



7521 Main Street, Suite 103
Ralston, Nebraska 68127

(402) 597-3100 P
(402) 597-2705 F

<http://voicesforchildren.com>

BOARD OF DIRECTORS
Eric Nelson
President

Tim Hron, MA, LIMHP
Vice President

Donna Hammack, MSEd
Secretary

Steve Mitchell
Treasurer

Yolanda Chavez Nuncio, MEd
Catherine Damico, JD
Jeremy Fitzpatrick, JD
Joel Jacobs
Eric Johnson
Lloyd Meyer
Daniel Padilla
Mike Socha
Tim Thoreson

Carolyn D. Rooker, MSW
Executive Director



Find us on:



March 2, 2015

To: Members of the Judiciary Committee

From: Juliet Summers, Policy Coordinator for Child Welfare and Juvenile Justice

RE: Support for LB 15, to change provisions regarding Guardians ad Litem

A fundamental guarantee of our justice system is the effective representation of legal counsel. This is especially important for the children at the heart of juvenile court cases, who are suffering the layered traumas of abuse or neglect, removal from the home, and placement in foster care. For a child, the court process is opaque and inaccessible. A responsive, independent, dedicated guardian ad litem (GAL) bridges that gap. Voices for Children in Nebraska broadly supports the goal behind LB 15, to ensure that the most vulnerable children in our state do not go voiceless in the very proceedings that will determine their lives and futures. This committee is going to hear many recommendations today about how best to leverage this bill's impact. Voices for Children supports the recommendations made by the Children's Commission's Task Force on Legal Parties, but would highlight two key provisions in particular:

1. Strengthen visitation provisions by striking "when possible" in §(K).

The primary role of the GAL is to be the advocate for the child in the courtroom. To do so, there needs to be a meaningful attorney-client relationship. **In a focus group of young people interviewed about their experiences with the system, 25% did not know their GAL's name. Most did not know their GAL's phone number, and most stated they did not trust their GAL.** They described meetings as "quick" and "rushed."¹ In 2014, the Foster Care Review Office found no documented contact between GALs and their clients in 5% of cases, and was unable to determine whether or not contact had occurred in an additional 50% of cases.²

Because consultation is critical to effective representation, we would recommend striking the language of "when possible" in the consultation section (§K). "When possible" creates a loophole that could render the whole section meaningless. Effective representation means, at the very least, that when a client calls and asks to speak, you make it happen – by phone even if you can't meet in person. When it is a child who is reaching out to ask for help, that protection becomes even more important.

2. Add §(P)(v) to require a description of the child's expressed interests in the GAL's written and oral report to the court.

In a N.R.S. §43-247(3)(a) case, the GAL is usually the only lawyer in the room tasked with advocating for the child. Many GALs across the state do an excellent job of ensuring the child's perspective is heard, as well as articulating what they believe to be in the child's best interests. We also know that some do not. In the focus group referenced above, several young people commented that their GALs would ask what they want, and then not do it or not follow through. One described the GAL as "like having another caseworker."

¹ Erik S. Pitchal, Madelyn D. Freundlich & Corene Kendrick. *An Evaluation of the Guardian ad Litem System in Nebraska*. National Association of Council for Children: December 2009.

² Foster Care Review Office, Annual Report for 2014.

What the child wants may be unreasonable, or out of the GAL's hands, but it is nonetheless the GAL's job to represent the child's expressed interests to the court – *even when they conflict with the GAL's perception of the child's best interests*. **Requiring the GAL to report on what the child has expressed, even if it differs from what the attorney thinks is best, would ensure that the child's voice is heard in court.** Judges could then determine whether a conflict in the dual role has risen to the level requiring separate appointment of an attorney for the child.

This has been a long conversation in Nebraska, and this legislation may or may not end it. However, we support Senator Krist's efforts in bringing this bill forward, and would ask that the Committee thoughtfully consider it along with these proposed amendments. The most vulnerable children in our state deserve the best representation we can offer them, and LB 15 is a step toward achieving that goal.

Thank you for your consideration.

