# WASPLC – SPC: STATE

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April 29, 2025
Type of Paper: Policy

# No Immunity Without Accountability: Regulating Private GALs in Washington State

## Abstract

As CASA (Court Appointed Special Advocate) and GAL[1] programs face federal defunding and attrition, Washington State is increasingly relying on private Guardians ad Litem (GALs) in family court.[1] These private GALs operate with vast influence, often enjoying litigation privilege and virtually no public oversight. This shift to a privatized model removes legal pathways such as Monell[2] liability, eliminating one of the few existing avenues for holding bad actors accountable.[9] Without accountability structures, the GAL role risks becoming a pay-to-play market that traumatizes vulnerable families and hides misconduct. This paper proposes a state framework that mandates registration, liability coverage, reporting, and independent oversight for all privately appointed GALs.

[1] GAL: advocate for the best interests of children who have experienced abuse or neglect, ensuring they receive the support and care they need

[2] Monell liability refers to the legal principle established in the 1978 Supreme Court case Monell v. Department of Social Services, which allows individuals to sue local governments for constitutional violations caused by their policies or custom.

# Problem

Washington State codified the existence of GALs through statute (e.g., RCW 26.12 and RCW 13.34), but the state abdicated its responsibility to enforce meaningful oversight. The legislature formally recognized the GAL role, but failed to create a centralized body with authority to investigate misconduct, audit appointments, or decertify GALs for cause. This legal recognition without enforcement infrastructure creates a dangerous illusion of legitimacy—where GALs are imbued with quasi-judicial authority, but shielded from meaningful scrutiny. The result is a legal ecosystem where private actors exploit statutory power without institutional restraint. The power imbalance is most destructive in cases involving domestic violence, child abuse, and indigent litigants.

Additionally, the current GAL Registry structure under GALR 2[3] overly privileges graduate-level degrees as a proxy for competence, creating barriers to entry for highly capable advocates. GALR 2 governs registry eligibility and selection but provides no mechanism for vetting field-based competence or ensuring a diverse, trauma-informed pool of GALs (Washington Courts, 2022).[7]

Some of the most effective child advocates come from community-based, trauma-informed, or lived-experience backgrounds. When the registry favors academic attainment over demonstrated field skill, it perpetuates a class-based credential system that diminishes quality and equity in GAL appointments.

The situation is compounded by Washington's vague "best interest of the child" standard, which allows GALs to shape court outcomes with no evidentiary rigor.[3][4] This is not just a lack of regulation, it is systemic judicial outsourcing with zero safeguards.[2]

# Solution

1. State Registration, Licensing, Qualifications
    - Require all private GALs to be licensed by the state through a uniform certification program.
    - Mandate continuing education, background checks, and compliance with a standardized Code of Ethics[5]. Judicial and guardian training must include domestic violence dynamics, trauma responses, and the ways in which survivors are often mischaracterized—areas emphasized in national standards for enhancing judicial and professional skills (National Council of Juvenile and Family Court Judges, 2017)[8].

[3] GALR 2 establishes the requirements for Guardian ad Litem registries, including training, application standards, background checks, and the procedures judges must follow when selecting a GAL from the registry.

- Broaden eligibility criteria: Licensure should not be restricted to those holding advanced degrees. The state must recognize associate and bachelor's degrees paired with verifiable experience in family law, child welfare, domestic violence advocacy, or cultural competency work. The registry must be inclusive, skills-based, and field-tested—designed to cultivate emotional intelligence and real-world judgment, not just academic credentials.

2. Mandatory Liability Insurance
    - All private GALs must carry professional liability insurance.
    - Courts must verify coverage prior to appointment.
3. Independent Oversight Board
    - Establish a GAL Oversight Commission, modeled after judicial conduct boards, with statutory authority to receive complaints, audit performance, issue subpoenas, and discipline or decertify GALs found to have committed ethical or procedural violations.[6]
    - The Commission must have investigatory independence, publish annual accountability reports, and operate transparently to restore public trust.
    - Licensing must include enforcement: A license without a formal decertification process for misconduct or fraud is meaningless. Oversight is not optional, it is the constitutional safeguard that prevents state-sanctioned abuse of power.
4. Civil Liability Carve-Outs
    - Remove blanket litigation privilege in cases involving fraud, conflict of interest, retaliation, or willful misconduct.
    - Establish a state tort path for affected families.
5. Randomized Appointment System
    - Eliminate hand-picked GAL appointments. Current court rules permit judges to select GALs from narrow registries with no public visibility into rotation fairness or outcomes—a flaw the GALR 2 framework does not correct (Washington Courts, 2022) [7]
    - Create a randomized and rotating roster of qualified GALs overseen by the state judiciary.
6. Transparency Requirements
    - Require itemized billing disclosures and justification of services rendered.

- Mandate annual statistical reporting on GAL assignments, fees, and child outcomes.

**Expected Outcomes**

a. Restore judicial integrity and public confidence in GAL assignments.
b. Protect abuse victims from biased or retaliatory GALs.
c. Preserve legal recourse for families harmed by private actors.
d. Eliminate favoritism and cronyism in GAL selection.
e. Elevate quality and ethics of court-appointed child advocacy.

## Conclusion

Washington State must not trade public oversight for unchecked privatization. As GAL roles shift to private operators, the state has an obligation to ensure these individuals operate with transparency, ethics, and liability. The family court system is often the last resort for children in crisis and parents fleeing abuse. Privatization without regulation is not reform,it is abdication. By passing legislation that introduces licensing, oversight, and liability for private GALs, Washington can prevent further harm and restore faith in its family courts.

## Sources and Citations


1. National CASA/GAL Association. “Federal Funding Terminated for National CASA/GAL Network.” (2023). https://nationalcasagal.org/national-casa-gal-federal-funding-terminated/
2. Cancian, M., Meyer, D. R., & Han, E. (2019). *Child Custody and Guardians ad Litem in Family Courts.* University of Wisconsin Institute for Research on Poverty. https://www.irp.wisc.edu/resource/child-custody-and-guardians-ad-litem-in-family-courts/
3. Guggenheim, M. (2005). *What’s Wrong with Children’s Rights*. Harvard University Press.
4. Mnookin, R. H. (1975). *Child-Custody Adjudication: Judicial Functions in the Face of Indeterminacy.* Law and Contemporary Problems, 39(3), 226–293. https://scholarship.law.duke.edu/lcp/vol39/iss3/10/
5. American Bar Association. (2020). *Standards of Practice for Lawyers Representing Children in Abuse and Neglect Cases.*
6. Office of the Inspector General, U.S. Department of Health & Human Services (2021). *Oversight of Court-Appointed Guardians and Advocates.* https://oig.hhs.gov/reports-and-publications
7. Washington Courts. (2022). *GALR 2 – Registry Requirements and Selection Procedures.*

https://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=ga&set=galr&ruleid=gagalr02

8. Judicial and guardian training must include domestic violence dynamics, trauma responses, and the ways in which survivors are often mischaracterized, areas emphasized in national standards for enhancing judicial and professional skills (National Council of Juvenile and Family Court Judges, 2017).
9. Civil rights law: What Is a Monell Claim Against a Municipality? https://legalclarity.org/what-is-a-monell-claim-against-a-municipality/