

Authorized for Public Disclosure.

**TESTIMONY of MICHAEL S. MARTOWSKA
2 Edgewater Drive
Lakeville, MA 02347
March 31, 2014**

**TO: Judiciary Committee Public Hearing re: Raised Bill 494
“An Act Concerning Guardians Ad Litem and Attorneys for
Minor Children in Family Relations Matters”**

Members of the Judiciary Committee:

I support Raised Bill 494 because it takes a minor step in the right direction. I prefer to look at it as a glass 10% full rather than 90% empty. I feel it doesn't go anywhere near far enough because it doesn't address the root causes of how GALs and the Connecticut Family Court system fail to consistently serve the best interest of the children it intends to serve.

I speak as a grandparent of four wonderful children, the oldest of which is Meghan who has had to endure the GAL and Family Court system for over eight years now. I've witnessed first hand nearly every court proceeding involving this child and much of what the GAL has done and/or failed to do in this case. It is not a pretty picture. Meghan's parent's never married, and once their relationship disintegrated and she was born, it has been a constant struggle for my son and my granddaughter's paternal family. There is not enough time to go into detail, though I and others in my family would be happy to sit down with any State Representative or State Senator, with or without my granddaughter Meghan's GAL present, to review in detail what has transpired over the past eight years and more. There is always more than one side to a story, but I believe that if any elected official in the Connecticut State House had endured what my son has endured over the past eight years and more, that no one would be satisfied with this bill as written.

I do not claim that all GALs are bad. Indeed, I thanked the person that served as the GAL for my son's younger daughter during divorce proceedings. The services of that GAL were provided at no charge to the parties. She reviewed the situation and made appropriate recommendations in a timely manner. Meghan's GAL, on the other hand, is highly respected in the Family Court and had a financial incentive to drag things out. When I watched him in action in hearings, I could see why. It was partly in how he presented himself in a professional manner in court. He's an excellent orator. However, I

had the vantage point of seeing how he would selectively present information to the court at hearings and status conferences, make statements not supported by the facts, and so forth, all in an attempt to control the court's decisions. It was not uncommon for him to make recommendations that would cover only the period to the next court date rather than to completion. He was thereby forcing the parties to keep returning to court while billable hours accumulated for him the parties' lawyers (when my son did have a lawyer).

I will give you an example of why this raised bill, if it had been in effect eight years ago, would have had a minimal impact on my son's situation if any. And if this bill doesn't address something as simple as this example, it accomplishes much too little. This bill still leaves GALs accountable to no one for their actions. Favorites of the Court will still be favorites of the Court. Families will still be financially drained, depriving the children of funds that could be used for their benefit. At best, this bill could reduce the totality of the fees paid to GALs. If it accomplishes that, it will be a good step.

My example goes back to the birth of Meghan over eight years ago. Her parents were dating while in college. Meghan was conceived in their senior year and born the falling fall. As graduation approached, my son, a resident of Massachusetts, focused on finding a job in Connecticut. He was successful in that search and bought a small house about 20 minutes away from the home of the mother. His first priority has always been to be a good father. He had already turned down a commission in the Marines after successfully completing the Officer Candidate School (OCS) program in Quantico, VA, so that he could focus on family life. He attended Lamaze and other classes with the mother. However, there came a point in time before the birth of Meghan when the mother and her family preferred not to have my son or his family involved in their child's life.

The mother didn't bother to have someone contact my son when she was going to the hospital to give birth. Once he found out, my son left work to be there. Others in Meghan's paternal family joined him in the waiting room. That included his parents, sister, and future brother-in-law, all who lived about 100 miles away. There was no one in the waiting room from the maternal family the entire time we were there. After about 12 hours during which my son requested and received status updates from the maternity ward once an hour, we were all asked to leave the hospital under threat of trespass if we didn't do so.

My granddaughter was born that night, but my son not notified. During the following day, my son met with the priest at the church the mother attended. The priest reached out to the mother's family to find out, on behalf of my son, if his child was born, if his child was healthy, and if he was the father of a boy or girl. He broke down in tears when he received the good news.

It took the intervention of the priest again for my son to be able to meet Meghan days later. Under short (hours) notice, he grabbed his parents and grandmother to make the nearly 100 mile trip to meet his daughter. It would be limited to a one hour visit at the mother's house with the priest present. About half way through that meeting, the priest had to intervene to allow the paternal family members hold Meghan. I shed tears of joy

that day, seeing my first grandchild for the first time. No commitments were made by the mother to allow for future access. My son felt forced to file for joint custody in court and to establish child support. Eventually, a GAL was appointed. It then took about 2 years and a two-day trial to formally obtain joint custody and a parenting plan.

During this time, my son had drafted a detailed parenting plan, one that included a holiday schedule that said the two parents would alternate holidays from one year to the next. It allowed the mother to have more parenting time initially. The GAL, as well as the mother and her attorney, were asked to review and comment on his proposal. He wanted to avoid court time if possible. He asked each what they agreed with and what they didn't. He asked for their proposals and recommendations. None were ever forthcoming.

Months went by as legal fees, GAL fees, and other fees accumulated. My son would have to pay half the cost of meeting with the mother and a therapist recommended by the GAL to help the two parents work together. (I never understood that. My son was always suggesting reasonable ideas and open to compromise. The mother, on the other hand, fought everything that would increase his access beyond the minimal amount he had.) At best, each session would accomplish little but defining where Meghan would spend the next holiday. Hundreds of dollars were being spent each time a holiday approached to accomplish little more than define where the child would spend the holiday --- and only for that particular year. The mother had no incentive to work with my son when she had the vast majority of time with the child and the GAL not pushing for or providing his recommendation for a permanent resolution.

Initially, with the GAL's involvement, my son was limited to visiting his child for about an hour at a time at the mother's house. He could only have one other person with him during such visits, but that could not include the grandparents. All my son could get the GAL to support was the right to bring either his sister (if she could make the nearly 200 mile round trip) or the priest. The GAL didn't want to make the mother be reasonable. I challenge the Connecticut legislative body to tell me how this served the best interest of my granddaughter.

Things did progress over time through stipulated agreements. However, it was costing tens of thousands of dollars in various fees to do the obvious, to have joint custody and develop a parenting plan. There was ultimately a two-day trial that resulted in joint custody and a parenting plan being ordered that, in what it did contain, was comparable to what my son had proposed. Why couldn't the GAL have proposed something comparable from day one? He didn't even need to write a proposal from scratch. He was given a reasonable proposal that he could have edited. Instead, he would wait for court dates, show up, talk to the two sides, try to get the two sides to agree to something (a difficult task when, even when my son was open to compromise, the mother preferred to have the paternal family out of the picture), and sometimes threaten the parents with recommending something neither side would like or the court ordering the same even without his recommendation. Even when the GAL would state what he thought was best (which he wouldn't do before the court date), it didn't necessarily match up with what he would ultimately say to a judge during the hearing that day.

A couple of years went by since that trial without incident. My son had escaped the system, or so it seemed. However, he got married, had an abusive wife that filed a complaint against him that my son has denied since day one and for which criminal charges were eventually dropped. (My son's now ex-wife subsequently filed a false report with the police against my wife.) The criminal court, at that point, put the original parenting plan back into place. The mother and GAL would have none of that. They made things as difficult as possible since then. My son ended up with having to travel about 5 hours for each one to one and a half hour supervised visit with his daughter and having to pay for the privilege. This went on for about a year, about 100 such visits, until through great expense, my son endured yet another two-day trial (spanning several weeks) to get a judge to grant him unsupervised visitation. Sounds good, but the GAL made his recommendation to the court to make this a very slow transition such that it would take months to get back to a schedule comparable to the original parenting plan. The GAL's proposal was rubber stamped as usual, and it was too expensive to keep fighting. The GAL even required my son to submit activity plans to him for approval prior to each visit even though he could not provide any evidence that showed my son wasn't a good father. He didn't recommend going back to the original parenting plan, but rather, to have a new hearing or trial to review things in court yet again after my son returned to alternate weekend visitation again.

This bill won't change his situation or have prevented it from happening. I would like to remind this body that case law has established the obvious precedent that it is assumed that a child's parents will act in the best interests of their child. Of course, there are exceptions, but it is up to one parent to prove the other is unfit if such is actually the case. Once you have a GAL in place, the Court treats his opinion and recommendations as Gospel. The GAL makes his recommendation based upon what he wants the outcome to be, not something based in fact. For example, my son had to fight to have his first daughter carry his surname. The mother preferred to have my son and her daughter's paternal family out of her life. The GAL recommended to the court that the child not carry my son's surname since it would be a "badge of conflict". Fortunately, through the generosity of my wife and me, my son had a lawyer at the time that made the GAL look foolish on this point. The GAL couldn't give a reasoned response to the obvious question of why the child having the mother's surname would not be a "badge of conflict" as well. The portion of the trial addressing the child's surname covered additional territory. As a result of the flexibility exhibited by my son when questioned by the judge, my granddaughter has a hyphenated last name covering the surnames of both parents. As the years went by, the child's mother has NOT been following the court order relative to her surname. There is no evidence that the GAL cares or would support a claim of alienation against the mother.

This is a system in which my son felt forced to agree to supervised visitation for several weeks so as to be able to see his daughter before a hearing that had been scheduled. False allegations by his wife had led to his access being taken away, but once the charges were dropped, the criminal court put the existing parenting plan back into place effective immediately. Of course, it didn't matter since the mother didn't want him to have access.

My son's attorney, the attorney for the mother, and the GAL met, agreed on a relatively quick return to the visitation schedule in the parenting plan, and my son signed off on it so as to avoid yet another hearing. The mother's signature was required. The mother later decided she didn't want to sign, and supervised visitation continued for a year until another two-day trial was held. Two days means two months due to the court scheduling system. That meant more weeks of my son spending five to six hours per round trip to spend one and a half hours with his daughter.

I won't provide all the details here, but suffice it to say Meghan has yet to return to the original parenting plan. My son's request to enforce that plan has been denied by the court. (This is under appeal.) The GAL has not supported the original parenting plan in the courtroom (despite it being comparable to the end point of what he proposed for the temporary transition plan), or any visitation schedule for that matter. That is despite saying to my son, me, the mother's attorney, and others outside the courtroom that Meghan should have time with her father. Meanwhile, my son hasn't seen his daughter in about 1 ½ yrs and hasn't been able to spend a holiday with his daughter in over 4 years.

I wouldn't wish this situation on anyone. This body's lack of putting further constraints on the system ensures that these horror stories will continue. I ask, from the bottom of my heart, that you review the recommendations of the Task Force to Study Legal Disputes Involving the Care and Custody of Minor Child and the recommendations of the minority of that group for other ideas on how to address this.

Please, please amend this bill to make further improvements.

Respectfully submitted,

Michael S. Martowska

Michael S. Martowska
2 Edgewater Drive
Lakeville, MA 02347