



Testimony submitted to the Joint Committee on the Judiciary
In support of S.827 – An Act relative to improving training for child advocates to recognize indicators of domestic violence

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The League of Women Voters of the United States “supports policies and programs at all levels of the community and government that promote the well-being, encourage the full development and ensure the safety of all children.” The League of Women Voters of Massachusetts (LWVMA) supports “mandatory separate counsel or advocate for children when custody is an issue in contested divorce actions,” and “ongoing training about domestic violence of all judges and court personnel.”

However, the appointment of an advocate for a child, who is customarily an attorney, physician or social worker, does not ensure adequate understanding of the dynamics of domestic violence, which the US Department of Justice (USDOJ) defines as “...a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone.”

In 2001, the Massachusetts Senate Post Audit and Oversight Committee issued a report detailing the shortcomings of the Guardian ad Litem (GAL) system in the Commonwealth, including inadequate training, failure to consider domestic violence in custody and visitation evaluations, and no clear complaint process. Unfortunately, little has changed since that report.

A 2013 Massachusetts study found that 74%-87% of disputed custody cases had red flags for domestic violence.ⁱ Another study found that 75% of disputed custody cases included allegations of domestic violenceⁱⁱ and more than half of disputed custody cases had documented evidence of domestic violence.ⁱⁱⁱ However, the courts made note of the substantiated violence in less than one-fourth of the cases where presented^{iv} and domestic violence was considered of significance in a small minority of cases.^v

The 2013 study of Massachusetts courts noted their lack of capacity to detect abuse. Many GALs adhere to older, disproven theories that domestic violence is a function of mental illness that can be diagnosed by inkblots and IQ testing. Evidence tells us you cannot identify an abuser or a victim or evaluate their parenting skills with a computer-scored personality test^{vi}, and abusers are adept at minimizing and denying their behavior and shifting responsibility for their behavior to their victim.^{vii}

Many GALs believe that the risk of abuse ends upon separation, and a 2013 Judicial Bench Book advises officials to be skeptical of abuse allegations made at or after separation, in spite of data

that many victims do not disclose abuse until after separation and 75% of domestic violence homicides happen after the victim has taken steps to get away.

The US Department of Justice, National Council of Juvenile and Family Court Judges, American Psychological Assoc., American Psychiatric Association, National Coalition against Domestic Violence, Wellesley Centers for Women, and Association of Family and Conciliation Courts recommend training by domestic violence experts. According to Probate and Family Court Standing Order 1-08: Standards for Guardians ad Litem/Evaluation, GALs are required to judge for themselves if they have the required comprehensive and accurate knowledge regarding domestic violence, to know what they don't know,^{viii} with little guidance from the court.

The 2001 report noted there was not a well-understood forum for resolving GAL-related complaints, further noting, "without a well-known system [and adequate record keeping] to address complaints about the conduct of GALs, allegations of bias, negligence and incompetence, it is difficult for the court to identify specific areas where a GAL might require discipline or further training" or disqualification. However, this condition still exists.

S.827 requires:

- a. a domestic violence screening in all child custody cases referred to a GAL,
- b. a minimum of 24 hours of professional development training and at least 8 hours of training on the indicators of domestic violence from an approved DV organization for GAL certification,
- c. a simple, defined mechanism to address GAL competency complaints

We do recommend that there be added a requirement that training be ongoing.

Therefore, the League of Women Voters of Massachusetts strongly urges you to support the passage and implementation of S.827 – An Act relative to improving training for child advocates to recognize indicators of domestic violence.

Thank you for your consideration.

See generally: Senate Committee on Post Audit and Oversight. *Guarding our Children: A Review of Massachusetts' Guardian Ad Litem Program within the Probate and Family Court.* Massachusetts Senate, 2001.

Bancroft, Lundy, Jay G. Silverman, and Daniel Ritchie. *The Batterer as Parent: Addressing the Impact of Domestic Violence on Family Dynamics.* Sage publications, 2011.

Przekop, Mary. "One More Battleground: Domestic Violence, Child Custody, and the Batterers' Relentless Pursuit of their Victims through the Courts." *Seattle J.Soc.Just.* 9 (2010): 1053.

ⁱ Driggers, Monica et al. *Family Court Approaches to Intimate Partner Violence and Abuse: Stakeholder Perceptions and Implications for Systemic Change.* The Boston Foundation/Wellesley Centers for Women, 2013.

ⁱⁱ DV Leap. *Research indicating that the Majority of Cases that Go to Court as "High Conflict" Contested Custody Cases have a History of Domestic Violence.* August 2013 ed. 2011-TA-AX-K006 Vol. U.S. Dept. of Justice, 2013

ⁱⁱⁱ Keilitz, Susan et al. *Domestic Violence and Child Custody Disputes: A Resource Handbook for Judges and Court Managers.* NCSC Publication Number R- 202 Vol. National Center for State Courts/State Justice Institute.

^{iv} *supra* notes 1 & 2

^v Saunders, Daniel G., et al. "Child Custody Evaluators' Beliefs about Domestic Abuse Allegations: Their Relationship to Evaluator Demographics, Background, Domestic Violence Knowledge and Custody-Visitation Recommendations." (2011)

^{vi} Erickson, Nancy S. "Use of the MMPI-2 in Child Custody Evaluations Involving Battered Women: What does Psychological Research Tell Us?" *Family Law Quarterly* (2005): 87-108

^{vii} Bancroft, Lundy, Jay G. Silverman, and Daniel Ritchie. *The Batterer as Parent: Addressing the Impact of Domestic Violence on Family Dynamics*. Sage publications, 2011.

^{viii} Ibid.