

January 20, 2021

Judiciary Finance & Civil Law Committee  
Minnesota House of Representatives  
568 State Office Building  
100 Rev. Dr. Martin Luther King Jr. Blvd.  
St. Paul, MN 55155

Dear Members of the Judiciary Finance & Civil Law Committee:

I am providing this written testimony to you today, to inform you as a Minnesota tax payer and citizen, that there are real problematic issues with the structure and statutory authority of the Minnesota State Guardian ad Litem (GAL) Board. You will **not** likely hear about these problematic issues in today's presentation by the representatives of the GAL Board, which makes it necessary for me to bring them to your attention, as I am a responsible citizen and tax payer of Minnesota.

I understand that today's meeting is just a general introduction to the GAL Board structure and statutory authority, according to what the Committee Administrator has told me, and that you will come back later in session (not yet scheduled) to hear a budget presentation and request from the GAL Board. At that later meeting, I will consider providing more detailed information to you of reasons why it is the opinion of many tax payers that the GAL Board should not receive the money they are going to be requesting of the tax payers. To continue to demand more and more of the tax payers' money and demonstrating such a high level of disrespect and scorn for the tax payers in return is something that needs to be investigated. The GAL Board was created to work for the people, not the other way around. Right now, this GAL Board is not working for the people, and they should not get our money.

However, at this time, I will briefly highlight a few of these problematic issues in paragraph format below, for your review and consideration, as they relate to the GAL Board structure and statutory authority, which as I am told, is the scope of your meeting today:

1. **The GAL Board is not currently subject to the Minnesota Open Meeting Law nor the Minnesota Data Practices Act, and that is a problem of accountability.** As a state board, the GAL Board should be subject to both, as other state boards are subject to both. It is in the best interest of all for the GAL Board to be subject to both. Because of this, I wrote a Bill last year to address that problem, and I gave it to my local state Senator, Justin Eichorn, for review and processing. My Bill has bi-partisan support as it benefits everyone. My Bill proposes to amend Minnesota Statute 480.35 in the following manner:

To amend the governing law as it relates to the Minnesota State Guardian ad Litem Board (Minnesota State Guardian ad Litem Program), to specifically subject that board to both the Minnesota Data Practices Act (Minnesota Statutes, Chapter 13) and the Minnesota Open Meeting Law (Minnesota Statutes, Chapter 13D). Subjecting the GAL Board to these laws, rather than the rules of the Judiciary, would address many transparency issues.

This amendment to Minnesota Statutes, section 480.35, could be drafted in this way:

“Subd. 6. **Access to records.** Access to records of the state guardian ad litem program is subject to Chapter 13 and the board is subject to Chapter 13D the Rules of Public Access for Records of the Judicial Branch. ~~The State Guardian Ad Litem Board may propose amendments for Supreme Court consideration.~~”

The underlined language is what could be added to the statute and the strikethrough language is what could be removed.

If the legislature deems it necessary to address my concerns, this is the language I would propose to the legislature to amend the statute.

2. **There is no practical nor formal measure of accountability of the actual GAL Board itself, in terms of the actions of the MN State GAL Board members individually and as a group.** This does not benefit the people in Minnesota at all. One obvious reason why this is a problem is because it is the tax payers’ money that funds the entire MN State GAL Program, which pays the salaries of the program staff as well as the diem payments and expenses of the GAL Board itself. Clearly, the public should expect that accountability should be in place for all Minnesota state boards, including the MN State GAL Board. After all, it is the hard-earned tax dollars of hard-working people in Minnesota that makes it financially possible for the GAL Program and GAL Board to even exist.

However, the GAL Board does not “report” to anyone, and that is a problem. Where and when are the checks and balances going to come into place when there is no entity for the GAL Board to report to? I have submitted complaints of impropriety to the Office of the Minnesota Attorney General, but they are agents that technically represent the GAL Board, so that is not an effective manner to achieve accountability. The GAL Board does not report to the attorneys at the MN Office of the Attorney General. And, the two appointing authorities of the board membership, the MN Supreme Court and the MN Governor, are not entities that the GAL Board reports to either. So, once the members are appointed, they answer to none. No accountability. I have told the GAL Board that they work for the people and that they answer to us in terms of accountability. The GAL Board disagrees with me.

It is common sense that any time a group of people are given authority without any measure of accountability to accompany it, there can be problems of various kinds. It does not serve the public well when that situation occurs. Where does the public turn to when it identifies issues of impropriety involving the GAL Board itself?

3. **The GAL Board membership is biased and lacks diversity.** There are no positions on the GAL Board made available for the general public to hold, as a “parent.” There should be one position on the board for a “father” and one for a “mother.” These positions should not have any other requirement upon them except for the one requirement of being a “parent” of some type, and a “parent” who has had the experience of being evaluated by a guardian ad litem in family court

or otherwise. The details could be worked out later on this, to be inclusive of all genders, family types, etc., but the main point is that to leave out the biggest stakeholders of all and not letting them be represented on the GAL Board is an outrage. Parents know the most about how the GAL Program and GAL Board affect their lives and the lives of their children. Yet, there currently are no available seats at the table of the GAL Board for the biggest stakeholders of all in this, and that is a total disgrace indeed, and not a very intelligent approach.

This GAL Board is operating “blindly,” without any investment into how their decisions affect the public in whole, because the membership is discriminatory against parents and their real-life experiences with this GAL Program. The solution to this is to create two more seats at the table for positions called “parents.” At the very least, this would in part allow an opportunity for a different viewpoint on all topics discussed by GAL board members at their meetings. There needs to be diversity. I have given oral testimony at two GAL Board meetings in person in the past, and oral testimony in a virtual GAL Board meeting. And, during the GAL Board meetings, there have been numerous times when I heard discussion that could have been enhanced and developed more effectively and in a helpful way to benefit parents if I could have had the opportunity to jump in and say “Wait a minute! There’s something else we need to consider on this topic that you can’t see!” If I were one of the GAL Board members, I would have said that many times over the past several years. And, I would have asked challenging questions and offered much needed diversity. As I listen to these GAL Board meetings, it is clear that it needs a total overhaul. It needs diversity, and the courage to ask itself the challenging questions that need to be asked.

The easy or “lazy” path is not the best path forward. The best path forward requires a demonstration of a lot more energy and interest than what I’m currently witnessing of this GAL Board membership. Merely showing up and collecting a “diem” payment is not enough. There are parents and children lives at stake here and considering the high level of harm that has already been done to them and continues to be done to them for the rest of their lives, it is long overdue that parents deserve a seat at the table of membership of this GAL Board. Other states in the United States do have this category of membership on their GAL Boards. Minnesota does not. That is not acceptable.

And, instead of being “appointed” by the MN Supreme Court and the MN Governor, perhaps a totally new system of appointment should be installed. Perhaps positions on this GAL Board should be “voted” in, by the public. Perhaps people who actually care about the best outcomes for families in Minnesota should “run” for board membership positions, because perhaps then they might feel more accountable to the public as well, as they should feel.

4. **The “independence” characteristic of the GAL Board has created confusion in all three branches of government.** When the GAL Board was created by statute 480.35 in 2010, it was done so because the Judicial Branch viewed it as a conflict of interest at that time that the GAL Program was situated under the control of the Judicial Branch, and in order for it to appear less of a conflict of interest, a “MN State GAL Board” was created to be so-called independent. However, being given that “independent” characteristic was an error because it should have

included some form of a measure of accountability along with it, but it did not. In my communications with people in all three branches of government, I have heard conflicting beliefs and statements from all sides as to exactly where does this GAL Board fit into the whole scheme of things. Nobody seems to actually know. And, one of the reasons why is because of the poor way in which MN Statute 480.35 language was created. The language is interpreted differently depending upon who you ask.

I have heard people in top level positions in the Judicial branch say that the GAL Board is in the Executive branch. I have pointed out to the Executive Branch that since four out of the seven board member positions are appointed by the MN Governor, that it seems likely the majority influence on the board comes from the Executive branch. That should be a reason to support that the GAL Board should be held accountable to the MN Open Meeting Law and the MN Data Practices Act. However, MN Statute 480.35 does not support that. Instead, it states the GAL Board is subject to the Rules of Public Access for Records of the Judicial Branch. The GAL Board does not use the logo of the Judicial Branch on its website, interestingly. In addition, I have heard people in top level positions in the Executive branch say the GAL Board is in the MN Judicial branch. People get confused by what the word “established” actually means in the first sentence of statute 480.35. I have heard it all. So, imagine how frustrating it is to the public when even people in top level positions from all three branches of government don’t even know where the GAL Board fits in. That is why the language in statute 480.35 needs to be shored up.

In my research, two years ago, I discovered an important error in the Judicial Council’s Bylaws, as posted on their website page, as it related to the relationship between the Judicial Branch and the GAL Board. I pointed out that error to the State Court Administrator’s Office, and that error in the Bylaws was then put on the Agenda of the next available meeting of the Judicial Council so that it could be addressed! In fact, the Judicial Council addressed it at their meeting, and the incorrect language was removed from the Bylaws. I was the only person in Minnesota who had noticed this error in the Judicial Council Bylaws, which had not been updated for the prior 9 years.

5. **The GAL Board has refused its original ability to be advised by an “Advisory Committee.”** In fact, when Statute 480.35 was originally created, it had language that said it was given the “permissive duty” to have an “Advisory Committee,” a group of people to advise the Board on various issues. However, the GAL Board never took advantage of that well-intentioned “permissive duty” offered by statute, for some reason. It seems to be common sense that an “Advisory Committee” would be helpful to the GAL Board’s current and projected activities and decisions, but the GAL Board still continues to refuse such an opportunity, and refuses to ask the legislature to reinstate that permissive duty, and that is not in the best interest of families in Minnesota. In fact, it is very harmful to parents and children when there is nobody with authority to advise the GAL Board in this manner. There is no opportunity for a checks and balances system to ensure that the GAL Board is doing things in the right manner. In other words, the parents and children in Minnesota do not have a real voice and do not have the ear of the GAL Board. The GAL Board does not report to anyone, and does not even have an Advisory Committee to give them advice. That is a very dangerous situation and is not wise.

Over the last five years, I have written numerous emails to the GAL Board members, giving them many suggestions and ideas for “improvement” of the GAL Program. I have formulated these suggestions for improvement based upon my past experience with the GAL Program. I have taken this matter seriously and have applied twice to become a GAL Board member myself, when there were vacancies in the past. Even though I have never been a GAL Board member, it is quite easy for me to see the areas that need improvement.

As an example, I have reviewed the “GAL Training” materials, and pointed out to the GAL Board a particular chapter that was biased information to include, because that chapter totally eliminated the importance of one gender to the lives of children and in a biased manner over-emphasized the importance of the other gender instead to the lives of children. After over a year of making that argument to the GAL Board, in numerous emails, I was finally able to convince them to totally remove that chapter in the GAL Training materials. But, it should not have taken over a year to do that, because the bias was so clear and obvious to anyone with common sense.

In another instance, I contacted the actual author of one of the chapter’s materials, whom the GAL Board had subcontracted, and made the argument to her that it was not wise to include language that literally stated in her chapter that guardians ad litem are the “hands that rock the cradle,” and that the “hands that rock the cradle rule the world.” The author agreed with my position that guardians ad litem could indeed take that instruction to the extreme and become overly aggressive in their view of their authority, which the public already knows is a problem with guardians ad litem in Minnesota being out of control with their authority.

That kind of language in the “GAL Training” materials only served to fuel this type of out-of-control abusive treatment against parents and children. Because I worked outside of the GAL Board itself and was able to convince the actual author of how dangerous that language was in the training materials, the author herself removed that language from her chapter, and gave the updated version to the GAL Board to use instead. Interestingly, the author also told me that she appreciated my feedback and was happy to make that change. And we had only two exchanges of emails to get it done. I did not have to argue with her for over a year like I had to do with the GAL Board previously. However, the GAL Board members never told me they appreciated my efforts to make any improvement on this chapter of training materials either. It has been my experience that people outside of the GAL Board are far easier to communicate with and much more level-headed and reasonable in their judgment, and much more likely to demonstrate common sense, compared to the GAL Board itself.

6. **The GAL Board does not respect feedback nor questions from the public.** The GAL Board refuses to hold a “Question & Answer” session for the public’s benefit. I have suggested numerous times to the GAL board that they should hold such a session, quarterly, four times a year, in a large forum setting where the public can attend, for the purpose of the public being able to ask questions of the board and to get answers to their questions. I said it would promote a better relationship between the public and the GAL Board. I said it would promote trust since there is no trust at this time in the board, for good reason. However, it is these kinds of good ideas that benefit the public that I have given to the GAL Board for which they promptly dismiss. The GAL Board to this day has never held a question and answer session and that is a

real shame, especially considering the fact that it is our money that financially supports them. We, the public, are not represented whatsoever, even though our tax dollars go to them. The GAL Board is therefore operating so independently, that it is a breeding ground for corruption, and is indeed so on so many levels.

7. **The GAL Board refuses to show their face to the public on their website.** The two appointing agencies, the MN Supreme Court, and the MN Governor, do show their faces on their websites of their personnel. So, it seems obvious that since they appoint the actual GAL Board members to their positions, that the GAL Board members also should follow the example of transparency and also show the public who they are. However, even though I have suggested and recommended this to the GAL Board for the last several years in numerous emails, they still refuse, and operate as a GAL Board “faceless” to the public. This is yet another example of why the public has no trust in the GAL Board—they don’t even know what they look like. There is such a high level of secrecy present that they appear to operate as a “secret society” of sorts rather than a state board. Other state boards in Minnesota post their photographs of their board members. It is quite easy to post professional photographs of board members to a website, but for some reason this board doesn’t want the public to know what they look like, and that is especially peculiar. The board appears “unprofessional” on its website page for this reason alone, but the board does not seem to care about being professional in all areas.
8. **The GAL Board does not respect nor obey subdivision 6 of MN Statute 480.35. in which it states the following:**  
“Subd. 6. Access to records. Access to records of the state guardian ad litem program is subject to the Rules of Public Access for Records of the Judicial Branch.”

I know this for a fact because currently the GAL Board is not enforcing it even though it knows full well that the Chief Program Information Officer, Alex Miller, has willfully failed to provide particular public data that I have requested in my public data request dated 09-14-20, which is over four months ago. Even though I have sent numerous emails to Alex Miller and the GAL Board regarding this violation of the MN Rules of Public Access for Records of the Judicial Branch, they have all completely and knowingly looked the other way to this day. This is impropriety of the GAL Board to fail to acknowledge and respect MN Statute 480.35 and the public’s right to public data. This is one of the reasons why I wrote the Bill in paragraph #1--to amend statute 480.35.

9. **The GAL Board is engaging in “Ownership Linkage Activities” meetings with judges of the MN Judicial Branch, and that is a conflict of interest.** This is a significant conflict of interest because the GAL Board is not supposed to be taking directions from the judicial branch in any way whatsoever. The GAL Board is not supposed to be “owned” by anybody. They were created to be independent of the Judicial branch. However, at these private one-on-one ownership meetings with district court judges, the GAL Board members take notes of what the judges want to see happen in family court, etc., and they bring back those directions to the rest of the GAL Board members for consideration and discussion and implementation into the decisions of the GAL Board. This, in turn, affects directly all Minnesota parents and children.

It is quite a double standard, and a disgrace, that the GAL Board members want to do this, because they certainly have turned their back on the Minnesota tax payer by refusing to hold any sort of a “question and answer” session with the public to hear OUR thoughts about how WE would like to see the GAL Program being run. Clearly, the GAL Board has demonstrated time and time again, that it is most interested in taking our hard-earned tax dollars instead of hearing what we have to say about the GAL Program. It is for these reasons why I and so many others asked the Minnesota Office of the Legislative Auditor a couple of years ago to do an “Audit” of the GAL Program. And, it is one of the reasons why I have communicated with the MN OLA against last year and asked them to do another audit in 2021. They have informed me that they have put the GAL Board on the list of possible programs to get audited in 2021.

Thank you for your consideration of these problematic issues regarding the GAL Board’s structure and statutory authority.

Sincerely,

Kristi Wells-Saiger