

# The Children's LAW Center of Connecticut

30 Arbor Street, 4th Floor, Hartford, Connecticut 06106  
Telephone 860.232.9993 ■ Fax 860.232.9996  
[www.clcct.org](http://www.clcct.org)

Testimony for Public Hearing  
The Task Force to Study Legal Disputes Involving the Care & Custody of Minor Children  
January 9, 2014  
Page 1

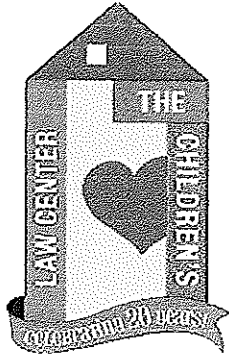
Good morning Task Force Members. My name is Justine Rakich-Kelly and I am the Executive Director of the Children's Law Center of Connecticut.

The Children's Law Center is a non-profit organization that works to protect indigent children in family court by providing high quality legal services and by advocating for policies that advance their well being and best interests. Through our programs we seek to achieve optimal living arrangements for underprivileged children who are caught in the middle of a family custody or visitation battle.

The Children's Law Center programs utilize a cross-disciplinary model, allowing us to address not only the legal aspects of a case but also the emotional and mental health needs of the children and families involved in our programs. In our Legal Representation program, attorneys provide representation to children of indigent parents who are embroiled in protracted, complicated family disputes that are typically exacerbated by one or more of the following factors: abuse, domestic violence, mental illness, incarceration or substance abuse. These are the most difficult cases, which devour the resources of the family courts. We approach each case with the perspective that each parent is valued in a child's life. Our staff mental health professional provides support for attorneys in the most complex cases in order to ensure that a viable, healthy parenting plan can be crafted, no matter how difficult the process. The outcome of this collaboration is not only "child centered", but also family-centered.

Our Families in Transition program provides low-cost mediation and co-parenting services to low to middle income families as an alternative to family court. Gender-balanced mediation teams made up of legal and mental health professionals work with parents to resolve conflicts and implement new communication strategies. The service is provided on a generous sliding-fee scale to be affordable to those who might not otherwise have access to an alternative to court. The child-centered FIT program is critical for the success of many families caught in a cycle of chronic conflict being played out in family court. For many children it is the difference between feeling supported by the two most important adults in their lives, or feeling that they are the cause of problems and pain. The FIT program helps parents successfully navigate their family's transition, retain decision-making power *and* find a way to effectively co-parent their children.

Few would disagree that the adversarial system alone is not ideal for restructuring families, procedurally setting parents up on opposite sides from the start. Certainly, changes have been and should continue to be made to improve outcomes for families. Services such as Family Relations and Special Masters have been put into place to assist families in reaching timely resolutions, rather than pursuing long, protracted trials. However, although demands on the court system have increased, budget cuts have left the courts with fewer experienced Family Relations Officers and, like our Families in Transition



# The Children's LAW Center of Connecticut

30 Arbor Street, 4th Floor, Hartford, Connecticut 06106  
Telephone 860.232.9993 ■ Fax 860.232.9996  
[www.clcct.org](http://www.clcct.org)

Testimony for Public Hearing  
The Task Force to Study Legal Disputes Involving the Care & Custody of Minor Children  
January 9, 2014  
Page 2

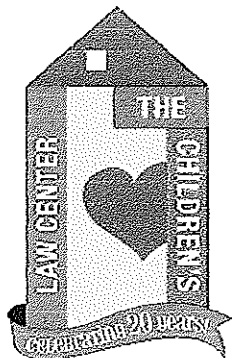
program, the court-based Special Masters program relies upon dedicated volunteer family attorneys and mental health professionals to mediate cases. Without these professionals providing volunteer services, there would be even fewer avenues for fair resolution available to the public.

Regardless of the services that have been put in place to try to help families resolve their cases, there are instances where more protracted court involvement and even trials are necessary or unavoidable. Guardians *ad litem* play a critical role in high-conflict family court cases. By the nature of the position, GALs are not appointed to the straight-forward cases where parents are moving successfully through the system.

At the Children's Law Center, we approach each case without presumption. Our attorneys assist the court to determine what is in the best interests of these vulnerable children. We investigate the facts, speak with the children and alert the court to any special factors or circumstances that would impact the court's decision. Often GALs are, like the children they represent, stuck between two entrenched parents, neither of whom are very happy with the GAL and both of whom will not hesitate to let that be known. Aside from the requisite meetings with the parents and the child, the GAL must speak with multiple collateral resources multiple times and work to piece together a complete picture of the child's situation. When a problem arises, parents, their attorneys, and the family's providers turn to the GAL to negotiate a resolution.

While the role keeps GALs focused on the best interest of the child, many times this means helping the most high-conflict families work toward resolution. Most of the work of the CLC occurs outside of the courtroom, in the community. We attempt to relate to the parents the importance they both have to the children and assist them to have better communication with each other regarding parenting issues. Because of our wholistic approach to cases, we find our role often extends outside of the court, trying to help children and families connect with the appropriate community resources to have sustained support once court is over.

Parents should never be made to feel marginalized or inconsequential to the lives of their children. Children should always have an opportunity to develop strong bonds with both parents, without fear of reprisal or challenges to their loyalty. It is our job to help families restructure in a way that is least harmful to all involved and focuses on the well being of children. Our organization allows us a unique opportunity to identify and help address challenges faced in the family. Once those challenges are met, addressed and, ultimately, overcome, the healing that takes place removes the high conflict from the family court case.



# The Children's LAW Center of Connecticut

30 Arbor Street, 4th Floor, Hartford, Connecticut 06106  
Telephone 860.232.9993 ■ Fax 860.232.9996  
[www.clcct.org](http://www.clcct.org)

Testimony for Public Hearing  
The Task Force to Study Legal Disputes Involving the Care & Custody of Minor Children  
January 9, 2014  
Page 3

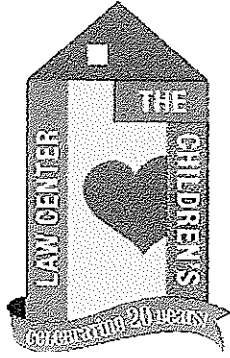
Because the Children's Law Center is an organization dedicated to GAL work, we are able to collaborate on cases and utilize formal and informal case review among attorneys and mental health professionals to help ensure high quality representation that is ethical and effective. Most times, we face the struggle of doing more with less. There are very few reliable resources available to address the myriad of issues facing our clients and their families. And, when funding is short, these resources are the first to get cut.

Improvements can be made, but focusing on outlier cases to identify solutions is counterproductive. Certainly, it is important to ensure that professionals practice ethically but, minimizing the value of the GAL's work is perilous. To improve representation and family outcomes, reliable and accessible services must be made available and supported. We must make these services a priority and not relegate these families to waiting lists and frequent, long lasting court dates. Parents must be educated about successful co-parenting and be given the opportunity and resources to restructure their families in a healthy way, *before* becoming adversaries.

Regarding a presumption of shared custody, we are opposed to the Legislature adopting a presumption that shared custody is in the best interest of a minor child. The intended outcome of this legislation is to ensure that children have healthy and fulfilling relationships with both parents and that legislating "substantial" time with each parent will produce that outcome. We certainly support to the idea that children deserve a relationship with both parents as well as permission to love them both, go back and forth between them without conflict, and live lives that are as seamless as possible.

But the rationale of presumed "shared custody" is flawed. First, it is suggested that this presumption will reduce conflict because, with the child spending equal time with both parents, there would be nothing to fight over. In fact, the opposite would be true. As it stands now, each high-conflict parent will use any opportunity to highlight the weaknesses of the other parent. A rebuttable presumption of shared custody would only exacerbate that behavior as each parent attempts to prove that the presumption is not valid in their particular case.

Flexibility is paramount in the family courts. The circumstances in every case are different and parenting schedule decisions must be made based on those circumstances. Parents and Judges should not have to overcome a burdensome presumption in order to effectuate what is in a child's best interest. If they do have to, it will only exacerbate conflict and it is proven that children are more negatively affected by parental conflict than by parental separation. As service providers to children who are caught in the crossfire of their parents' battle, we see firsthand how exposure to chronic parental conflict negatively



# The Children's LAW Center of Connecticut

30 Arbor Street, 4th Floor, Hartford, Connecticut 06106  
Telephone 860.232.9993 ☒ Fax 860.232.9996  
[www.clcct.org](http://www.clcct.org)

Testimony for Public Hearing  
The Task Force to Study Legal Disputes Involving the Care & Custody of Minor Children  
January 9, 2014  
Page 4

affects children both emotionally and psychologically. Issues ranging from bed-wetting to substance abuse are not surprising outcomes for children of a poorly reorganized family.

In addition, the proposal implicitly treats children as if they are property that can be easily split, giving each parent a "substantial" share, without consequence to the well being of the children. In fact, it is contrary to the last half century of statute and case law on the issue of child custody, which properly focuses on the best interests of children rather than on the rights of parents. It gives no attention to children's developmental stages and the differing needs they may have at different times of their lives.

Family court judges have the unenviable task of examining each family's case individually, weighing each of the issues as they pertain to that unique situation, and crafting a creative judgment that addresses the needs of the children without disregarding either parent. Flexibility is critical when constructing such a judgment. A presumption of "shared parenting" will only make their task more difficult, to the detriment of separating families.