO COURT ACTION, INCLUDING THE PENALTIES FOR CONTEMPT, WHICH INCLUDE FINE AND/OR INCARCERATION. "

RULE 48.06

GUARDIAN AD LITEM REPORT REQUIREMENTS

3. ORAL AND WRITTEN REPORTS **SHALL** ADDRESS RELEVANT ISSUES BUT **SHALL NOT** BE CONSIDERED DETERMINATIVE.
4. A GUARDIAN AD LITEM **SHALL** BE AVAILABLE TO TESTIFY AT ANY RELEVANT HEARING AND MAY ORALLY SUPPLEMENT THE REPORT AT THE CONCLUSION OF THE HEARING.
5. A GUARDIAN AD LITEM **MAY** PROVIDE AN INTERIM WRITTEN OR ORAL REPORT AT ANY TIME.

QUESTIONS / COMMENTS

