

PUBLIC COMMENT IN SUPPORT OF PROPOSAL 26-07

Domestic-Abuse Training Should Promote Objective Investigation, Continuing Competence, Reassessment, and Accountability

Submitted by Meghan Garnhart
Rockford, Illinois
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Committee Secretary
Illinois Supreme Court Rules Committee
222 North LaSalle Street, 13th Floor
Chicago, Illinois 60601

Re: Proposal 26-07 – Proposed Amendment to Supreme Court Rule 906

Dear Chair Rogers and Members of the Rules Committee:

I respectfully submit this public comment in support of Proposal 26-07 and its effort to strengthen domestic-abuse training requirements for guardians ad litem and other court-appointed professionals in Illinois family cases.

I write from firsthand experience as a self-represented parent in a long-running Illinois domestic-relations proceeding involving significant parenting-time restrictions and a guardian ad litem.

I am not asking the Rules Committee to review my case, determine whether any judge, attorney, guardian ad litem, or other person acted improperly, or affect any pending judicial proceeding. I offer my experience solely to illustrate why meaningful domestic-abuse training must affect not merely a GAL's qualification for appointment, but how a GAL investigates, evaluates conflicting information, and reassesses circumstances throughout an appointment.

The purpose of domestic-abuse training should not be to produce a predetermined conclusion. It should improve the reliability of the process by which the GAL reaches one.

I. PROPOSAL 26-07 ADDRESSES AN IMPORTANT NEED

Domestic abuse is not always obvious. It may involve coercive control, isolation, intimidation, manipulation, financial control, trauma responses, fear, or patterns of conduct that cannot be understood by examining a single event in isolation.

GALs involved in these cases therefore need meaningful education concerning intimate-partner domestic abuse.

But effective training must accomplish two things simultaneously.

It must teach GALs how to recognize abuse that might otherwise be overlooked. It must also teach GALs how to investigate allegations objectively, evaluate contradictory information, recognize changed circumstances, and avoid allowing an initial theory of a case to become a permanent conclusion.

Those obligations are complementary.

The goal should not be to train GALs to presume that one parent is an abuser or that another parent is a victim. The goal should be to equip GALs to recognize abuse accurately while conducting fair, evidence-based investigations.

II. TRAINING SHOULD ADDRESS CONFIRMATION BIAS AND CHANGED CIRCUMSTANCES

Family litigation can continue for years.

During that time, children mature. Parents participate in services. Relationships change. Professionals acquire additional information. Conduct that initially raised concern may cease. New information may confirm an earlier assessment—or undermine it.

A competent GAL must be prepared for both possibilities.

Domestic-abuse training should therefore address the risk of confirmation bias. Once an initial theory has developed, later information should not be evaluated solely according to whether it supports that theory. Training should teach GALs to identify and meaningfully evaluate material information that points in another direction.

This is particularly important when a GAL's recommendation concerns restrictions on the parent-child relationship. A restriction initially intended to address particular circumstances can have consequences lasting through a substantial portion of a child's childhood.

III. LONG-RUNNING FAMILY CASES ILLUSTRATE WHY REASSESSMENT MATTERS

My own experience illustrates this concern.

In my domestic-relations proceeding, supervised parenting time continued for years. By the November 2024 evidentiary hearing concerning those restrictions, my children had grown substantially older, and one was approaching adulthood.

At that hearing, my licensed marriage and family therapist testified after approximately eleven counseling sessions over roughly a year. She testified that I had learned from past behaviors, that she was not aware of those behaviors recurring, and that she believed I had developed tools to engage appropriately with my children. She appropriately acknowledged the limits of her opinion, including that she had not met my children.

My parenting-time supervisor possessed a different form of firsthand information. She had personally observed my interactions with my children over a period of years. She testified concerning substantial changes over time, that she had not observed the previously identified concerning behaviors in recent years, and that the children did not appear unsafe in my presence. She ultimately testified that she did not believe her supervision remained necessary.

The GAL reached a different conclusion and recommended continued supervision.

I do not ask this Committee to determine which professional assessment was correct. The existence of materially different information is precisely my point.

Family cases—particularly cases involving allegations of abuse—will sometimes present credible information pointing in different directions.

Competence therefore requires more than recognizing information supporting an existing concern. It requires the ability to identify, investigate, document, and fairly evaluate significant information pointing in another direction.

IV. TRAINING SHOULD ADDRESS THE TIMING AND SCOPE OF COLLATERAL INVESTIGATION

My experience also illustrates why the timing and scope of collateral investigation matter.

In connection with the 2024 proceedings, the GAL communicated a recommendation concerning parenting time before obtaining information from the parenting-time supervisor. The subsequent inquiry to the supervisor focused on whether I had recently made negative or disparaging comments about the children's father or his family.

The supervisor later provided broader sworn testimony concerning years of firsthand observations, including changed circumstances, appropriate interactions, the absence of current safety concerns, and her opinion that supervision was no longer necessary.

My treating therapist also testified that I had signed a release permitting communication with the GAL and that the GAL had never contacted her directly.

I do not offer these facts to suggest that a GAL must interview every professional identified by a party or accept the opinion of a therapist, supervisor, or other collateral source.

Rather, they illustrate an important subject for training:

When a professional possesses material firsthand information relevant to a recommendation affecting the parent-child relationship, GAL training should address when that information should be obtained and meaningfully considered before a consequential recommendation is made or reaffirmed.

The timing of an interview can matter. The scope of the questions can matter. Whether the investigator seeks information capable of contradicting an initial assessment can matter.

A GAL need not agree with another professional. But a recommendation becomes more reliable—not less—when significant contrary information has been meaningfully investigated and the reasons for reaching a different conclusion can be explained.

V. TRAINING SHOULD DISTINGUISH SOURCES OF INFORMATION

Domestic-abuse training should emphasize careful differentiation among:

1. verified or corroborated facts;
2. disputed allegations;
3. statements made by the parties;
4. statements and expressed wishes of children;
5. observations of treating or supervising professionals;
6. historical judicial findings;
7. the GAL's own observations; and
8. the GAL's professional opinion or recommendation.

These categories should remain distinct even in litigation lasting many years.

An allegation does not become an established fact merely through repetition. Conversely, the absence of corroboration does not necessarily establish that abuse did not occur.

Training should equip GALs to understand both principles.

The objective should be neither automatic skepticism nor automatic acceptance. It should be careful investigation.

VI. LONG-RUNNING APPOINTMENTS REQUIRE CONTINUING REASSESSMENT

Proposal 26-07 appropriately recognizes the importance of specialized training. I respectfully ask the Committee to consider how the principles underlying that training apply when a GAL appointment continues for several years.

Children can move through substantially different developmental stages during one appointment. Family relationships can improve or deteriorate. Treatment can occur. New information can alter an earlier assessment.

Training should therefore emphasize that assessment is a continuing process.

In my proceeding, one child ultimately reached adulthood while supervised-parenting arrangements remained in place.

That experience has impressed upon me a simple reality:

Children do not experience litigation in procedural time. They experience it in childhood.

When a case lasts for years, reassessment is necessary to ensure that recommendations affecting children remain tied to current circumstances rather than merely historical concerns.

When a GAL recommends continuation of an existing restriction, the practical consequences may extend well beyond the date of the recommendation. Training should therefore emphasize that continuation of an existing restriction should itself be supported by a current assessment of the circumstances and evidence supporting its continued necessity.

VII. TRAINING STANDARDS SHOULD BE ACCOMPANIED BY A MEANINGFUL ACCOUNTABILITY MECHANISM

Specialized training is most effective when the standards taught through that training have practical meaning after appointment.

Guardians ad litem occupy an unusually influential position in family proceedings. Their investigations and recommendations may substantially affect parenting time and the parent-child relationship. At the same time, GALs may receive broad quasi-judicial immunity for conduct undertaken within the scope of their court-appointed functions.

Immunity serves important purposes associated with allowing court-appointed professionals to perform their duties without fear that an unfavorable recommendation will automatically result in personal liability. But that protection also makes other forms of accountability particularly important.

In my experience, there is no clear, independent, and readily accessible process through which a parent can raise a complaint specifically concerning whether a GAL complied with the professional and investigative standards applicable to the appointment. A litigant may raise concerns before the judge presiding over the underlying case, but that is not the same as a formal process for evaluating whether the GAL's conduct complied with applicable standards.

This creates a potential accountability gap.

If GALs are trained to investigate objectively, recognize confirmation bias, consider material contrary information, communicate appropriately with collateral professionals, and continually reassess circumstances, there should also be a meaningful mechanism for addressing allegations that those standards were not followed.

Such a mechanism need not permit dissatisfied litigants to relitigate recommendations or subject a GAL to discipline merely because a parent disagrees with the GAL's conclusions. Appropriate safeguards could distinguish disagreement with professional judgment from allegations involving failures to investigate material information, material misrepresentations, undisclosed conflicts of interest, failure to maintain required qualifications, or substantial departures from applicable professional standards.

I therefore respectfully ask the Committee to consider, whether through Rule 906 or related rules governing court-appointed professionals, whether Illinois should establish or identify a clear complaint and review process for GAL conduct.

Training establishes expectations. Accountability gives those expectations meaning.

Both are important to maintaining public confidence in court-appointed professionals whose recommendations can profoundly affect children and families.

VIII. REQUESTED COMMITTEE ACTION

I respectfully ask the Committee to adopt Proposal 26-07 and ensure that the domestic-abuse training contemplated by Rule 906 addresses:

1. coercive control, trauma responses, isolation, intimidation, manipulation, financial control, fear, and other forms of intimate-partner abuse;
2. objective investigation and recognition of confirmation bias;
3. meaningful evaluation of material information both supporting and contradicting an existing assessment;
4. changed circumstances and the distinction between historical concerns and current risk;
5. the timing and scope of collateral investigation before consequential recommendations are made or reaffirmed;
6. appropriate communication with treating, supervising, educational, or other professionals possessing material firsthand information;
7. differentiation among allegations, corroborated facts, children's statements, professional observations, historical findings, and GAL recommendations;
8. continuing reassessment during lengthy GAL appointments;
9. clear standards of professional conduct connected to the competencies required by Rule 906 training; and
10. a meaningful process for raising and reviewing complaints alleging substantial departures from those standards.

These principles do not favor mothers or fathers, petitioners or respondents, represented or self-represented litigants. Nor do they favor a finding that abuse occurred or a finding that it did not.

They favor reliable investigation and informed decision-making.

CONCLUSION

Proposal 26-07 recognizes that specialized knowledge matters when a court-appointed professional evaluates domestic abuse. I strongly support that principle.

A trauma-informed GAL must know how to recognize abuse that others may overlook. An impartial GAL must also know how to recognize and investigate current information that may not support an earlier concern.

Those principles are not in conflict. Both protect children.

Domestic-abuse training should therefore prepare GALs to investigate material contrary information, communicate with relevant professionals when appropriate, distinguish historical allegations from current circumstances, recognize confirmation bias, and reassess conclusions during lengthy appointments.

Where court-appointed professionals are afforded substantial protection from civil liability for actions within their appointed functions, clear standards and a meaningful avenue for addressing alleged professional misconduct become particularly important.

The purpose of domestic-abuse training should not be to produce a predetermined conclusion. It should improve the reliability of the process by which the GAL reaches one.

For children whose family litigation lasts years, that distinction can affect a substantial portion of childhood.

I respectfully support Proposal 26-07 and ask the Committee to incorporate these principles into the training contemplated by Rule 906 and to consider whether complementary rules are needed to provide a meaningful mechanism for accountability.

Respectfully submitted,

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