# Rights Without Machinery

The civil rights at stake in Georgia's guardian ad litem cases — and the structures that make those rights real.

Every custody and dependency case in Georgia is decided inside a constitutional frame. The right of parents to the care, custody, and control of their children is among the oldest fundamental rights the United States Supreme Court recognizes, and the process by which the state may act against it is prescribed by due process of law — in the Fourteenth Amendment and, in Georgia's own words, in the Georgia Constitution. Into that process, Georgia courts insert a guardian ad litem (GAL): a private appointee, chosen by the judge, whose investigation and recommendation can effectively decide where a child lives. This paper reads the GAL system against the civil-rights frame that surrounds it. It sets out what the constitutional cases actually hold, what Georgia's own law already builds on the dependency side of the same courthouse, and where the custody side runs on individual practice where the dependency side runs on published structure. Its conclusion is this series' conclusion stated in constitutional terms: a right is only as real as the machinery that carries it — and for custody GALs, Georgia has not built the registry, the training floor, and the oversight home that would let a parent verify that the process the Constitution presupposes is the process that actually happened.

## What this paper is — and is not

This is a systems paper from a grassroots project, written anonymously by design. It names no individual — in criticism any more than in praise — describes no family's case, and uses no county records material. Every authority cited was opened and read by the project and is listed in the Sources; where an authority's limits matter, the paper states them, starting here: this paper does not argue that the GAL role is unconstitutional, and no court, in any authority the project could locate, has held Georgia's custody-GAL rule unconstitutional. It does not claim that any individual GAL has violated anyone's rights. It asks a structural question — how the published structure around a court-appointed decision-shaper compares with the process the constitutional cases presuppose — and it notes that closing the distance is legislative and rule-making work of a kind Georgia has already done for neighboring professions inside the same courthouses.

## 1 · The right: first in the parents, bounded by the child's welfare

The line of cases is a century old, and it is specific. In *Meyer v. Nebraska*, 262 U.S. 390 (1923), the Supreme Court held that the "liberty" the Fourteenth Amendment protects includes the right of parents to "establish a home and bring up children." In *Pierce v. Society of Sisters*, 268 U.S. 510, 535 (1925), striking down a law forcing all children into public schools, the Court wrote the sentence the doctrine still turns on: "The child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations."

The same cases carry the limit, and honest statement of the right requires both halves. In *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944), the Court said in one breath that "the custody, care and nurture of the child reside first in the parents" and that "the family itself is not beyond regulation in the public interest," because the state, as *parens patriae*, "may restrict the parent's control" to guard "the general interest in youth's well being." Parental rights are fundamental; they are not absolute; and the child's welfare is a real counterweight, not a rhetorical one.

The modern cases keep both halves. In *Troxel v. Granville*, 530 U.S. 57, 65 (2000), a plurality of the Court called "the interest of parents in the care, custody, and control of their children" "perhaps the oldest of the fundamental liberty interests recognized by this Court," and held that a fit parent's decisions carry a presumption of correctness a court must respect. (*Troxel* was a plurality decision; this paper describes it as one.) In *Santosky v. Kramer*, 455 U.S. 745 (1982), the Court held that before a state may sever the parent-child bond completely and irrevocably, due process requires the state to support its allegations "by at least clear and convincing evidence" — and that a parent's fundamental liberty interest "does not evaporate simply because they have not been model parents or have lost temporary custody of their child to the State." In *Stanley v. Illinois*, 405 U.S. 645 (1972), the Court held that a father was entitled to a hearing on his fitness before his children were taken from him: fitness must rest on individualized proof, not on a presumption about a class of parents — a holding the Court rested on the Equal Protection Clause as well as on due process.

Georgia's own texts state the same commitments in Georgia's words. The Georgia Constitution provides that "[n]o person shall be deprived of life, liberty, or property except by due process of law" (Art. I, Sec. I, Para. I) and that "[p]rotection to person and property is the paramount duty of government and shall be impartial and complete," with no person "denied the equal protection of the laws" (Art. I, Sec. I, Para. II). Georgia's parental-power statute, O.C.G.A. § 19-7-1(a), provides that until a child reaches 18 or is emancipated, "the child shall remain under the control of his or her parents," and subsection (b) lists the exclusive ways that power is lost. The constitutional and statutory starting point, federal and state, is the same: the family is the default, the state acts by exception, and the exception must be justified through a process worthy of the interest at stake. What the cases regulate most carefully is that process. That is where the GAL enters.

## 2 · The process the Constitution presupposes

When a court asks how much process the Constitution requires, it uses the framework of *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976):

> *"First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail."*

Applied to a Georgia custody case with a GAL in it, the three factors frame three questions.

**The private interest** is at the top of the civil scale. *Santosky* placed parental rights among the interests that are "particularly important" and "more substantial than mere loss of money." A custody case is not a termination: the bond is not severed. But the interest displaced — the daily care, custody, and control of one's child, sometimes for years — is the same interest, burdened in part rather than in whole.

**The risk of erroneous deprivation** is the factor that examines the procedure itself: who gathers the facts, under what standards, subject to what testing. In a Georgia custody case, the central fact-gatherer is often the GAL. Uniform Superior Court Rule 24.9 arms the role — access to each proposed home, to records, to all proceedings — and disciplines it: the report "shall summarize the GAL's investigation, including identifying all sources the GAL contacted or relied upon," with "the reasons supporting those recommendations" (Rule 24.9(6)(a)); the GAL testifies as the court's witness (Rule 24.9(7)); and the rule itself cautions that the recommendations "are not a substitute for the court's independent discretion and judgment" (Rule 24.9(6)). The error-risk question is what

surrounds the appointee: who may be appointed at all (Georgia keeps no public registry of custody GALs — Paper No. 5); what training is verified before appointment (Rule 24.9(2) lists the subjects a GAL's training must cover but sets no statewide minimum hours and no continuing education); and who reviews the work afterward (the appointing judge alone, who may remove a GAL for good cause under Rule 24.9(8)(h), and no one else — Paper No. 4). A procedure's accuracy depends on the quality control applied to its inputs, not only on the fairness of its final hearing.

**The government's interest** is the child's welfare and a workable court — and accountability machinery serves that interest rather than burdening it. A report whose sources are named, whose author was trained to a floor, and whose work a complaint body can review is worth more to the deciding judge than an untested one. The safeguards this series proposes are cheap in the *Mathews* sense precisely because they improve the input the court is already relying on.

Candor requires the closing note on this section: no court has run the *Mathews* analysis against Georgia's custody-GAL rule and found it wanting, and this paper does not claim otherwise. *Mathews* is the framework a challenge would use. It is equally the framework a legislature or a rule-making court can use first — which is the use this paper makes of it.

## 3 · Georgia already builds this machinery — on the dependency side

The strongest evidence that the missing structure is buildable in Georgia is that Georgia has built it, one article of the Juvenile Code away. When the state itself brings a child-welfare case, the Code specifies the safeguards in advance:

- **Counsel as of right, appointed for the indigent.** O.C.G.A. § 15-11-103(a) gives a child and any other party "the right to an attorney at all stages of the proceedings." Subsection (g) requires that a party other than a child be informed of that right before any hearing and be given the opportunity to "obtain a court appointed attorney if the court determines that such party is an indigent person."
- **A GAL inside a written structure.** O.C.G.A. § 15-11-104 requires appointment of a GAL for every alleged dependent child (subsection (a)); permits the same person to serve as the child's attorney and GAL only "unless or until there is conflict of interest" between the two duties (subsection (b)); bars any person with a conflict of interest from appointment at all (subsection (c)); requires, "[b]efore the appointment," training "appropriate to the role" administered or approved by the Office of the Child Advocate (subsection (f)); defines removal (subsection (h)); and writes the parties' testing right into the appointment statute itself: "The court shall ensure that parties have the ability to challenge recommendations made by the guardian ad litem or the factual basis for the recommendations" (subsection (k)). A GAL who is not also the child's attorney "may be called as a witness for the purpose of cross-examination regarding the guardian ad litem's report" (subsection (m)).
- **Termination cases likewise.** O.C.G.A. § 15-11-262(b) and (d) require an appointed attorney and an appointed GAL for the child in a termination proceeding, with the same conflict limit on combined roles.
- **Appellate practice inside the structure.** In *In the Interest of A.A.*, A26A0324 (Ga. Ct. App. Apr. 24, 2026), a GAL's recommendation diverged from a child's stated desire in the middle of the case; the juvenile court separated the roles — the GAL continuing as the child's stated-interest attorney, separate GALs appointed — and continued the hearing, and the Court of Appeals affirmed. Role separation on conflict is not theory in Georgia. It is published, current Georgia practice.

And the Code draws one line that this paper asks the reader to sit with. Under O.C.G.A. § 15-11-15(b), when a superior court transfers a custody question in a divorce or other custody case to the juvenile court "for investigation and determination," the juvenile court handles the matter as though it had originated there — "except that the parties shall not be entitled to obtain an appointed attorney through the juvenile court." Read together, Georgia's statutes guarantee an appointed attorney to an indigent parent when the state brings the case, and withhold it when the case is one parent's custody dispute against another. The forum changes. The parent's fundamental interest, on the cases in Section 1, does not.

On the custody side, the equivalent functions rest in a court rule, Rule 24.9, which contains genuine safeguards — source-naming reports, limits on ex parte communication, fee hearings, removal for good cause — but publishes no registry of who serves, states training subjects without a floor in hours or continuing education, and routes every complaint back to the judge who made the appointment. The dependency side is not perfect. It is *specified*. Specification is what makes a right administrable: a parent can point to § 15-11-104(k) and say what the court "shall ensure." There is no custody-side sentence to point to.

## 4 · Access is part of the right: money, counsel, language, disability

**Money.** The Supreme Court has treated the price of the process as a constitutional question in family cases for half a century. In *Boddie v. Connecticut*, 401 U.S. 371 (1971), the Court held that because the state monopolizes the lawful means of dissolving a marriage, due process prohibits denying indigent people access to its courts "solely because of inability to pay court fees and costs." In *M.L.B. v. S.L.J.*, 519 U.S. 102 (1996), the Court held that a state may not condition appellate review of a decree terminating parental rights on prepayment of record-preparation fees: Mississippi could not "deny M. L. B., because of her poverty, appellate review of the sufficiency of the evidence" on which her parental status was ended. Georgia's law agrees in advance. O.C.G.A. § 9-15-2(a)(1) relieves a party who files an affidavit of indigence of the court's costs, with "his rights… the same as if he had paid the costs"; and the Supreme Court of Georgia has said of that section that it "insures that no one will be denied access to the courts because of poverty" (*Newsome v. Graham*, 254 Ga. 711 (1985)).

Set against that line the way GAL cases are financed. Under Rule 24.9(8)(g), a GAL's fees are fixed in amount and apportioned between the parties by the court, on application properly served and "after an opportunity to be heard"; under O.C.G.A. § 19-9-3(a)(7), the court may also order psychological custody evaluations, whose cost likewise falls where the order places it. The rule provides the hearing. What it does not publish is any standard tying apportionment to a party's ability to pay, and no indigency screen for the costs of the process itself, of the kind § 9-15-2 supplies for the court's own filing costs. This paper makes no claim about any order in any case. The structural point is enough: a right of access that is carefully protected at the courthouse door, while the decisive inputs inside are priced by the hour without a published ability-to-pay standard, is a partially kept promise.

**Counsel.** *Lassiter v. Department of Social Services*, 452 U.S. 18 (1981), must be stated with its limits, because they are the holding. The Court declined to require appointed counsel categorically for indigent parents even in termination cases: applying *Mathews*, it kept a presumption that appointed counsel is constitutionally owed only where the litigant may lose physical liberty, and left entitlement to case-by-case determination. But the same opinion observed that most states had already gone further by statute, and that "wise public policy… may require that higher standards be adopted than those minimally tolerable under the Constitution." Georgia accepted that invitation on the dependency side — § 15-11-103(g)(2), above — and has not on the custody side. In a custody case, the characteristic configuration is asymmetric: the GAL is a trained, repeat professional participant; a

parent who cannot hire counsel, or an expert to answer the GAL's report, participates alone. *Lassiter* sets a federal floor. It does not describe a ceiling, and one article of Georgia's own Code sits above it.

**Language.** A hearing a parent cannot understand is not a hearing in any sense due process recognizes, and Georgia law says so in published form. Federal law (Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d) and Georgia's own framework require qualified interpreters in Georgia court proceedings: the Supreme Court of Georgia's Rules of Legal Interpreting, effective January 1, 2024, license interpreters through the Judicial Council's Standing Committee on Interpreters, and the Committee's bench card for judges states that a limited-English-proficient participant must be provided an interpreter for any criminal or civil proceeding and cannot "be required to arrange or pay for their own interpreters." In *Ramos v. Terry*, 279 Ga. 889 (2005), the Supreme Court of Georgia held it an abuse of discretion to appoint an interpreter who is neither certified nor registered without ensuring the appointee is qualified, apprised of the role, and bound in writing to the interpreters' code of professional responsibility. Pause on what Georgia built for interpreters: a licensing floor, a public roster of who is licensed, published standards of conduct, and appellate enforcement. That is this project's three asks — registry, training floor, oversight — already operating for a neighboring courtroom profession, which is the practical answer to any claim that such machinery is novel or unworkable in Georgia courts. One question the published record does not answer, and which this paper flags as a question rather than a finding: the interpreter framework runs to court proceedings, while a GAL's interviews and home visits happen outside the courtroom. Whether language access follows the parent into the investigation itself is, on published sources, unaddressed.

**Disability.** Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act bind state courts as public entities, and the federal government has told courts exactly what that means for parents. The joint technical assistance issued by the U.S. Departments of Justice and Health and Human Services, *Protecting the Rights of Parents and Prospective Parents with Disabilities* (Aug. 10, 2015), instructs child welfare agencies and courts that parents with disabilities must be treated "on a case-by-case basis consistent with facts and objective evidence," not on the basis of generalizations or stereotypes, and that reasonable modifications to policies and practices are required. The published findings behind the guidance are documented and stark. The National Council on Disability's *Rocking the Cradle* (Sept. 27, 2012) reported that "[r]emoval rates where parents have a psychiatric disability have been found to be as high as 70 percent to 80 percent; where the parent has an intellectual disability, 40 percent to 80 percent," and that parents with disabilities "are more likely to lose custody of their children after divorce." Georgia is inside that published federal record: in December 2015, HHS's Office for Civil Rights entered into a settlement agreement with the Georgia Department of Human Services' Division of Family and Children Services resolving a disability-discrimination matter (OCR Transaction No. 09-102792, as catalogued in the American Bar Association's House of Delegates report on the rights of parents with disabilities). For GAL practice the transfer is direct: an evaluation or recommendation is only as sound as the evidence it rests on, and assessments built on assumption rather than individualized evidence are the precise failure the federal guidance names. A registry and an oversight home are how a court system could know whether disability — or anything else — is operating as a proxy in its appointees' recommendations. At present, Georgia publishes no data by which that could be checked.

## 5 · Equal protection: the promise that the process is the same process

Georgia's equal protection clause is written as a duty: protection "shall be impartial and complete" (Art. I, Sec. I, Para. II). *Stanley* shows the clause at work in a custody-adjacent case: Illinois gave every other class of parent a fitness hearing and denied it to unwed fathers as a class, and the Court

held the denial unconstitutional. The documented disability findings in Section 4 are, in form, the same complaint — a class of parents meeting a materially different process — supported there by published federal findings.

Beyond disability, this paper makes no disparity claim, in either direction, because the published record supports none. Georgia publishes no statistics on GAL appointments, fees, complaints, or outcomes in the aggregate, let alone broken down by race, sex, disability, language, or income; Paper No. 1 documents the absence. What cannot be counted cannot be shown to be equal, or unequal. That is itself the equal-protection point this record supports: the first instrument of equal treatment is measurement. A public registry of who is appointed, and an oversight home that counts complaints and outcomes, are measuring instruments before they are anything else — and until they exist, the constitutional promise of an impartial and complete process in GAL cases is one the state has no way of verifying about its own system.

## 6 · Conclusion: rights are carried by machinery, or they are carried by luck

The constitutional frame is not in doubt. The interest is fundamental; the process must be fair; the state's countervailing interest in children is real; and Georgia's own dependency code demonstrates that this state can specify counsel, training, conflict rules, challenge rights, and removal standards in advance when it chooses to. The custody GAL system asks parents to rely instead on the unrecorded quality of an individual appointee: unnamed on any public list, trained to no published floor, answerable only to the judge who appointed them. Between the right as the cases state it and the right as a parent experiences it stands exactly the machinery this series has proposed, which can now be named in rights language:

- **A public registry** is how a parent knows who holds delegated power in their child's case — and how the system itself knows whom it has appointed, how often, and where.
- **A training floor** is a procedural safeguard in *Mathews*' second factor: it lowers the risk that the decisive input in a case is an untrained one, and it makes the training that Rule 24.9 already lists verifiable rather than assumed.
- **An oversight home that is not the appointing judge** is the elementary structure of a fair complaint process: no litigant should have to ask the decision-maker to sit as the reviewer of their own appointment, and no appointee's work should be beyond counting.

None of the three requires any court to declare anything unconstitutional. Each lies within the ordinary authority of the General Assembly and the Supreme Court of Georgia — the same authorities that built the interpreter licensing system and the dependency code's safeguards. The facts give this argument its strength, and they are sufficient: Georgia has written the machinery before, for the professions around the GAL. This paper asks that it be written for the GAL as well.

## Help build the record

The Georgia GAL Accountability Project is a grassroots effort to document how guardians ad litem work across Georgia and to press for a system that is accountable and fair.

Two kinds of help matter most right now:

- **Answer a survey.** The project runs separate anonymous surveys for parents who have had a GAL in a Georgia case and for professionals who work alongside GALs. Surveys carry no phone number and ask for no child's name or case details. The surveys ask for good experiences as well as bad.

- **Share an experience — through the anonymous surveys.** Experiences reach this project only through its anonymous surveys, which ask for no name, no email address, and nothing that identifies a child. The project does not accept accounts by email. Patterns are the point; no single story is published as fact on its own.

Contact: georgiagalreform@gmail.com

Project email only. This paper was published anonymously by the project; no individual is named as its author, and no family's case is described in it.

## A note on method — and on limits

The United States Supreme Court cases were read in the text of the opinions (U.S. Reports text as published by govinfo, Justia, and OpenJurist). *Troxel* is a plurality opinion and is described as such; *Lassiter* is stated with its limits, not softened. The Georgia constitutional provisions were read in the Constitution as published by the Georgia Secretary of State and Justia. The Georgia statutes were read in the Official Code text as published by Justia (§§ 19-7-1, 19-9-3(a)(7), 9-15-2, 15-11-15, 15-11-103, 15-11-262) and, for §§ 15-11-104 and 15-11-105, in the Code text compiled by Georgia CASA, cross-checked against the sections' published summaries. Rule 24.9 is cited as read in full in the Supreme Court of Georgia's April 11, 2005 adopting order, as for Paper No. 7. *In the Interest of A.A.* was read in the opinion as published by the Court of Appeals (Justia). The interpreter material is the Judicial Council of Georgia Standing Committee on Interpreters' bench card (updated Jan. 1, 2025) and the Committee's model-form instructions quoting *Ramos v. Terry*; the current Rules of Legal Interpreting took effect January 1, 2024. The DOJ/HHS technical assistance (Aug. 10, 2015) was read at the U.S. Department of Health and Human Services; the National Council on Disability report (Sept. 27, 2012) was read in the report text, including its letter of transmittal. The December 2015 HHS–Georgia DFCS settlement is cited as catalogued in the American Bar Association's House of Delegates report; the settlement document's original HHS web address no longer resolves, and the project flags that rather than papering over it. What this paper does not claim: that any court has applied *Mathews* to GAL appointment structure or held any Georgia GAL practice unconstitutional; that disparities in Georgia GAL practice exist beyond the published national findings described in Section 4; or that the interpreter framework's reach into out-of-court GAL investigation has been decided anywhere. It claims the constitutional frame, the Georgia statutory contrasts, and the published federal findings — nothing more.

## Sources

- *Meyer v. Nebraska*, 262 U.S. 390 (1923); *Pierce v. Society of Sisters*, 268 U.S. 510 (1925); *Prince v. Massachusetts*, 321 U.S. 158 (1944); *Stanley v. Illinois*, 405 U.S. 645 (1972) (syllabus and opinion, govinfo U.S. Reports); *Boddie v. Connecticut*, 401 U.S. 371 (1971); *Mathews v. Eldridge*, 424 U.S. 319 (1976); *Lassiter v. Department of Social Services*, 452 U.S. 18 (1981); *Santosky v. Kramer*, 455 U.S. 745 (1982); *M.L.B. v. S.L.J.*, 519 U.S. 102 (1996); *Troxel v. Granville*, 530 U.S. 57 (2000) (plurality opinion).
- Constitution of the State of Georgia, Art. I, Sec. I, Paras. I–II — Secretary of State publication (revised July 2025): sos.ga.gov; Justia, Georgia Constitution, Art. I.
- O.C.G.A. § 19-7-1 (parental power); § 19-9-3(a)(3)(O), (a)(7) (GAL recommendation as a best-interest factor; evaluation authority; bad-faith liability limit); § 9-15-2 (affidavit of indigence); § 15-11-15 (transfers from superior court); § 15-11-103 (right to attorney); § 15-11-104 (GAL appointment in dependency); § 15-11-262 (attorney and GAL in termination proceedings) — Official Code of Georgia Annotated as published by Justia; §§ 15-11-104, 15-11-105 also as

compiled in Georgia CASA, "Code Sections Relating to the Appointment of an Attorney and GAL (CASA)": gacasa.org.

• *Newsome v. Graham*, 254 Ga. 711 (1985); *Ramos v. Terry*, 279 Ga. 889 (2005) (as quoted in the Judicial Council of Georgia Standing Committee on Interpreters' model-form instructions); *In the Interest of A.A.*, A26A0324 (Ga. Ct. App. Apr. 24, 2026).

• Georgia Uniform Superior Court Rule 24.9 — Supreme Court of Georgia adopting order, April 11, 2005 (full text read for Paper No. 7).

• Judicial Council of Georgia, Standing Committee on Interpreters, "Working with Limited English Proficient Persons and Spoken-Language Interpreters in the Courtroom — A Bench Card for Judges" (updated Jan. 1, 2025); Rules of Legal Interpreting in the State of Georgia (Supreme Court of Georgia order, effective Jan. 1, 2024) — georgiacourts.gov.

• Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d; Title II of the Americans with Disabilities Act, 42 U.S.C. § 12132; Section 504 of the Rehabilitation Act, 29 U.S.C. § 794.

• U.S. Departments of Justice and Health and Human Services, *Protecting the Rights of Parents and Prospective Parents with Disabilities: Technical Assistance for State and Local Child Welfare Agencies and Courts under Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act* (Aug. 10, 2015) — hhs.gov.

• National Council on Disability, *Rocking the Cradle: Ensuring the Rights of Parents with Disabilities and Their Children* (Sept. 27, 2012) — ncd.gov.

• HHS Office for Civil Rights / Georgia Department of Human Services, Division of Family and Children Services, Settlement Agreement, OCR Transaction No. 09-102792 (Dec. 2015) — as catalogued in the American Bar Association House of Delegates report on the rights of parents with disabilities.

• Project papers: Paper No. 1, *The Missing Ledger*; Paper No. 4, *The Shield*; Paper No. 5, *The Public's Professionals*; Paper No. 7, *What Good Looks Like* — Georgia GAL Accountability Project files, November 2026.

© November 2026 Georgia GAL Accountability Project. Share freely with attribution to the project. This paper is general information about a court system, not legal advice about any case.

Georgia GAL Accountability Project — georgiagalreform@gmail.com