HISTORY
of the Use of Attorneys for Children in Utah

1969 • District court may appoint "counsel to represent the child" in divorce and custody matters.

1974 • Federal Child Abuse Prevention and Treatment Act (CAPTA) requires the appointment of a Guardian ad Litem for every child in a child welfare case.

1975 • A GAL, paid by DCFS, to represent each child.
- GAL work taken on a case-by-case basis by attorneys in private practice.
- District court tends to appoint the same attorneys.

?? • GAL's paid by the counties.
- Avoid the conflict of interest inherent in DCFS hiring GAL's.
- Counties contract with private attorneys who do the work as a potion of their larger private practice.

1993 • Court Administrator's Office authorized to hire one employee to provide training to attorneys doing GAL work.

1994 • Office of GAL created to address issues of:
- Poorly trained GAL attorneys.
- Inconsistent services provided around the state.
- Standards not uniformly followed.
- Lack of policies and standards of practice.
- No accountability for individual attorneys.
- Child Welfare cases relegated to last priority by attorneys devoting more time and resources to cases paying at higher hourly rates.
- Etc.

2001 • Private Guardian ad Litem (PGAL) program created to divert some district court cases away from the GAL Office, and thus lessen impact on case loads.

2012 • HB 357 passed to address GAL case loads by sending all district court cases to the PGAL program.

H.B. 357

Shifts all district court work from the GAL Office to the Private GAL program.

Benefits:

- Results in reduced GAL case loads following reallocation of resources.
  - We anticipate going from around 200 children per attorney to about 160.
  - Lower case loads mean a higher quality of legal representation, including more thorough ongoing investigations, more frequent client contacts, etc.
- Allows GAL Office to focus all training, resources, and efforts in one direction.

Challenges:

- Reallocation of resources.
  - Personnel
  - Equalization of case loads
- PGAL program.
  - ⁕ **About 300 new PGAL's to handle existing case load**
  - Enhanced training (abuse and neglect)
  - Program management going forward

Important Facts:

- The GAL Office is appointed in high conflict divorce, custody and protective order cases, where there are *allegations of abuse or neglect.*
- The GAL Office is appointed in about 4% of divorce, custody and protective order cases

SURVEYS:

- District Court Judges and Commissioners
- Current PGAL attorneys
- All members of the Family Law Section of the Utah Bar

RESPONSE RATES:

- Judges & Commissioners	42%
- PGAL's	49%
- Family Law section	7 to 8%

550 to 600 lawyers
Survey sent twice
47 responded

FAMILY LAW SECTION:

- 39 of the 47 responding lawyers indicated a willingness to consider becoming a Private GAL.
- If all 39 become PGAL's, and take an average of 3.5 cases, they would absorb about 14% of the current caseload, leaving the children in about 860 cases without representation.

SOME RELEVANT SURVEY DATA:

The single largest barrier to attorneys becoming PGAL's is payment of fees.
Other identified barriers:

- The difficult, stressful role of a GAL
- Time required to fulfill the role

Judges/Commissioners concerns with PGAL program:

- The time it takes to get a PGAL assigned and involved (69%)
- PGAL's not sufficiently knowledgeable (62%)
- PGAL's don't diligently perform statutory duties (46%)

SOME SURVEY COMMENTS:

Family Law Lawyers

It is an important but thankless job and I already have enough of those

Why should someone who can bill $300 or $350 per hour take these cases? Why should someone who can bill $150 per hour and actually be paid take these very hard cases with a poor chance of being paid?

I do family law and I know what the GAL's go through. I've seen it. It's always very stressful and filled with lots of emotional drama. These cases are three times the amount of work than any other case because of the demands, potential lies and fighting between the parents.

Throwing out the court appointed district court GALs was a huge mistake.

I think it's really sad that they did away with the public GAL office. I do not believe it will be possible for the volume of cases they carried to be spread out to PGALs and still handled effectively.

These cases are very time consuming and even the ones that are not true pro bono cases wind up as uncompensated legal work.

The legislature made a huge error defunding the district court GALs and the children of Utah will suffer for it.

PGAL's

I disagree vehemently with what has happened and I do not believe that private GAL's can adequately represent kids at protective order hearings. We cannot get DCFS info, police info, etc. Nor do we have the training to deal with sexual and physical abuse.

I have been bankrupted out of $30,000 at $55 per hour. In another case I have $18,000 I cannot collect. So, basically I cannot afford to take many cases.

It takes a lot, both in terms of money and emotion, to do this work.

The parents are frequently litigious and crazy.

It seems most of my PGAL cases are not paid. I can only think of one case that both sides actually paid.

I do not mean to be so negative, but in my experience it cannot be done and still effectively take care of children. Sorry.

Judges/Commissioners

I am concerned about the burden of attorneys fees and costs on the parties, and, on the other hand, by the burden on the PGAL attorneys in having to provide too much pro bono work. Are we sure there will really be competent PGAL attorneys available and willing to handle all the matters that need to be handled?

I do not think there will be many volunteers for this program in light of the compensation issue and so my biggest concern is that children simply will no longer be represented in the district court.

There is no advantage to PGAL over GAL.

A boondoggle when the parents don't pay, the PGAL decides not to work for free, and the child is caught in the middle.

I don't think this is possible.

I am not convinced that there are enough attorneys willing to become PGALs, and I am concerned that there is no adequate mechanism to compensate them. I would prefer a state funded program, requiring contribution by parents (yes, like the current system) and have the legislature bite the bullet and realize that without dollars provided to social services for children the children will be the ones to lose out.

Repeal it.

I believe abused children will lose their voices under the new program.