

**The Supreme Court Rules and the Education of
Guardian ad Litem, Child Representatives,
Attorneys for the Child and Judges on
Special Issues Concerning Children and Human Trafficking**

**Brief Introduction Regarding the Special Issues Concerning Children and Human
Trafficking as It Relates to the Education of Stakeholders in the Legal
Community:**

There is an element of implicit trust that exists between a child and attorney, attorney and court, and child and court. A child advocate and the court have a vested interest in fulfilling that responsibility by doing an excellent job to meet that child's best interests which includes raising awareness of the special concerns relating to children. Human trafficking exists and the negative physical, mental, emotional and psychological consequences to children are enormous and have long term consequences. Stakeholders in the legal community are not educated on human trafficking and continuing to be unaware seems to be a breach of trust to a child. The lack of knowledge within the legal community is more about being "unconsciously unconscious" and it is something that can be easily corrected which will hopefully have a positive effect.

We must acknowledge that the consequences of any legal proceeding impacts the overall wellbeing of that child beyond the legal case itself and that these consequences may be positive or negative and can be either direct or unintended. Accordingly, the responsibility to represent a child in any case must be taken very seriously and even more so when human trafficking is at stake. In daily practice, an

attorney is either retained by a parent or guardian on behalf of a child or more routinely appointed by the court on behalf of a child. The type of engagement or appointment depends on the type of legal matter, such as delinquency, child welfare or domestic relations matters. The role and responsibilities of an attorney, a guardian ad litem or a child representative depends on the type of case. The one thing that is common among all cases is the unique nature of the client and the importance of the child's best interests.

In order to qualify for the appointment to represent a child, the only substantive requirement (other than being licensed and in good standing) is that there is ten hours of continuing education required every two years. The Supreme Court Rules provide a "recommended list" of the scope of that education but the list is very general. Each county's chief judge is responsible for what constitutes acceptable education in his/her county. Some counties organize extensive trainings and may even offer a beginner or advanced tracks of learning; however, some counties may not have the need or resources to have a training or as extensive of a training. In those cases, attorneys would need to seek the information and education out on their own. Ultimately, the scope and availability of the training varies throughout the state by county.

For the counties that provide training, local bar associations are generally the entities who organize those trainings and the the leadership in that bar are usually the attorneys who choose the topics and the speakers. The actual training is usually comprised of attorneys from the local area who volunteer time to speak on the topic and can structure the presentation accordingly. Sometimes, there might be a few non-

lawyer speakers who speak on topics such as mental health, diversity or addiction.

Basically, the extent and substance of the content is dependent upon the speaker.

In addition, the Illinois State Bar Association provides training every two years which helps provide access to education; however this brought in some logistical issues depending on where the training was located. For example, if you live down state and the training is in Chicago, then an attorney would be less likely to attend. The reverse would also be true. At some point, those trainings became recorded however there is a cost to take the ISBA course unless someone is a member of that bar and uses their free CLE credits. If any CLE costs money, whether provided by the local bar or the state bar, then there is a disincentive to take any additional training other than the bare minimum of ten hours every two years.

What results is the education as mandated by the Supreme Court to represent a vulnerable and unique population usually results in trainings by attorneys for attorneys, that are usually locally held and generally in person, and are dependent upon the needs and resources of each county. Some trainings may be recorded but even if they are there is no centralized list to access to see if a particular training meets a certain need. Most counties and bar associations have too little time and too little resources and human trafficking and the special considerations relating to children is not a well known or common enough topic to present upon. Even if it were, the topic is so complex that there is the practical problem of not having a volunteer speaker who is local and knowledgeable enough to present the content. ***As a result, there is little to no awareness within the legal community on human trafficking and the special considerations relating to children.*** Fortunately, Covid has essentially forced the

legal system to start using technology as a tool and an opportunity now exists to create and present an electronic continuing legal education seminar on human trafficking which can be presented by persons knowledgeable in the field and be made readily available electronically to child advocates throughout the state.

The specific language in the Supreme Court Rules is set forth below and *human trafficking is not identified on the recommended list in the Supreme Court Rules*. The absence of including the topic of human trafficking in the Supreme Court Rules and the lack of continuing legal education in this area in practice exposes a trafficked child to further risk as the attorney, child representative, guardian ad litem and judge may not be able to identify and fulfill his/her duties and responsibilities. Requiring education on human trafficking increases educational awareness for those involved in the advocacy, investigation, and decision making pertaining to a child; and by doing so promotes a child's best interests, raises awareness to areas that impact a child's physical, mental, emotional and psychological safety and wellbeing, mitigates the risk of harm to the child and/or family, and results in directing that child and/or family to the necessary resources and services which are unique to trafficked children and his/her family members.

The Problems Identified in This Paper Are:

1. The 900 series of the Illinois Supreme Court Rules of the State of Illinois does not include any reference to the human trafficking statutes.
2. The 900 series of the Illinois Supreme Court Rules of the State of Illinois does not include "human trafficking" as a recommended area of education for guardian ad

litems, child representatives, attorneys for the child and judges on the list of recommended education areas.

3. Notwithstanding the lack of a directive from the Supreme Court, there is an unmet need for continuing legal education for judges, guardian ad litem, child representatives and attorneys pertaining to special concerns relating to children in human trafficking.

Proposed Resolution of the Problem:

My proposal to increase the awareness and education of child advocates and all stakeholders in the legal community is to advance legislation modifying the Supreme Court Rules 900 series to include “human trafficking” on its list of recommended topics while simultaneously creating a virtual continuing legal education course on human trafficking to be readily available to bar associations throughout the State. Further, utilize articles in bar journals/newsletters and social media in order to provide additional awareness and education to stakeholders in the legal community who may not be exposed to the continuing legal education course or who would not otherwise have exposure by not practicing in child law related matters.

The Challenges Regarding the Modification of the Legislation and Raising Awareness and Education For Stakeholders in the Legal Community Regarding the Special Concerns to Children Relating to Human Trafficking Are:

1. Legislation:

a.) Will the mindsets of the legislative and legal community support a modification of the statute to incorporate a recommendation that attorneys, guardian ad litem and child representatives be educated on the topic of human trafficking.

b.) Will a consensus be able to be reached regarding the language to be incorporated into the statute.

c.) What is the likelihood of a legislative change and how long will it take to get implemented.

2. Awareness:

a.) If the statute is not modified to include human trafficking on the list of “recommended” topics, is enough of a need and interest level out in the legal community for any bar association to take on the responsibility of presenting on this topic.

b.) How can increased awareness of human trafficking result in getting enough of an interest level, either locally or statewide, so that there is readily available and accessible education out to as many child advocates as possible.

3. Virtual Continuing Education Course Logistics:

a.) Maximum impact on most people - What can done to make the education on human trafficking readily available and accessible to the most amount of people.

- b.) Content that is effective - What should be included in the training that is substantive and what will be most helpful to children.
- c.) Speakers who are respected - Who is knowledgeable enough to speak on the topic and also has the time and willingness to do so. Will additional speakers be beneficial to bringing awareness and knowledge to the complexity of the topic.
- d.) Duration - Can the topic of human trafficking be covered in the usual one hour CLE timespan or will it require a longer duration. Should a more comprehensive and longer training with an “advanced” track be made available and/or required. If the training is longer than one hour does it make it more or less likely that it will be disseminated and viewed.
- e.) Viewing - Will the training be in person or virtually. How will the training be recorded and disseminated to bar associations and individual attorneys who are not part of bar associations. If someone is not a member of the bar association that provides the training, how will that person have access to it.
- f.) Cost to counsel - Should there be a financial cost to counsel for taking the training other than their time. Is there a way to mitigate the cost so that more people are willing to take the training.
- g.) Preparation expenses - What is the cost of preparing the training and how will those expenses get paid.
- h.) Balancing against other child related interests - Since there is limited time available for continuing legal education, will local bar associations and chief judges consider it “necessary” and “important enough” of a topic within their community to set aside time. If within the ten hour timeframe, will training on human trafficking result in

there being a lack of training in other areas and which areas do you cut. If it is outside of the scope of the ten hour timeframe, what is the likelihood of a child advocate even taking a training on human trafficking.

i.) Endorsement - Rather than individual bar associations each creating their own program relating to human trafficking, is it more efficient and effective for one bar association such as the Illinois State Bar Association to take on the responsibility of organizing and presenting the training; and what requirements will be needed for the Supreme Court of Illinois to approve that training.

4. Other methods to increase awareness and education:

a.) Even if the legislation is modified and a continuing education course provided, how can stakeholders in the legal community be motivated to advance the awareness and education of human trafficking through other means that will be relevant and updated on an ongoing basis. For example, will attorneys and/or law students commit to drafting and submitting articles in as many bar journals and newsletters throughout the state as are willing to publish the content.

b.) What other methods are available for a social media presence (such as Linked In and vendor sites like Clio and Our Family Wizard) and what needs to be done to get information posted in those forums and on a recurring basis.

c.) Will there be follow through with updating the content on a reasonably consistent basis to maintain an active awareness surrounding child related issues in human trafficking; and will someone accept responsibility to manage and monitor that content.

Proposed resolution Regarding Modification of the Statute:

The Statutory Rules governing the education of attorneys for the Child, Guardian ad Litem, Child Representative and Judges are included in the 900 series of the Supreme Court Rules of the State of Illinois.

There is a special responsibility that trial courts have involving the care, custody and allocation of parental responsibilities of children. According to Rule 900(a), *“When a child is a ward of the court, the physical and emotional well-being of the child is literally the business of the court. The purpose of this article (Rules 900 et seq.) is too expedite cases affecting the custody or allocation of parental responsibilities of a child, to ensure the coordinate of custody or allocation of parental responsibilities matters filed under different statutory Acts, and to focus child custody or allocation of parental responsibilities proceedings on the best interests of the child, while protecting the rights of other parties to the proceedings.”* SCR 900(a).

The scope of the act applies to those custody/allocation proceedings initiated under article II, III, or IV of the Juvenile Court Act of 1987, the Illinois Marriage and Dissolution of Marriage Act, the Uniform Child Custody Jurisdiction and Enforcement Act, the Illinois Parentage Act of 2015, the Illinois Domestic Violence Act of 1986, article 112A of the Code of Criminal Procedure Act of 1963, and guardianship matters under article XI of the Probate Act of 1975. The two parts of the statute that address education in these types of matters are Supreme Court Rule 906 and Supreme Court Rule 908.

Supreme Court Rule 906 addresses the attorney qualifications and education in these types of matters. Pursuant to section (c) of Supreme Court Rule 906, certification requirements may address minimum experience to represent minor children.

Specifically, *“In addition, the qualifications may include one or all of the following which are recommended: (1) Prior to appointment the attorney shall have 10 hours in the two years prior to the date the attorney qualifies for appointment in approved continuing legal education courses in the following areas: child development, roles of guardian ad litem and child representative; ethics in child custody and allocation of parental responsibilities cases; relevant substantive state, federal, and case law in custody, allocation of parental responsibilities, visitation, and parenting time matters, family dynamics, including substance abuse, domestic abuse, **human trafficking** and mental health issues.”* SCR 906(c)(2). I propose that the highlighted language above be added to the statute.

Supreme Court Rule 908 addresses Judicial Training on Child Custody and Allocation of Parental Responsibilities Issues. Specifically, judges need to meet the challenges of these cases and have the experience or training in a broad range of matters which includes but is not limited to: *“(1) child development, child psychology and family dynamics; (2) domestic violence issues; (3) alternative dispute resolution strategies; (4) child sexual abuse issues; (5) financial issues in these matters; (6) addiction and treatment issues; (7) statutory time limitations; ~~and~~(8) cultural and diversity issues and (9) **human trafficking**.”* SCR 908. I propose that the highlighted language above be added to the statute.

Modifying Supreme Court Rule 906(c)(2) and Supreme Court Rule 908 of the statute to incorporate the term “human trafficking” is necessary to be able to provide a knowledge base to meet the responsibilities of the job which child legal advocates are required to do pursuant to Supreme Court Rule 907(d) which requires taking *“whatever steps are necessary to determine what services the family needs to address the dispute, make recommendations to the parties, and seek appropriate relief in court, if required, in order to serve the best interests the child.”* SCR 907(d).

The importance of modifying the statute is necessary and the likelihood of a change is strong. I initially considered drafting proposed legislation which would mandate education in this area but decided against it. I feel that the opposition would be too great because decision makers would have the perception that there is a lack of need, be concerned regarding the cost to implement, and have no means in place to put it into effect. The simplest and most effective way to achieve raising awareness within the entire legal community and educating the most amount of people is to keep the changes to a minimum and have the solution ready for what is being requested. My proposed legislative changes only adds a few words in two sections but modifying the statute sends a strong message and directive from the Court that knowledge relating to human trafficking is important. While the legislative changes are pending, the virtual continuing legal education course can be created.

What is most likely to be the lowest cost to produce and reach the largest target audience is to utilize the resources through the Illinois State Bar Association which has a Child Law Section Council. The child law section utilizes volunteers and has a continuing education subcommittee. This year’s theme is on the area of adoption and it

is a multipart series over the course of the year. In the prior year, ISBA developed a ten hour training for GAL's which was approved by the Supreme Court. It was a multi-day program which was taped so it could be made available for those who could not attend. Next year's theme has not been decided and it is fairly likely that instead of focusing on one topic like adoption, it will need to organize the next 10 hour training which will include a variety of topics. For purposes of upcoming continuing education courses, I can introduce a request to the committee to make human trafficking one of the topics for the next ten hour training for the 2021-2022 year. A continuing education course through the Illinois State Bar Association addresses most of the challenges outlined in this paper by having credibility, mitigating expenses, increasing awareness, and hitting the largest target audience. Ideally, it would be presented by someone who works in this field and can provide a human element to having handled these types of cases as that will have more impact than someone who just researches and presents on it. For purposes of this project, enclosed please see a proposed one hour continuing legal education course.

A one hour CLE as part of the GAL training will raise awareness within that part of the legal community interested child advocacy but the reality is that one hour is not enough to educate on the complexity of the topic. To supplement knowledge beyond the one hour training, a multi-part/multi-day training needs to be coordinated which can include multiple speakers. Organizing these types of CLE's is very time consuming and requires a lot of preparation so I do not foresee local bar associations taking on the responsibility or the cost. One solution to be able to provide a multi-part/multi-day

presentation is to corroborate with other section counsels such as immigration and criminal law.

Finally, another way to increase awareness and education on human trafficking is through a series of written articles to be submitted into law journals/newsletters. These articles can then be linked to social media such as Linked-In or vendors in the legal community who may be willing to include them on their websites as part of a free resource made available to their users.

In conclusion, all of the steps above raise some awareness and provide some education to legal stakeholders but it will never be enough until such time as human trafficking and its effects are eradicated. The hope will be to raise awareness which will engage some discussion, force action and create a system of accountability. To do anything less on behalf of children and allowing human trafficking to continue is an act of violence.