



Administrative Office of the Courts

P.O. Box 4820, Portland, Maine 04112-4820

Tel: (207) 822-0792 FAX: (207) 822-0781 TTY: (207) 822-0701

Julia Finn, Esq.
Legislative Analyst

Tel: (207) 822-0767
julia.finn@courts.maine.gov

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Judicial Branch testimony neither for nor against LD 1408, An Act to Increase the Protection of Children from Domestic Abuse and Violence:

Senator Deschambault, Representative Warren, and distinguished members of the Joint Standing Committee on Criminal Justice and Public Safety, my name is Julie Finn and I represent the Judicial Branch. I would like to provide additional information on LD 1408, “An Act to Increase the Protection of Children from Domestic Abuse and Violence.”

LD 1408 originally proposed to “elevate the crime of domestic violence assault to domestic violence aggravated assault if the assault is committed in the presence of a child under 14 years of age.” At the public hearing on May 10, 2021, the Maine Coalition to End Domestic Violence opposed the bill, and instead proposed an amendment to Title 4, Section 1553 to require guardians ad litem (GALs) to receive six hours of domestic violence focused sessions as part of their core training, as well as to require two hours of annual domestic violence continuing professional education credit. On May 12, 2021, a work session was held on LD 1408 and the bill was voted out of committee as ought to pass, as amended.

Because the proposed changes to GAL training were presented as an amendment to a bill on which the Judicial Branch would not have otherwise provided comment, the Judicial Branch did not have the opportunity to provide testimony during the public hearing or work session on LD 1408. I write now to provide additional information on LD 1408 for your consideration.

Title 4, Section 1553 defers to the Supreme Judicial Court to establish rules for the initial listing on the GAL roster. Accordingly, the Supreme Judicial Court promulgated the Maine Rules for Guardians ad Litem, which include detailed requirements for the rostering and continuing education of GALs. Rule 2(b)(2)(B) of the Maine Rules for Guardians ad Litem states that a GAL applicant “must have attended a guardian ad litem training program approved by the Chief Judge with a curriculum of at least 18 hours to be placed on the Title 18-A and/or Title 19-A Roster and 23 hours of the Title 22 Roster.” The core training curriculum must cover the following 13 complex topics over the 18 to 23 hours: “Titles 18-C, 19-A, and 22; dynamics of domestic abuse and its effect on children; dynamics of separation and divorce and their effect on children; child development; timing and impact of court-related events from a child’s perspective; the effects of

abuse, neglect, and trauma on children; substance abuse; mental health; family finance and the financial impact of separation and divorce; legal issues and processes; ethics and professionalism as a guardian ad litem; the duties and obligations of the guardian ad litem as an agent of the court; and interviewing techniques.” M.R.G.A.L. 2(b)(2)(B).

Though each of these topics could benefit from multiple days of discussion, the Judicial Branch must design a curriculum that is manageable and attractive to applicants. All GAL applicants are professionals for whom taking 18 to 23 hours out of their practice to attend training can be challenging. Because the curriculum already covers such a wide range of required topics, in order to provide six hours of additional training on domestic abuse and violence, the core training would need to be extended by 4.25 hours (1.75 hours on the topic are already presently offered). Adding 4.25 hours would result in an additional day of training and increase the cost of the program. This could deter new GAL applicants, and consequently leave the courts, particularly in the northern regions of the state, without sufficient rostered GALs to appoint to cases. For example, in calendar year 2020, there were 116 petitions for child protection order filed in Region 8, but there are only 8 GALs on the Title 22 Roster (many of whom are also rostered as parent attorneys, and thus are unavailable to be a GAL when they are already appointed as counsel for a parent).

Recognizing the importance of adequate training on domestic violence for GALs, the Judicial Branch is already collaborating with the Maine Child Welfare Advisory Panel to develop a six-part training series in 2021, with three sessions focused on domestic violence issues. This training will be open to all GALs. Furthermore, the Judicial Branch made the session on interpersonal violence the longest session of its 2021 five-day GAL core training. Increasing this segment further to six hours would result in a noticeably disproportionate allocation of time to domestic violence in comparison to the 12 other topics on which GALs must be initially trained. Similarly, the allocation of two of the six hours of continuing education to topics of domestic violence would disproportionately account for 33% of a GAL’s annual continuing education requirement.

While the Judicial Branch recognizes the adverse effect of domestic violence on a child’s brain development and wellbeing, it is also mindful that other factors, including substance use disorders and mental health, sadly also affect families and children in Maine. Allocating six hours to domestic violence without also increasing the instructional time for these other vital topics, could create the perception that these other issues are less important. Furthermore, LD 1408 would isolate one of many required topics for training by embedding it in statute rather than in rule. Such distinct treatment for one topic over the other similarly important training topics, could further strengthen this perception of hierarchy.

Finally, I respectfully note that this proposal addresses a topic—training of GALs—that is entirely within the control of the Supreme Judicial Court and, by extension, the Chief of the District Court. While we appreciate that the Maine Coalition to End Domestic Violence will and should advocate for its position, the Judicial Branch should be allowed to decide how to prepare legal advocates to represent children in the cases presented to the courts.

Thank you for the opportunity to provide these comments. The Judicial Branch welcomes the opportunity to be a resource to the Committee on any of these issues.