



LEIGH INGALLS SAUFLEY  
CHIEF JUSTICE

STATE OF MAINE  
SUPREME JUDICIAL COURT

February 4, 2013

The Honorable Linda M. Valentino, Chair  
The Honorable Charles R. Priest, Chair  
Joint Standing Committee on Judiciary  
c/o Legislative Information  
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Senator Valentino, Representative Priest, and Honorable Members of the Joint Standing Committee on the Judiciary:

I write in follow-up to my October 1, 2012, letter to you. That letter provided an update on the Guardian ad Litem Complaint Resolution Committee, chaired by Justice Warren Silver. This letter provides the Supreme Judicial Court's conclusions and planned course of action regarding the Silver Committee's recommendations, along with an update on the Court's actions regarding several other Family Court Process improvements.

### **1. Improved Complaint Resolution Process**

The Silver Committee recommended that the Court assign the responsibility for a Complaint Resolution Process to an independent Board of Overseers of Guardians ad Litem and that administrative assistance to the new Board be provided by the Board of Overseers of the Bar. The Committee also suggested that costs for the operation of the Board of Overseers of GALs be allocated to the parties and to the GALs.

The Court acknowledges the work of the Silver Committee and accepts the recommendation that a Board with responsibility for Oversight of Guardians ad Litem be created. Several challenges remain to be addressed, as discussed below.

First, funding continues to be a challenge. Most Boards and Committees entrusted with thorough complaint resolution responsibilities require substantial funding. Although we understand the basis for the recommendation of the Silver Committee that a fee be assessed on parents to support the new system, our goal is to avoid adding costs for families in the court system.

Second, a Board of Overseers of Guardians ad Litem would have to be guided by Rules setting out a complete set of professional standards and the details of the Complaint Resolution Process. Those Rules must be drafted and carefully reviewed with stakeholders before final promulgation.

Considering those challenges, and after careful consideration of the various options and the recommendations of the Silver Committee, the Supreme Judicial Court has reached several conclusions:

- The Legislature's creation of Guardians ad Litem to assist Maine's children has been echoed in various models throughout the country and has added immeasurably to justice for children. Most GALs do an excellent job for the children they serve, and some do so for little or no compensation.
- Nonetheless, the absence of a simple, independent, and transparent process for complaints regarding the work and costs of GALs in Maine has caused public frustration.
- The need for an independent body to receive, consider, and act on complaints is clear. The status quo is no longer sufficient to assure the public's trust and confidence in this aspect of our system of justice.
- No resources have ever been allocated for a GAL "program" in Maine, and, as has been the case for the last several years, it is anticipated that there will be no new resources available this year.
- Families in the turmoil of disputed child-related cases often have limited resources, and those resources should be focused on the children's needs. Accordingly, the Court's goal is to avoid new costs for families, and to limit, where possible, the costs that are already present.
- The Board overseeing Guardian ad Litem complaints should be assisted and administered by the Board of Overseers of the Bar, which already has responsibility for the oversight of 80% of the GALs (more than three-quarters of the GALs in Maine are lawyers).

The Court will therefore work with the Board of Overseers of the Bar to arrange for the administration of the new procedures for the first year without the imposition of further fees on families. The Board would report to the Court at the end of the first full year of operation regarding the efficacy of the new process, the costs involved, and the ability of the Board to continue its work without additional funds.

We recommend that Titles 19-A and 22 be amended to acknowledge the authority of the Judicial Branch to establish a Complaint Resolution Process through the promulgation of rules unless the Legislature implements and funds a separate GAL program in the Executive Branch. The next steps would require careful drafting of the standards of professional conduct and the process for complaint resolution for GALs. It is the expectation of the Supreme Judicial Court that a new process could be put into place within approximately six to twelve months.

## **2. Other Process Improvement Efforts Regarding Family Law**

### **Mullen Committee**

Separately, the Judicial Branch has moved forward to create improved procedures for the system that is currently in place. Deputy Chief Judge Robert Mullen has chaired a stakeholders committee that was charged with reviewing the current rules of procedure related to guardians, with an eye toward clarifying the expectations of the parties and the court in individual cases, setting specific expectations regarding costs, and creating rules that reduce unneeded costs while assuring that children have the benefits of the work that is accomplished.

The proposed changes to the rules recommended by the Mullen Committee have been forwarded to the Supreme Judicial Court and will be reviewed by the Family Law Advisory Committee and the Civil Rules Advisory Committee.

### **Five Year Review of Family Division Process**

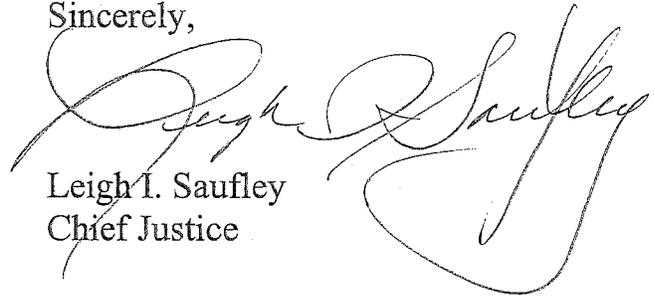
Finally, on a periodic basis, the Supreme Judicial Court commissions a Task Force to review the current procedures utilized in *all* family law cases, including

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those where no children are involved. The last Task Force, chaired by then District Court Judge John Nivison reported back to the SJC in late 2006. The next Task Force is being created now and will likely report back to the Court in late 2013. We expect that the new Task Force will receive input from stakeholders throughout the State, and will make recommendations for continuing process improvement that will assist all Maine families who find themselves in court proceedings.

On behalf of the entire Supreme Judicial Court, I thank the Committee for its concerns regarding children and families, and I look forward to working with you on all of these important issues.

Sincerely,

A handwritten signature in cursive script, appearing to read "Leigh I. Saufley". The signature is written in dark ink and is positioned to the right of the typed name and title.

Leigh I. Saufley  
Chief Justice

LIS:ajm