

March 31, 2014

Dear Judiciary Committee,

Thank you for taking time to read my testimony. My name is Michelle Tolmoff. I work with a family support group for divorced parents, am a trained Guardian Ad Litem and work as a professional for 10 years in financial services. I am hoping that raised bill H.B. No. 494 is approved with some details changed, modified, and other details added. I believe that GALs need to be feasible, have strict oversight, transparency, accountability, and be regulated much like other professionals. I do not understand why there is so much more regulation over financial matters than there is matters involving our youth. Why do we allow immunity with something as delicate as our children going through a very difficult transition of divorcing parents but in all other matters of our livelihood from adolescence, to adulthood, to geriatrics we have strict guidelines and methods for enforcement?

I propose these revisions to this bill as a start:

Section 1: The five names selected will be rotated and evenly distributed amongst the trained, background checked, continuing education up to date list of Gaurdian Ad Litem (GAL). A database will be maintained to give full transparency for the parents to make an informed decision of who they are selecting from the 5 names. This database shall provide the hourly fee this GAL charges, the standard items the GAL charges for, If they collect a retainer how much they ask for, the average cost a family incurs while this GAL works with a family, how long this GALs average case lasts, How many cases they are currently working on, How many cases they have been assigned to in the last 12 months, do they have any disciplinary history, what is the average parent rating of the performance of this GAL surveyed based on communication, amount of time with the child, cost vs how much time they felt they worked on the case, did they treat the parent professionally and courteously.

Section 2:

- (a) When the court appoints a GAL without a motion they must give 5 names to the parties and follow rule in Section 1.

Section 5:

- (a) GAL private pay fees can only be \$25/hour above state rate fees if they continue to have immunity. OR if immunity is taken away they may charge \$125/hour above state rate but MUST carry errors and omissions and or malpractice insurance and pay a state licensing and registration fee renewed every 2 years of \$50. During license renewal the department of public defenders will continue to oversee the GALs and conduct a criminal, consumer, and civil background check. GALs must report any liens, bankruptcies,

foreclosures, short sales and child support arrearage like other state licensed professionals. GALs must complete 24 hours of continuing education every 2 years prior to being approved for license renewal. 6 of those hours must be ethics training. A GAL practice book with rules and procedures will be produced by October 1, 2014. Based on a financial affidavit provided by parents the GAL must understand that a fee and billing cap exists using child support and arrearage guidelines under the best interests of the child guidelines. Once the parties exhaust the fee cap the GAL understands a report must be filed and the full file disclosed for discovery and if they have not finished their work they continue on pro bono or are to be converted to a state rate case. All GALs will be paid with a 1099-Misc reported by the parents so the tax-ID must be disclosed to the parties for income tax purposes.

- (b) 529 College savings accounts and CHET plans may have a tax burden for liquidating and not being used for higher education purposes as well as other surrender charges and penalties these funds shall not be used to cover GAL expenses. Retirement account assets if the party is under 59 ½ or is still working may have some tax burdens as well and shall remain untouched for GAL billing purposes. Otherwise the state should consider waiving the penalties, creating a credit, or deduction for the parents incurring the penalty to pay a state agent appointed to them by the court. The state agent should have to pay a special tax for assistance with fee collection.

Thank you,

Michelle Tolmoff, MBA