MISSOURI HOUSE OF REPRESENTATIVES

WITNESS APPEARANCE FORM

BILL NUMBER: **HB 1271**	DATE: **3/22/2023**
COMMITTEE: **Judiciary**	

TESTIFYING: ☑ IN SUPPORT OF ☐ IN OPPOSITION TO ☐ FOR INFORMATIONAL PURPOSES

WITNESS NAME

INDIVIDUAL:

WITNESS NAME: **CHELSEA MERTA**	PHONE NUMBER:	
BUSINESS/ORGANIZATION NAME:	TITLE:	
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CITY:	STATE:	ZIP:

EMAIL: **chelsea@lotuslawllc.com**	ATTENDANCE: **Written**	SUBMIT DATE: **3/22/2023 11:59 AM**

THE INFORMATION ON THIS FORM IS PUBLIC RECORD UNDER CHAPTER 610, RSMo.

For 8 ½ years, I practiced family law in St. Louis City, St. Louis County, St. Charles County, Jefferson County, and Franklin County. I can state with certainty, rooted in my own personal experiences, that St. Louis City and County operate under a different set of Guardian ad Litem rules that the rest of the state. This different set of rules has created more conflict, contention, and long-term mental & emotional harm to families who go through the family courts. In my experience, an overwhelming amount of that turmoil is the result of the lack of rules and structure that Guardians ad Litem follows. I believe this bill fixes some of these problems, as disclosed below.Specifically, this piece of legislation makes current Guardian ad Litem standards legally enforceable. From a practical standpoint, not having enforceable Guardian ad Litem standards has made very difficult the ability to hold a court-appointed attorney accountable for failing to investigate child abuse allegations, or stay in touch with a child's medical professionals, or even meet with the child at all. I am aware of a handful of Guardians ad Litem in St. Louis County who don't meet with the children they are appointed to represent, which is horrifying to consider in the larger scope of legal representation. What court-appointed lawyer refuses to meet with their client? HB 1271 addresses and resolves this discrepancy.Most importantly, this legislation gives attorneys a clear pathway to disqualify a Guardian ad Litem who has failed the child (ren) they were appointed to represent. Right now, from a practical standpoint, it is next-to-impossible to remove a Guardian ad Litem from a case in St. Louis City or County because judges either feel like they have discretion not to remove a Guardian ad Litem or because the law is unclear. The relevant law is clarified under HB 1271.Of particular importance is the modification to §487.110, which makes enforceable the provisions of the Uniform Child Custody Jurisdiction and Enforcement Act. I have attempted to use provisions of the UCCJEA in St. Louis County family court and a long-serving family court commissioner asked me, "what does that mean?" In discussions with other family law attorneys, the UCCJEA - an important law that protects children who are subject to family court proceedings - the general consensus in St. Louis is that the UCCJEA "doesn't apply." To be clear, I have never seen a family law attorney successfully invoke this law because, in my experience, none of the professionals involved seem to know what the law is or how it applies. HN 1271 also fixes this issue.I have no doubt that you will receive testimony from current Guardians ad Litem who will bemoan the time constraints they'll be put under this legislation or the additional obligations that this bill may place on them. But I am here to tell you that this reform is desperately needed, and it's needed to protect children & families from the destruction caused by the family court. The status quo has reached the point where it causes more harm than good, and only those who benefit financially from the current system will oppose this legislation. Make no mistake, these obligations and time constraints imposed under HB 1271 are all things that Guardians ad Litem should be doing anyway; this legislation simply ensures that they follow the laws and standards that govern the profession that they have chosen.Missouri children deserve to be appointed attorneys who will follow the laws and guidelines that have been passed in

their best interests. Missouri children do not deserve court-appointed attorneys who arbitrarily decide when to follow the law and to whom those laws apply.

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WITNESS NAME

INDIVIDUAL:

WITNESS NAME: **KORTNIE HUDDLESTON**	PHONE NUMBER:	
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WITNESS NAME

INDIVIDUAL:

WITNESS NAME: **MICHAEL DREYER**	PHONE NUMBER:	
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MISSOURI HOUSE OF REPRESENTATIVES

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TESTIFYING: ☑ IN SUPPORT OF ☐ IN OPPOSITION TO ☐ FOR INFORMATIONAL PURPOSES

WITNESS NAME

INDIVIDUAL:

WITNESS NAME: **SUSAN GIBSON**	PHONE NUMBER:	
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MISSOURI HOUSE OF REPRESENTATIVES

WITNESS APPEARANCE FORM

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WITNESS NAME

INDIVIDUAL:

WITNESS NAME: **ANASTACIA RENAE ADAMSON**	PHONE NUMBER:	
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• My understanding is that this bill (and similar ones) is responsive to specific concerns regarding quality of GAL representation primarily in the domestic context (as opposed to dependency or juvenile settings) and in certain jurisdictions throughout Missouri, not all GAL representation. While responsive to seemingly discrete concerns about GAL quality and behavior, it would have sweeping consequences in jurisdictions and practices where those same concerns do not exist. • I am also surprised at the provisions to establish a pilot "Office of Guardian ad Litem" given previous drafts of the bill and what I understood the issues were that the bill was responding to. I don't, however, take issue with establishing such an office (especially since counties decide whether to opt in—e.g., much consideration would need to be given locally about whether to make organizational changes to the two well-established GAL offices in Jackson County, CASA and the Office of the Guardian ad Litem) given that standardized practice, training, supervision, and accountability, and reliable funding could be beneficial overall. I of course support the Office of the Guardian ad Litem model because I have worked within that model since just after the creation of that office in 1997. I believe that it has worked well in Jackson County and that children receive great representation. However, I believe this would be better created through the Missouri Supreme Court and OSCA. I am aware of three counties in Missouri that have set up such programs. I am not sure the fiscal note adequately identifies the costs that would be associated with this. When OGAL has been approached by other counties wanting to create OGAL offices, the costs of set up seem to be the reason they don't go further.• General concerns: Some of these new provisions are typically issues left to practice and ethical standards. Codifying existing standards may not "fix" the problems and other approaches to address concerns for accountability (i.e., the court's oversight and discipline of GALs) could be more productive. For example, if courts are not inclined to remove GALs from a case over concern for the limited availability of GALs due to limited resources, providing a no-cause disqualification to parties will not address the issue of a shortage of quality GALs and resources.• Disqualification Provisionso No Cause Concerns:? Workflow (at CASA of Jackson County and Office of Guardian ad Litem) - we do A LOT of work in those first 30 days and often times parents can be unhappy with even our role, much less than our recommendations, right out of the gate. That would be a terrible waste of resources to be disqualified without cause. If one person in the office is disqualified, are all disqualified?? Limited number of GALs and resources (the source of many of the current reported problems with GALs). In Jackson County, for example, two GAL offices handle the vast majority of cases and all GALs who handle cases in which those two offices have conflicts don't get paid. There are several jurisdictions where there is the only one GAL for the whole county. ? Also in dependency cases, there are times when a case is open and a new sibling is born. With the automatic disqualification, you would end up with older children having 1 GAL and the new baby getting someone new.? One-sidedness of it, why just GALs, why not disqualification of other attorneys? o For Cause Concerns ?

Failure to communicate with guardians/custodians - a lot of nuance that goes along with communication with legal guardians or custodians - will their attorneys allow communication; are their communication and communication requests unreasonable (We have cases where the parents, guardians or custodians send hysterical and inappropriate emails and phone calls demanding all sorts of things on a daily basis - what would be our obligations to them under this provision?)? Failure to gather non-repetitive relevant information - This seems extremely ambiguous and subjective and could vary case by case - what parents, foster parents, relatives, teachers, etc. think is relevant can be vastly different than what I or the Court think is relevant on any given best interest issue.? Failure to meet with child before second hearing – I know a lot of people have issue with this, in terms of encroaching on professional discretion and judgment. To the extent some of these duties or obligations cannot be delegated to our non-attorney staff, the issue becomes the ability to do more work, without more resources.? Failure to respond within reasonable time – again ambiguous and problematic in terms to reasonableness of requests.• OCDC – Unclear why this is necessary. Reportedly, OCDC does not respond to complaints about GALs, but not sure statutorily requiring a special process resolves the issue. Perhaps clarifying role of GAL as an attorney and better aligning with professional rules of conduct would help. I do not believe this bill gets quite there.• 210.830 this is specifically related to the Uniform Parentage Act and the change seems unnecessary.• While our office generally is not involved in 452 actions, the proposed changes in 452.423 don't appear to be realistic considering the few GALs who are available for appointment.

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WITNESS NAME

INDIVIDUAL:

WITNESS NAME: **ARNIE C."HONEST-ABE" DIENOFF-STATE PUBLIC ADVOCATE**	PHONE NUMBER:	
BUSINESS/ORGANIZATION NAME:	TITLE:	
ADDRESS:		
CITY:	STATE:	ZIP:

EMAIL: **arniedienoff@yahoo.com**	ATTENDANCE: **Written**	SUBMIT DATE: **3/22/2023 11:59 PM**

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WITNESS NAME

REGISTERED LOBBYIST:

WITNESS NAME: **JEFFREY A. J. MILLAR**		PHONE NUMBER: **636-448-4982**	
REPRESENTING: **AMERICANS FOR EQUAL SHARED PARENTING**		TITLE: **ATTORNEY**	
ADDRESS: **3475 HIRAM STREET**			
CITY: **SAINT CHARLES**		STATE: **MO**	ZIP: **63301**
EMAIL: **millarlawfirm@gmail.com**	ATTENDANCE: **Written**	SUBMIT DATE: **3/22/2023 2:40 PM**	

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I.For context, Americans for Equal Shared Parenting support GAL reform and have been working on this issue for the last 4-5 years. Jeremy Roberts and Jeff Millar met with Representative Unsicker in early February to discuss GAL reform, but as this bill sits in its current form, we are simply just not comfortable with it as it's not what we discussed.II.What we did discuss was a lower numbered bill filed by Representative Murphy in HB390. HB390 has a much more simplified approach and built-in practical-based solutions for GAL reform. For quick example, HB390 reforms the top-3 complaints typically heard about GALs:A. They don't call back: - HB390 requires it within 1-week but HB1271 requires it within a "reasonable time" which gets abused;B. They don't meet with my kids: - HB390 requires a meeting within 21 days of the GAL appointment but HB1271 only requires a meeting between the GAL appointment and the second court hearing (which could be months away;C. GALs seldom provides a monthly billing statement: - HB390 requires an itemized billing be sent every 30 days but HB1271 has no similar provisionIII.These quick examples represent a distinction with a difference, because HB390 provides TRANSPARENCY and ACCOUNTABILITY to help restore confidence in GALs generally, which is what is really needed. IV.The critical features of HB390 which are not found in HB1271:A. HB390 provides for Limited scope GALs (page 1, line 3 of 390)B. HB390 requires GAL fee-shifting where abuse & neglect allegations are unsubstantiated (page 3, lines 69-73)

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WITNESS NAME

INDIVIDUAL:

WITNESS NAME: **JENNIFER PIPER**	PHONE NUMBER:	
BUSINESS/ORGANIZATION NAME:	TITLE:	
ADDRESS:		
CITY:	STATE:	ZIP:

EMAIL: **jenpiper@hotmail.com**	ATTENDANCE: **Written**	SUBMIT DATE: **3/14/2023 2:43 PM**

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As an attorney that represents parents and as a gal, I have major concerns about this bill and the other similar Guardian Ad Litem bills. The current versions will likely result in increased litigation, increased costs, lengthier litigation (already delayed due to lack of funding, resources, and COVID), and decreased representation for children. Many folks will no longer do any Guardian Ad Litem work at all. We will be left with the bottom of the barrel of which to choose for the children to be represented. All GALs are attorneys. We have a set of ethical obligations that we must comply with. Many things in this bill conflict with those obligations, such as confidentiality and privilege. There are several problems with the time constraints regarding a meeting with parties and a child. 1. If the length of time to DQ is longer than the meeting requirement, this could result in them having to meet with numerous GALs and increased cost and delay. 2. Many of these children have already been interviewed by several people and the more they are forced to talk about it, the less they will talk, the more uncomfortable they become. 3. If there is an criminal investigation going on, it would be very improper to interview a child during that time. 4. This will dealy the process and emergency matters which are the most important. 5. It may not be in the child's best interest to meet that quickly, may be impossible, may be improper, or most importantly, could even be dangerous. For Example, Infants; May be in hospital and not allowed to go, if required to go, costly and waste of time; May have already been interviewed many times and want to get background, records, therapist prior to talking; May have mental illness and absolutely need to talk to therapist first or coordinate with therapist to meet or could cause major harm; May be involved in a criminal matter and cannot discuss anything immediately; May live out of state; May have educational issues and do not want to miss school; Missing activities. Regarding the failure to communicate. A Guardian Ad Litem is the arm of the court, our job is not to report to a parent, investigate for the parent, or prepare there case for them. We represent the child's best interest. This can cause problems with confidentiality and privilege. Additionally, many parents, in particular, those with mental health issues, can be very difficult. ?

They send very nasty and rude emails and voicemails to us? They are repetitive – some might send 20 or more in 1 day? Some are threatening? The cost will be astronomical?

May receive multiple requests for communications with 1 parent throughout that is simply running up fees. ? Some requests for communication may be dangerous to the child•

May interrupt other activities, school, involve child in court process more. Giving prior notice of a vacation or out of office can be dangerous for us, our staff, the other parent, or the child. Communicate with court, atty, or parent, guardian like another attorney? I am not even sure what this means. Some attorneys do not communicate at all with other attorneys. Some communicate poorly. Some communicate reasonably and professionally. Communicating with Court like another attorney would be exparte and unethical. Can't technically talk to a represented parent unless their attorney has consented. Failure to provide a written report with recommendations for the

dispositionThis would contain confidential, privileged info. Contains hearsay. Not admissible. Cannot give a recommendation prior to hearing the evidence. Failure to present evidence Unable to do if discharged. Failure to provide copy of standardsCould violate ethical rules, communicating with party representedMay not even have an address or other contact info within that time frameFailure to provide a statement of fees 30 daysHappy to do it, but every 30 days will increase costs. May also contain confidential/privileged info. Will increase costs. Almost always increases the litigation.

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WITNESS NAME

BUSINESS/ORGANIZATION:

WITNESS NAME: **KATHY RODGERS**		PHONE NUMBER: **816-435-8028**	
BUSINESS/ORGANIZATION NAME: **OFFICE OF THE GUARDIAN AD LITEM, JACKSON COUNTY FAMILY COURT**		TITLE: **DIRECTOR OF GUARDIAN AD LITEM SERVICES**	
ADDRESS: **625 W. 26TH STREET**			
CITY: **KANSAS CITY**		STATE: **MO**	ZIP: **64113**
EMAIL: **kathy.rodgers@courts.mo.gov**	ATTENDANCE: **Written**	SUBMIT DATE: **3/16/2023 1:37 PM**	

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I am submitting this statement on behalf of the Office of the Guardian ad Litem in opposition to this bill.• My understanding is that this bill (and similar ones) is responsive to specific concerns regarding quality of GAL representation primarily in the domestic context (as opposed to dependency or juvenile setting) and in certain jurisdictions throughout Missouri, not all GAL representation. While responsive to seemingly discrete concerns about GAL quality and behavior, it would have sweeping consequences in jurisdictions and practices where those same concerns do not exist. • I am also surprised at the provisions to establish a pilot "Office of Guardian ad Litem" given previous drafts of the bill and what I understood the issues were that the bill was responding to. I don't, however, take issue with establishing such an office (especially since counties decide whether to opt in—e.g., much consideration would need to be given locally about whether to make organizational changes to the two well-established GAL offices in Jackson County, CASA and the Office of the Guardian ad Litem) given that standardized practice, training, supervision, and accountability, and reliable funding could be beneficial overall. I of course support the Office of the Guardian ad Litem model because I was involved in the creation of that office in 1997. I believe that it has worked well in Jackson County and that children receive great representation. However, I believe this would be better created through the Missouri Supreme Court and OSCA. I am aware of three counties in Missouri that have set up such programs. I am not sure the fiscal note adequately identifies the costs that would be associated with this. When I have been approached by other counties wanting to create OGAL offices, the costs of set up seem to be the reason they don't go further.• General concerns: Some of these new provisions are typically issues left to practice and ethical standards. Codifying existing standards may not "fix" the problems and other approaches to address concerns for accountability (i.e., the court's oversight and discipline of GALs) could be more productive. For example, if courts are not inclined to remove GALs from a case over concern for the limited availability of GALs due to limited resources, providing a no-cause disqualification to parties will not address the issue of a shortage of quality GALs and resources.• Disqualification Provisionso No Cause Concerns:? Workflow (at CASA of Jackson County and our office) - we do A LOT of work in those first 30 days and often times parents can be unhappy with even our role, much less than our recommendations, right out of the gate. That would be a terrible waste of resources to be disqualified without cause. If one person in the office is disqualified, are all disqualified?? Limited number of GALs and resources (the source of many of the current reported problems with GALs). In Jackson County, for example, two GAL offices handle the vast majority of cases and all GALs who handle cases in which those two offices have conflicts don't get paid. There are several jurisdictions, where there is the only one GAL for the whole county. ?

Also in dependency cases, there are times when a case is open and a new sibling is born.

With the automatic disqualification, you would end up with older children having 1 GAL and the new baby getting someone new.? One-sidedness of it, why just GALs, why not disqualification of other attorneys? o For Cause Concerns ? Failure to communicate with guardians/custodians - a lot of nuance that goes along with communication with legal guardians or custodians - will their attorneys allow communication, is their communication and communication requests unreasonable (We have cases where the parents send hysterical and inappropriate emails and phone calls demanding all sorts of things on a daily basis - what would be our obligations to them under this provision?)? Failure to gather non-repetitive relevant information - This seems extremely ambiguous and subjective and could very case by case - what parents, foster parents, relatives, teachers, etc. think is relevant can be vastly different than what I or the Court think is relevant on any given best interest issue.? Failure to meet with child before second hearing – I know a lot of people have issue with this, in terms of encroaching on professional discretion and judgment. To the extent some of these duties or obligations cannot be delegated to our non-attorney staff, the issue becomes the ability to do more work, without more resources.? Failure to respond within reasonable time – again ambiguous and problematic in terms to reasonableness of requests• OCDC – Unclear why this is necessary. Reportedly, OCDC does not respond to complaints about GALs, but not sure statutorily requiring a special process resolves the issue. Perhaps clarifying role of GAL as an attorney and better aligning with professional rules of conduct would help, which I do not believe this bill gets quite there.• 210.830 this is specifically related to the Uniform Parentage Act and the change seems unnecessary.• While our office generally is not involved in 452 actions, the proposed changes in 452.423 don't appear to be realistic considering the few GALs who are available for appointment.

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WITNESS NAME

INDIVIDUAL:

WITNESS NAME: **LARA MARY UNDERWOOD**	PHONE NUMBER:	
BUSINESS/ORGANIZATION NAME:	TITLE:	
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This bill has numerous contradictions regarding the role of the GAL. It also likely violates due process rights of children and the parents by not allowing the GAL to be cross examined as they are dismissed prior to trial. The limitations on scope harm children who may be having crisis that the parents have not addressed in their pleadings. It also likely violates the separation of powers as GALs, like all attorneys, are governed by the Mo Supreme Court. There is more I can discuss in person, but I would like to work with the sponsor to clean up the contradictions and make changes, which are needed, but that will help children and families as opposed to punishing GALs and the courts.

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WITNESS NAME

BUSINESS/ORGANIZATION:

WITNESS NAME: **LARA UNDERWOOD**		PHONE NUMBER: **573-864-2824**	
BUSINESS/ORGANIZATION NAME: **MO ASSOCIATION OF FAMILY LAW ADVOCATES**		TITLE:	
ADDRESS: **1404 GREEN BERRY RD**			
CITY: **JEFFERSON CITY**		STATE: **MO**	ZIP: **65101**
EMAIL: **lara@lawunderwood.com**	ATTENDANCE: **In-Person**	SUBMIT DATE: **3/22/2023 2:44 PM**	

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MAFLA would like to work with the committee and sponsor to makes changes to this bill in order for it to achieve the goals of the sponsor, support families and children, and not put attorneys at odds with our rules of ethics and GAL standards. Current language is extremely problematic regarding time frames and expectations the may cater to a few upset constituents but that will actually result in more expense for parents, counties, and the state, without the benefit of improving outcomes for children and families.

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WITNESS NAME

INDIVIDUAL:

WITNESS NAME: **LAURIE V. SNELL**	PHONE NUMBER:	
BUSINESS/ORGANIZATION NAME:	TITLE:	
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CITY:	STATE:	ZIP:

EMAIL: **lsnell@planetkc.com**	ATTENDANCE: **Written**	SUBMIT DATE: **3/16/2023 4:16 PM**

THE INFORMATION ON THIS FORM IS PUBLIC RECORD UNDER CHAPTER 610, RSMo.

TO: House Judiciary CommitteeHB1271 – Amends §§ 210.160; 210.830, 452.423; 487.110 and creates seven new sections (6 in Chapter 210 and 1 in Chapter 452)FROM: Laurie V. Snell, Attorney at LawAs an attorney who has been working in the child protection system/juvenile court in Jackson County Missouri for more than 25 years, I have many concerns about this bill. While, the system and the court is imperfect, this proposed legislation is unstudied, premature and not ready for advancement, a vote or implementation. While responsive to seemingly discrete concerns about GAL quality and behavior, it would have sweeping consequences in jurisdictions and practices where those same concerns do not exist. The biggest concern is that some of the new provisions from this bill address issues or concerns typically left to practice and ethical standards. Codifying existing standards may not "fix" the problems and other approaches to address concerns for accountability (i.e., the court's oversight and discipline of GALs) could be more productive. For example, if courts are not inclined to remove GALs from a case over concern for the limited availability of GALs due to limited resources, providing a no-cause disqualification to parties will not address the issue of a shortage of quality GALs and resources. In Jackson County, for example, two GAL offices handle the vast majority of cases and all GALs who handle cases in which those two offices have conflicts don't get paid. There are several jurisdictions, where there is only one GAL for the whole county. As for the proposed for-cause disqualification provisions there is a lot of nuance that goes along with communication with legal guardians or custodians that is not considered in this legislation. Also, the provision regarding the suggested failure to gather non-repetitive relevant information seems extremely ambiguous and subjective and could very case by case - what parents, foster parents, relatives, teachers, etc. think is relevant can be vastly different than what a GAL or a Court finds relevant on any given Best interest issue. Also, the failure to meet with child before second hearing provision encroaches on professional discretion and judgment. Also, the failure to respond within a reasonable amount of time provision is also ambiguous and seriously problematic.Finally, it is unclear why the OCDC provision is necessary. Statutorily requiring a special process might not address whatever the concern is. Perhaps clarifying role of GAL as an attorney and better aligning with professional rules of conduct would help, which I do not believe this bill gets quite right there.There seems to be much that this bill is attempting to target from some isolated incidences without broad consideration for other cases/situations and jurisdictions. I urge the sponsor and committee to not advance or table this legislation for the much-needed examination about how to adequately address the issues. Thank you for your attention to this written testimony.

/s/Laurie Vaskov Snell
Missouri Bar Number 41978
P.O. Box 414087
Kansas City, Mo. 64141

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MISSOURI HOUSE OF REPRESENTATIVES

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WITNESS NAME

INDIVIDUAL:

WITNESS NAME: **MELISSA BUCKMAN YOUNG**	PHONE NUMBER:	
BUSINESS/ORGANIZATION NAME:	TITLE:	
ADDRESS:		
CITY:	STATE:	ZIP:

EMAIL: **mby@buckmanyounglaw.com**	ATTENDANCE: **In-Person**	SUBMIT DATE: **3/14/2023 9:40 AM**

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I am the G.A.L. for Audrain County, and also serve in Montgomery County. I am experienced in juvenile, family law, adoptions, and guardianships and have served both as a parent attorney and as a G.A.L. for well over a decade. There are several issues with HB1271. I do not believe this bill demonstrates an understanding of the role of a G.A.L., the ethical rules for attorneys, or the G.A.L. Standards as set out by the Supreme Court. I would like to make myself available to the Committee to answer any questions they have about the role of a G.A.L., procedural questions about court proceedings, ethical rules or the G.A.L. Standards. I would also like the opportunity to voice the issues as I see them with this bill. Thank you in advance for the opportunity to speak with the committee.

MISSOURI HOUSE OF REPRESENTATIVES

WITNESS APPEARANCE FORM

BILL NUMBER: **HB 1271**	DATE: **3/22/2023**
COMMITTEE: **Judiciary**	

TESTIFYING: ☐ IN SUPPORT OF ☑ IN OPPOSITION TO ☐ FOR INFORMATIONAL PURPOSES

WITNESS NAME

INDIVIDUAL:

WITNESS NAME: **MELISSA BUCKMAN YOUNG**	PHONE NUMBER:	
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ADDRESS:		
CITY:	STATE:	ZIP:

EMAIL: **mby@buckmanyounglaw.com**	ATTENDANCE: **In-Person**	SUBMIT DATE: **3/21/2023 7:45 PM**

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MISSOURI HOUSE OF REPRESENTATIVES

WITNESS APPEARANCE FORM

BILL NUMBER: **HB 1271**	DATE: **3/22/2023**
COMMITTEE: **Judiciary**	

TESTIFYING: ☐ IN SUPPORT OF ☑ IN OPPOSITION TO ☐ FOR INFORMATIONAL PURPOSES

WITNESS NAME

INDIVIDUAL:

WITNESS NAME: **ROBER BILBREY**	PHONE NUMBER:	
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CITY:	STATE:	ZIP:

EMAIL: **rwbilbrey@gmail.com**	ATTENDANCE: **Written**	SUBMIT DATE: **3/20/2023 4:50 PM**

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I am a practicing attorney in Jefferson County who has worked as a Guardian ad Litem for 20 years. While I understand the desire to clarify the roll of a Guardian ad Litem, I believe that the law as written is fraught with items that would make the practice of a Guardian ad Litem untenable.The appointment for a limited purpose is the first troubling aspect. There have been many occasions where there will be one alleged reason for the appointment only to discover other issues or causes of concern in a situation. In just the past few months, I have received an appointment where the concern was domestic violence (felony conviction of violation of an order of protection), but following a meeting with the person who was suspected of being a danger to the children, it was clear that there were psychological issues involving this individual, including hallucinations. He was hospitalized shortly thereafter where it was discovered that drugs were also a concern. This also discounts the fact that during many representations, issues with the parent who brought the initial allegations come to light. If an appointment is limited in scope, then is the GAL also to ignore those issues? If a GAL is to ignore other issues that come to light with either parent, how can a GAL represent the best interest of the child?The limited appointment also carries with it the provision that a Guardian ad Litem remain on until the investigation is completed. This implies first that a Guardian ad Litem is appointed as an investigator, which is only a part of their duties. They are to represent the best interest of the child, which includes but is not limited to investigation of the allegations. Upon the conclusion of the investigation, the GAL is to submit a report. However, there is nothing within the evidentiary rules that would allow only the report to be introduced as evidence. The GAL would need to testify. The report may be based upon information that is not in evidence. A GAL is under the obligation not only to participate in all hearings, but also to introduce evidence. If the GAL is relieved, they cannot introduce evidence even if they are called as a witness.It is also unclear as to what constitutes complete. If a child is in therapy, can the representation be completed so long as therapy continues? If drugs are the issues and a party is undergoing drug treatment, can the representation be completed before the parent is discharged? If the parent is undergoing other treatment (therapy, anger management, parenting classes) can the representation be completed prior to that? How can a court make a final ruling if the GAL is not a part of the final trial?The proposed legislation requires that a GAL meet with the parties in person within 21 days of the appointment. This is sometimes not possible nor advisable. A baby born and placed in the NICU should not be met with, and a meeting would yield no practical information. This applies to children up to the age of at least 3 years old. Sometimes the child is out of state. Sometimes parties are unresponsive. A recent case involved a young child who made disclosures involving potential sexual abuse. A referral was made for the child to be interviewed by the Children's Advocacy Center. Upon such a referral, nobody, including the GAL, Children's Division, police or anyone else should be discussing such allegations with a child.Parties have 30 days in which they may disqualify a GAL. I have trouble envisioning a situation where a GAL is appointed, meets

with the parties and the child within the prescribed 21 days, and makes a preliminary determination that the allegations are either true or not true where either party would not desire to disqualify the GAL. If the initial interviews causes the GAL to question the validity of the allegation, the party making the allegation loses nothing by disqualifying the GAL.. If the initial finding is the other way, then the person who has had allegations levied against them would lose nothing by disqualifying the GAL. It would create a situation of constant GAL shopping.All of these do not take into account situations where the party making the allegations may be committing acts of parental alienation. These are often found by the GAL during the representation. The limiting of the appointment would seem to prohibit the GAL from even exploring such an option. The report by the GAL could not include this without substantial evidence to back up such an allegation. An alienating parent would constantly want to disqualify a GAL who questions their allegations.

MISSOURI HOUSE OF REPRESENTATIVES

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TESTIFYING: ☐ IN SUPPORT OF ☑ IN OPPOSITION TO ☐ FOR INFORMATIONAL PURPOSES

WITNESS NAME

INDIVIDUAL:

WITNESS NAME: **SARAH PLEBAN**	PHONE NUMBER:	
BUSINESS/ORGANIZATION NAME:	TITLE:	
ADDRESS:		
CITY:	STATE:	ZIP:

EMAIL: **sarahpleban@hotmail.com**	ATTENDANCE: **Written**	SUBMIT DATE: **3/21/2023 2:35 PM**

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1. Introa. My name is Sarah Pleban. I have been an attorney licensed in Missouri for 41 years. I have practiced almost exclusively as a Guardian Ad Litem in both juvenile court and domestic cases for approximately 35 years. I have worked in St. Louis County, the City of St. Louis and St. Charles. b. I was on my way to testify before your yesterday when I got the call that the hearing had been continued. Today I received notice that the hearing is tomorrow and unfortunately, I cannot come. I have a scheduled mediation on another case and those children are counting on me to help this family to a resolution. c. Rep. Unsicker was kind enough to come to St. Louis about 2 weeks ago to listen to the concerns that 30 family court lawyers and one retired family court judge had with this bill and other bills that are similar. Only 3 of those people had a significant portion of their practice as GAL work so it was predominantly from the view point of attorneys for parents.d. What they told Rep. Unsicker is that they feared that the bill would eliminate many GALs from this kind of work, and that their clients would be harmed without the addition of a GAL. They told Rep. Unsicker their fear was that litigants would use the bill to manipulate the family court system and intimidate GALs. e. Judge Douglas Beach is a retired Presiding Judge and head of Family Court for many years in St. Louis County. He told Rep. Unsicker that GALs were vital in cases for the court to obtain the information it needed to make custody decisions that were in the best interest of the child and that this bill would greatly hurt families and the Court.2. Purpose of a GAL1) Be the legal representative of the child in custody proceedings and to represent the best interests of the child. They are independent and appointed to safeguard the interests of the child. 2)In a case styled State of Missouri ex rel. Bird v.Weinstock, 864 S.W.2d 376 (Mo. App 1993), the Missouri Court of Appeals found the following which are important when you are forming a bill that deals with GALs.a) The GAL has traditionally been viewed as functioning as an agent or arm of the court, to which it owes it principal duty of allegiance and not strictly as legal counsel to the child client.b) In essence, the GAL role fills a void inherent in the procedures required for the adjudication of custody disputes. c) Absent the assistance of a GAL, the trial court, charged with rendering a decision in the best interest of the child, has no practical or effective means to assure itself that all of the requisite information bearing on the question will be brought before it untainted by the parochial interests of the parents. d). Further, the need for an independent guardian ad litem is particularly compelling in custody disputes. Often, parents are pitted against one another in an intensely personal and militant clash. Innocent children may be pawns in the conflict. 3. How does this House Bill change this role?a. It shifts the role of the GAL's duty from the Court and child to the parents of the child. 1) Page 2 of the bill outlines reasons why the GAL might be disqualified. a) It is a failure to communicate with the court, other attorneys or legal guardians or custodians. However, the Courts have heald that the duty is to the court and child, not other attorneys and custodians.b) The provision that a GAL can be disqualified if there is a failure to respond to requests for communication within a

reasonable time.1) I have had cases in which a parent emailed me over 1000 times. It was not reasonable nor advisable for me to respond to most of them because my response was never satisfactory to the parent and only served to generate another email or the content was inappropriate. It was very costly to receive all those emails, let alone respond to them. 2) At times parents request information that is either privileged or could be harmful to children if their parents had such information. b. In some manners, the bill is micromanaging how a GAL practices in ways that are not advisable. 1) Page 7, Section 452.423.1 (2) requires that a GAL must meet face to face with the parents and child within 21 days of the appointment. a. This is impractical at best. At times I don't receive the Court appointment for quite some time because the court clerk's are overworked and the information does not get entered in casenet for up to a few weeks. b. Most of the time I do meet with parents within 21 days of the appointment, but there are other reasons that I might not, such as the parent lives out of town, I have a hard time finding them, they are incarcerated, or their work schedule does not permit. c. Mandating meeting with a child within 21 days is the most problematic and at times dangerous.1. What if the child is a newborn or infant? Is it reasonable that they be subjected to the germs of a GAL? I can't think of a reason that an infant or young child needs to be seen within 21 days. 2. Best practice is to see both parents before you see the child to get the perspectives of both sides. Frequently I want to see school records, talk to therapist or doctors before I see the child to ensure that I have the information that I need to see the child effectively and safely. When Rep. Unsicker came to St. Louis, she was told about one attorney's experience where the GAL rushed to see children who had significant mental health needs. As a result, the children were traumatized, missed school, had difficulty sleeping and required extra psychological counseling. That would have been avoided if the GAL had taken the time to learn about the children and their needs before meeting with them. 3. It is not uncommon that with abuse allegations that a child has been interviewed by several entities/people before reaching a GAL, such as a doctor, therapist, police, CD worker, CAC interview. It is proven that when an abused child has to repeatedly give accounts of abuse to different people that it can be very psychologically damaging to that child. When I have those cases, I do not talk to the child within 21 days because I am cognizant that in doing my job I should not harm a child further. I need to take time, talk to all that have already spoken with the child and only then develop a plan that allows me to talk with the child without risking their mental health.4. Mostly this would add costs to the parents for no gain. If I see an infant or young child within 21 days, it only adds to my bill without serving a legitimate purpose. 4. Accountability:a. Rep. Unsicker mentioned at our meeting that there was concern about GAL's accountability and that was one reason for the bill. Let me tell you currently what is our current accountability:1) We are all lawyers that are bound to the Rules of Professional Conduct.2) Any person can file a complaint with the OCDC – Office of Chief Disciplinary Counsel with the Bar3) There are 13 Supreme Court Standards that each GAL is bound by, including training, caseload, participation in proceedings, exercising independent judgment, access the child's records, etc. There is more accountability for GALs in these standards than any other area of the law.4) Section 423.423.3 currently provides that a judge may remove a GAL if he/she fails to perform competently.5) Court is not bound by any recommendations of the GAL. Court if free to modify or reject the GAL recs.6) Each parent may advocate a position that is contrary to the GALb. 2021 was the latest year for statistics to the OCDC. There were 1739 complaints made to the OCDC. 662 were investigated. 56 attorneys were suspended. 11 were disbarred. 5 put on probation; 70 received written admonitions and 2 public reprimands. Not one case involved the conduct of a GAL. 5. I would urge you to do the following before proposing new legislation concerning GALs 1) Talk to all sides to get a clear picture of not only what GALs do, and how they operate, but what changes are needed. Having been a Public Defender, I know that if you walk into penitentiary you would find many people who say they are not guilty. I doubt as a legislator you would take that at face value without checking the other side and sources. The same should happen here. No bill should be entered on anecdotal evidence, including that of unhappy parents.2) Start with the family court judges. They are not a stake holder. Their job is to render decisions which are in the best interests of the kids. Most of them would be willing and eager to talk with you. a) In St. Louis County, there were just under 13,000 domestic cases filed last year. The City of St. Louis, St. Charles, Jackson County, Springfield, MO are areas which have the most cases. I hope you would ask those judges about GALs and what changes they would find helpful to families. b) Go to smaller and rural counties. Those family court judges may have needs that are different than the metropolitan areas. 3) Talk with parents. Often times, unhappy parents are the loudest voices. It is best to see if the facts they are asserting are accurate by checking with the other side. There are many parents who are satisfied and grateful to their GAL4) Talk with domestic attorneys.5) Talk with GALS. 6. Children in custody cases have been my focus for the last 30+ years. I feel very fortunate to be able to represent them because they are so vulnerable in this process.1) This bill and the other GAL bills that are out there are designed to help

parents, not kids. What troubles me is that parts of this bill will hurt children. It will allow children to get further caught in the middle of their parents' battle. Thank you for taking the time to read this affidavit. I appreciate your time and consideration.

MISSOURI HOUSE OF REPRESENTATIVES

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COMMITTEE: **Judiciary**	

TESTIFYING: ☐ IN SUPPORT OF ☐ IN OPPOSITION TO ☑ FOR INFORMATIONAL PURPOSES

WITNESS NAME

BUSINESS/ORGANIZATION:

WITNESS NAME: **ANGIE BLUMEL**		PHONE NUMBER:	
BUSINESS/ORGANIZATION NAME: **JACKSON COUNTY CASA**		TITLE: **CEO**	
ADDRESS: **2544 HOLMES**			
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EMAIL:	ATTENDANCE:	SUBMIT DATE: **3/22/2023 12:00 AM**	

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WITNESS NAME

REGISTERED LOBBYIST:

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WITNESS NAME

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WITNESS NAME: **ERIC D. JENNINGS**		PHONE NUMBER: **573-659-2280**	
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EMAIL: **ejennings@mobar.org**	ATTENDANCE: **In-Person**	SUBMIT DATE: **3/20/2023 3:35 PM**	

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