



# THE CATALYST

The newsletter of the Illinois State Bar Association's Standing Committee on Women and the Law

## A view from the Chair

By Mary F. Petruchius

**M**y husband and son gave me a Kindle Fire last Christmas. That was either one of the best or one of the worst gifts I have ever received! Although I miss the feel and smell of "real" books, I must say that my extracurricular reading has tremendously increased in the last year, and I don't regret one little bit the time I take for that indulgence.

I recently became a member of the National Association of Women Lawyers (NAWL) and, as I was browsing its Web site, I came upon the *Ms. JD Book Reviews* column. After reading each book review, I decided to list the books that interested me to share with you. For the full review of each book, go to the NAWL website and click

on *Ms. JD Summer Book Series* in the right hand column. The books listed below are in no special order. Please check out these books.....you owe yourself that luxury now and again. Happy Holidays and Happy Reading!

- **Women Who Don't Wait In Line: Break the Mold, Lead the Way**, by Reshma Saujani---(we're encouraged to take risks in our lives)
- **Rebels at the Bar**, by Jill Norgren---(examines in depth the careers of the first 8 women attorneys in the US.)
- **Women in Law**, by Dr. Cynthia Fuchs Epstein---(this is the 30th anniversary edition of a book

*Continued on page 2*

## Spotlight on Women in ISBA Leadership: A visit with ISBA Catalyst Co-Editor, Cindy Galway Buys

By Veronica Armouti

**A**lthough Cindy Galway Buys has more than enough to keep busy as a Professor of Law and Director of International Law Programs at Southern Illinois University's School of Law, she makes time for her duties as Co-Editor of *The Catalyst*, the newsletter of the Illinois State Bar Association's Standing Committee on Women and the Law. A visit with Professor Buys netted a wealth of information regarding the many hats worn by this amazing woman. Some things became clear—her understanding of issues that touch women, her desire to support and advance causes that support women; and her impressive legal intellect.

Professor Buys, like many of us, is married with two children. She received her undergraduate degree in Political Science from the State Univer-

sity of New York at Albany; her law degree and a Master of Arts Degree in International Relations, simultaneously, at Syracuse University; and her LL.M. in International and Comparative Law from the Georgetown University Law Center.

Professor Buys is an authority on public and private international law. In addition to being a law professor, she currently serves as a NAFTA panelist for any anti-dumping disputes between the United States and Mexico.

Professor Buys studied abroad when an undergraduate student and during law school. Currently, she is Co-Director of the University of Missouri-Kansas City and Southern Illinois University School of Law Summer Study Abroad Program in Ireland and Wales. She was also a Fulbright Se-

*Continued on page 2*

## INSIDE

**A view from the Chair . . . . . 1**

**Spotlight on Women in ISBA Leadership: A visit with ISBA Catalyst Co-Editor, Cindy Galway Buys . . . . . 1**

**Save the Date!!! From Myra Bradwell to Us: Rise Up and Reach Back . . . 5**

**Rapists' rights in Illinois: The new law and what other states can learn from it . . . . . 6**

**Upcoming CLE programs . . . . . 10**

### It's Campaign Season for the 2014 Election

#### Run for ISBA Office—

##### Positions Available:

- 3rd VP
- BOG:
  - Cook (3)
  - Under 37 Cook (1)
  - Under 37 Downstate (1)
- Assembly:
  - Cook (22)

See the Notice of ISBA Election and get your Candidate Packet on the Web at [www.isba.org/leadership](http://www.isba.org/leadership).

Filing of Petitions begins on January 2, 2014 and ends on January 31, 2014

## A view from the Chair

Continued from page 1

- we all read or should have read, with a forward by Prof. Deborah Rhode, Stanford U.)
- **Rebuilding Justice: Civil Courts In Jeopardy and Why You Should Care**, by Dirk Olin and former Colorado Supreme Court Justice, Hon. Rebecca Love Kourlis---(Justice Kourlis is also founder and executive director of the Institute for the Advancement of the Legal System.)
  - **The Road to Independence: 101 Women's Journeys to Starting Their Own Firms**---(may be purchased through ABA website)
  - **In Defense of Women: Memoirs of an Unrepentant Advocate**, by Nancy Gertner
  - **Women Lawyers: The Trials of Clara Foltz**, by Barbara Babcock---(first female attorney in California)
  - **Success Strategies for Women Lawyers**, by Laura Stiller Rikleen
  - **Law and Reorder: Legal Industry Solutions for Restructure, Retention, Promotion, and Work/Life Balance**, by Debbie Epstein Henry
  - **No Excuses: 9 Ways Women Can Change the Way We Think About Power and**

- Leadership**, by Gloria Feldt
- **Necessary Dreams: Ambition in Women's Changing Lives**, by Anna Fels
- **More Than 85 Broads: Women Making Career Choices, Taking Risks, and Defining Success on Their Own Terms**, by Janet Hanson
- **Half the Sky: Turning Oppression into Opportunity for Women**, by Nicholas Kristof & Sheryl WuDunn---(this has been on many book club lists in the past couple of years)
- **Pinstripes & Pearls**, by Judith Richards Hope
- **Presumed Equal: What America's Top Women Lawyers Really Think About Their Firms**, by Lindsay Blohm and Ashley Riveira
- **Women Lawyers: Rewriting the Rules** by Mona Harrington
- **Flux: Women on Sex, Work, Love, Kids, & Life in a Half-Changed World**, by Peggy Orenstein---(what else is there?)
- **The Young Lawyer's Jungle Book: A Survival Guide, 2nd Edition**, by Thane Josef Messinger

- **Sandra Day O'Connor: How the First Woman on the Supreme Court Became Its Most Influential Justice**, by Joan Biskupic
- **The Lion, the Fox & the Eagle**, by Carol Off---(fascinating account of Canadian judge, Hon. Louise Arbour, who was appointed Chief Prosecutor for War Crimes for international criminals in the United Nations Tribunals for Rwanda and the former Yugoslavia.)

I challenge each member of this Committee to pick one of the books listed above or one of your own choosing, e-mail the members with the book you're reading so we don't have duplicates, and write a book review for an upcoming issue of the Catalyst! ■

Mary F. Petrucci is a solo general practitioner in Sycamore, IL. She is the 2013-2014 Chair of the Standing Committee on Women & the Law. Mary is also a member of the Diversity Leadership Council and the Child Law Section Council for 2013-2014. She is a proud Gold Fellow of the Illinois Bar Foundation. She can be reached at mary.pet@petrucciulaw.com and her Web site is www.petrucciulaw.com.

## Spotlight on Women in ISBA Leadership: A visit with ISBA Catalyst Co-Editor, Cindy Galway Buys

Continued from page 1

nior Specialist for the International Human Rights Summer Studies Program in Lithuania. Yet, she finds time to be Co-Editor of the American Bar Association's INTERNATIONAL LAW YEAR IN REVIEW, has written chapters for three legal text books, written numerous articles, and served as speaker or panelists at numerous events.

Professor Buys was kind enough to answer a few questions so we can get to know her a little better.

**Veronica:** Why choose to be active with the ISBA when there are so many other bar associations?

**Professor Buys:** I practiced law in Washington, DC for 10 years after law school before coming to Southern Illinois to teach. I wanted to get to know members of the bar in Illinois and to learn what the

legal issues are here, so joining the ISBA seemed like a natural choice. I have also been fortunate enough to serve on the International and Immigration Law Section Council and the Diversity Leadership Council in addition to the Women and the Law Committee.

**Veronica:** Why did you decide to teach law school?

**Professor Buys:** I was both a teaching assistant and a research assistant in law school and really enjoyed those experiences. However, I wanted to gain practical experience before entering academia. So I had teaching in the back of my mind from the time I entered the profession. Being a professor allows me to share my knowledge and experience, explore my intellectual curiosity, and have a good deal of

control over how I spend my day.

**Veronica:** Why teach at SIUC?

**Professor Buys:** SIUC is a great fit for me. The law school needed someone to teach international law-related courses and that is my area of expertise. I liked the faculty and the smaller size of the school, which meant that I could really get to know the students. I also had two small children when we moved to Carbondale and it's a great place to raise a family.

**Veronica:** What is most rewarding about your work as a professor?

**Professor Buys:** The most rewarding part of being a professor is watching my students grow in knowledge, confidence, and skills.

**Veronica:** What changes, if any, do you see law schools making in response to the enrollment crisis which resulted from the shortage of jobs in the profession? Will any changes be temporary or permanent?

**Professor Buys:** We have already seen some law schools close their doors as a result of the recession. Others have reduced class sizes. These changes may be permanent. Law schools also are increasing their efforts to assist graduates in finding jobs and preparing students better during school with necessary skills as well as knowledge.

**Veronica:** Do you believe you raise or parent girls any differently than boys? Did your parents raise you differently from your brothers? If so, how did it affect you?

**Professor Buys:** I have one girl and one boy. Although I tried to parent my children the same, starting with giving them both balls, cars and dolls, I don't know if I was always successful.

Yes, my parents did raise me differently from my two brothers. They were more permissive with my brothers than with me. For example, I always had a curfew in high school when my brothers did not at the same age. I felt they were being unfair and, like most kids, told myself I would not do that to my own children.

**Veronica:** What do you think has been the greatest accomplishment made by women in the last 20 years?

**Professor Buys:** That's a tough question. Probably just the fact that women are in every field and professional imaginable.

**Veronica:** What do you see as your greatest challenge as a women in today's society in general? In the legal profession? Why? Any thoughts on how to overcome these challenges?

**Professor Buys:** I believe one of the greatest challenges for women is that we are often socialized to behave in ways that are not always valued by professions like the legal profession. For example, research shows that women face the double-bind of being nice or being competent. In other words, we are socialized to be nice, but the nicer we are, the less competent we are perceived to be. Conversely, if we are smart and talented, but do not smile

enough, we will not be liked. Similarly, research tends to show that women don't ask for what they deserve in terms of work assignments, raises and other benefits in life, partly because we fear that we will be perceived as too aggressive. Much of this research can be found in the excellent book, *Women Don't Ask*, by Linda Babcock. That book has some good suggestions regarding how to overcome these issues. For a woman who is hesitant to ask for herself, one suggestion is to think about how the desired benefits will also accrue to others, such as family and co-workers.

Another huge issue for women is that we are the half of the human race who bear children and we have a limited time period during which we can bear children. Many women reduce their participation in the profession or leave the profession all together, especially during their child-bearing years, and it is very hard to come back. We need better programs to help parents re-enter the profession, including affordable, good quality child care.

**Veronica:** What trends do you anticipate on women in the legal profession in the next 10 years?

**Professor Buys:** Women are already affecting the profession in profound ways. I think the growth in the number of women in the profession has contributed to the growth of alternative forms of dispute resolution. I expect that trend to continue. There is more of an emphasis on finding a balance between work and home for both men and women partly as a result of having more women in the profession. Having more women in the profession also brings more attention to women's issues such as domestic violence.

**Veronica:** The proverbial work/family balance-have you found a way to have it all? Or found a way to have your all?

**Professor Buys:** Actually, I think I am one of the lucky few who has found a reasonably good balance in my life. I have a job that is intellectually challenging and rewarding, but over which I have enough autonomy to do other things I enjoy. I have flexibility in my schedule to attend my kids' events, to travel, to play tennis and to watch college sports with my husband.

## THE CATALYST

*Published at least four times per year.*

*To subscribe, visit [www.isba.org](http://www.isba.org) or call 217-525-1760*

### OFFICE

Illinois Bar Center  
424 S. Second Street  
Springfield, IL 62701  
Phones: 217-525-1760 OR 800-252-8908  
[www.isba.org](http://www.isba.org)

### CO-EDITORS

Cindy G. Buys SIU School of Law Mailcode 6804 Carbondale, IL 62901	Sherry A. Mundorff 1504 N. Waukegan Rd. Lake Forest, IL 60045
---	---

### MANAGING EDITOR/ PRODUCTION

Katie Underwood  
[kunderwood@isba.org](mailto:kunderwood@isba.org)

### STANDING COMMITTEE ON WOMEN AND THE LAW

Mary F. Petruchius, Chair  
Letitia Spunar-Sheats, Vice Chair  
Emily N. Masalski, Secretary  
Sandra M. Blake, Ex-Officio

Hon. Patrice Ball-Reed Shannon R. Burke Cindy G. Buys Tracy D. Douglas Angela Baker Evans Tarek A. Fadel Veronica L. Felton Armouti Anna Fridman Alice S. Henrikson Amanda G. Highlander	John G. Locallo Sherry A. Mundorff Julie A. Neubauer Melissa M. Olivero Tara H. Ori Dixie L. Peterson Kristen E. Prinz Amy A. Schellenkens Shira D. Truitt Erin M. Wilson
--	--

Rachel McDermott, Staff Liaison  
Hon. Celia G. Gamrath, Board Liaison  
Angela Baker Evans, CLE Coordinator  
Lori G. Levin, CLE Committee Liaison

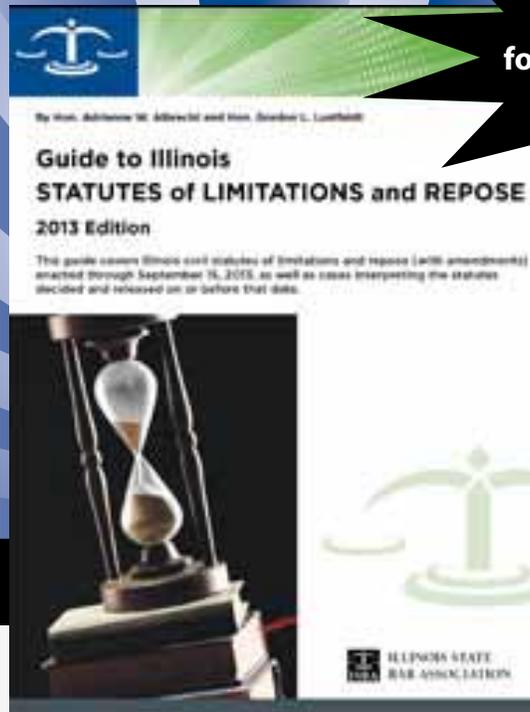
Disclaimer: This newsletter is for subscribers' personal use only; redistribution is prohibited. Copyright Illinois State Bar Association. Statements or expressions of opinion appearing herein are those of the authors and not necessarily those of the Association or Editors, and likewise the publication of any advertisement is not to be construed as an endorsement of the product or service offered unless it is specifically stated in the ad that there is such approval or endorsement.

Articles are prepared as an educational service to members of ISBA. They should not be relied upon as a substitute for individual legal research.

The articles in this newsletter are not intended to be used and may not be relied on for penalty avoidance.

Postmaster: Please send address changes to the Illinois State Bar Association, 424 S. 2nd St., Springfield, IL 62701-1779.

**Don't Miss This Quick Reference Guide of Deadlines and Court Interpretations of Illinois Statutes!**



**A "MUST HAVE"  
for civil practitioners**

## **Guide to Illinois STATUTES of LIMITATIONS and REPOSE 2013 Edition**

The new Guide to Illinois Statutes of Limitations and Repose is here! It contains Illinois civil statutes of limitations and repose (with amendments) enacted through September 15, 2013. The Guide concisely brings together provisions otherwise scattered throughout the Code of Civil Procedure and other chapters of the Illinois Compiled Statutes. It also includes summaries of cases interpreting the statutes that were decided and released on or before September 15, 2013. Designed as a quick reference guide for practicing attorneys, it provides comprehensive coverage of the deadlines you can't afford to miss. The Guide includes a handy index organized by act, code, and subject, and also includes a complete table of cases. Written by Hon. Adrienne W. Albrecht and Hon. Gordon L. Lustfeldt.

### **Need it NOW?**

Also available as one of ISBA's *FastBooks*. View or download a pdf immediately using a major credit card at the URL below.

### **FastBook price:**

**Guide to Illinois  
STATUTES of LIMITATIONS and REPOSE -  
2013 Edition**  
\$32.50 Member/\$47.50 Non-Member

Order the new guide at  
[www.isba.org/store/books/guidetoillinoisstatutesoflimitation](http://www.isba.org/store/books/guidetoillinoisstatutesoflimitation)  
or by calling Janice at 800-252-8908  
or by emailing Janice at [jishmael@isba.org](mailto:jishmael@isba.org)

**GUIDE TO ILLINOIS STATUTES OF LIMITATIONS AND REPOSE 2013  
EDITION**

\$35 Member/\$50 Non-Member *(includes tax and shipping)*



Illinois has a history of  
some pretty good lawyers.  
We're out to keep it that way.

**Veronica:** Where do you see yourself five years from now?

**Professor Buys:** Five years from now, my husband and I will be “empty nesters.” While I am sure we will miss our having our children at home, it also opens new possibilities for us. However, I love teaching and can’t really see myself going into practice full time again. I would like to continue to find ways to learn and grow and lead and help newer attorneys who come along behind me.

**Veronica:** What are your favorite food, hobby, vacation spot, TV show, Sport’s team, and musician?

**Professor Buys:** Do wine and chocolate count as food? Playing tennis and reading fiction. I love to travel to different places, so I could never pick one vacation spot. John Stewart Daily Show. Syracuse men’s basketball (though I am a big Saluki fan now too). Too tough to choose a favorite musician.

**Veronica:** Name one or two things people would likely not know or find difficult to believe about you.

**Professor Buys:** I was afraid of public speaking before entering law school. I took a public speaking course at a local community college between undergrad and law school to increase my confidence. Now I talk in front of groups every day!

**Veronica:** Thank you, Professor Buys. It has been a pleasure. ■

## Save the Date!!! From Myra Bradwell to Us: Rise Up and Reach Back

**W**hat is Myra Bradwell’s legacy to us as attorneys and future attorneys and what is our commitment to carrying forward that legacy?

**Friday, March 21, 2013**

**Program: 3:00 p.m. – 5:00 p.m.**

**Reception: 5:00 p.m. – 7:00 p.m.**

**Northern Illinois University  
College of Law**

*Presented by the Illinois State Bar Association’s Standing Committees on Women and the Law and Racial and Ethnic Minorities and the Law*

In order to fund this epic event, the ISBA is relying on public contributions & sponsorships. All contributors/sponsors will be listed in a program and on a board at the reception. Please contact Rachel McDermott at [rmcdermott@isba.org](mailto:rmcdermott@isba.org) to participate.

### **Sponsorship opportunities**

- Platinum - \$5,000.00
- Gold - \$1,000.00
- Silver - \$500.00
- Bronze - \$250.00
- Individual - \$50.00

Please join us for Rachel Morse’s dramatic rendition of Myra Bradwell’s struggle to be admitted to the Illinois bar. Using excerpts of actual court records and other historical documents, Rachel brings Bradwell’s trailblazing story to life. Following Rachel’s presentation, we are honored to have a distinguished panel of speakers who will discuss the historical obstacles women met in pursuing careers in

the law, how those obstacles were overcome, and what the future holds for diversity in the law. After the panel discussion, please join us for a reception celebrating ourselves and honoring those who went before us!

### **Program Moderator:**

Paula Hudson Holderman, ISBA President

### **Program Panelists:**

Chief Justice Rita Garman, Illinois Supreme Court

Chief Judge Diane Wood, U.S. Court of Appeals, Seventh Circuit

Dean Jennifer Rosato, NIU College of Law  
5 additional panelists, TBA ■

**YOU’VE GOT ONE SHOT.**

**Make it count.**

**Call Nancy to find out how an ad in an ISBA newsletter can make the difference in your business.**

**800-252-8908  
217-747-1437**

  
ILLINOIS STATE  
BAR ASSOCIATION

# Rapists' rights in Illinois: The new law and what other states can learn from it

Randi Burggraff and Kerriane Waters

## Ariel Castro and the rights of rapists

The case against Ariel Castro was one of the biggest headlines of the year. He kidnapped and held three women captive in his house for more than a decade. With more than a 975-count indictment that included multiple kidnapping and rape charges, Castro was held on an \$8 million bond. One of the three women whom Castro held captive is Amanda Berry. As a result of Castro raping Berry she became pregnant. By the time Castro was in custody, the child conceived by rape was six-years-old.<sup>1</sup>

During his proceedings Castro sat quietly in the Cuyahoga County Court, until he spoke to ask the judge to allow him to see his six-year-old daughter. Castro asked multiple times about visitation rights, to which the prosecution objected as the request went against an order of no contact. The judge ruled that Castro's request was inappropriate and refused the visitation as it would have violated the order of protection. The law in Ohio at the time regarding the parental rights of rapists was meager. The current law states that consent is not needed for adoption if the rapist-father is convicted of rape.<sup>2</sup> No other protections were afforded to the victims and children of rape.<sup>3</sup> With a case that caught the attention of the entire nation, a major issue was raised, what parental rights do rapists maintain? At the time of Castro's request to see his daughter, a total of 31 states had enacted some legislation addressing the parental rights of rapists.<sup>4</sup>

What are parental rights and why is it so alarming that in a majority of states rapists retain these rights? Parental rights can be categorized into two rights, visitation rights and custody rights. Visitation rights, in reference to family law, are rights of a non-custodial parent to the court-ordered privilege of spending time with a child who does not live with that parent. These rights include rights of a parent whose child has been removed as a result of abuse or neglect.<sup>5</sup> Custody, in reference to family law, is the "care, control and maintenance of a child awarded by a court to a responsible adult" and can involve physical custody and legal custody. Physical custody exists where a person has a right and obliga-

tion to provide a physical home for the child and assist in making day-to-day decisions concerning the child. Legal custody exists when a parent has a right to make decisions concerning the child's welfare, including but not limited to medical choices and school choices.<sup>6</sup>

In many states, rapists can maintain a great amount of power in governing family relationships. Not only can rapists request rights regarding visitation and custody of their rape-conceived child, but also in some states rapist fathers can actually prevent their victim from placing the rape-conceived child up for adoption. By refusing to terminate his own parental rights, a rapist may prevent a child from being adopted by a new family or even by a spouse of the victim.<sup>7</sup>

At the time of Ariel Castro's request to see his daughter, Illinois was in the process of addressing this issue and on August 16, 2013 the Governor of Illinois signed this bill into law effective on January 1, 2014.

## Current law in Illinois

The current law on this matter is found at 750 ILCS 45/6.5. This Section applies only to those who have been found to be the father of a child who has been convicted of or who has pled guilty or nolo contendere to sexual assault or sexual abuse. This includes criminal sexual assault, aggravated criminal sexual assault, predatory criminal sexual assault of a child, criminal sexual abuse, aggravated criminal sexual abuse, sexual relations within families, criminal sexual assault, aggravated criminal sexual assault, criminal sexual assault of a child, criminal sexual abuse, aggravated criminal sexual abuse, or a similar statute in another jurisdiction, for his conduct in fathering that child.<sup>8</sup>

A person who has violated an above-listed statute shall not be entitled to custody of or visitation with that child without the mother's or guardian's consent. The law states that nothing in this section of the statute shall be construed to relieve the father described of any support and maintenance obligations to the child under this Act.<sup>9</sup>

## Other states' laws

Thirty-one states have enacted some

form of legislation to address the problem of rapists having parental rights. However, a large majority of the legislation in these states fail to provide real relief to rape victims. The legislation that exists can be categorized in four ways. The first type of legislation limits a rapist's parental rights as they relate to adoption. The second type of legislation limits a rapist's parental rights to visitation. The third type of legislation limits a rapist's parental rights to custody and visitation. Finally, the fourth type of legislation terminates all of the rapist's parental rights. Further, some states require that the rapist be convicted of rape before the legislation has any effect on the rapist. Additionally, some states allow the court to have discretion regarding the limitation of the parental rights of rapists, rather than an automatic termination of parental rights.<sup>10</sup>

Twenty-six states have enacted legislation to allow a victim of rape to place her rape-conceived child up for adoption without the consent of the rapist father. Twelve of these states do not require that the rapist father be given any notice that the child is being placed up for adoption. However, even in these states, if a mother chooses to keep her child, the law provides no safeguards to protect the mother from the rapist father asserting his parental rights, such as visitation and custody. Further, the other fourteen states allow for some form of termination of parental rights.<sup>11</sup>

Of the twenty-six states that address parental rights of rapists regarding adoption, fourteen states require that the rapist be convicted of the sexual act before the victim is allowed to place her child up for adoption without notification and consent requirements. This is problematic because rape is an underreported crime and not all rapists who are prosecuted are convicted. The other twelve states that address the issue of adoption do not require a conviction before statutory protection exists for the victim and her child. Two states have enacted legislation that restricts a rapist's visitation rights and four states have legislation that limits the rapist's rights to both visitation and custody.<sup>12</sup>

Currently eight states allow for termina-

tion of all parental rights if the rapist father has been convicted of rape or sexual assault. While it appears that a majority of states have implemented some safeguards, these protections are somewhat tricky and limited. There are many loopholes that victims must maneuver through before they can escape their attacker, and even so, few states fully protect a victim from interaction with her attacker.<sup>13</sup> Many of these issues are addressed by Illinois' new law described below.

### The new and more thorough Illinois law

On January 1, 2014, IL Public Act 098-0476 becomes effective. This new law has many added benefits to victims of sexual abuse who give birth to a child conceived of that abuse. Public Act 098-0476 amends 750 ILCS 45/6.5 by broadening the restrictions to include "men who father through sexual assault or sexual abuse" rather than only "sex offenders." This important amendment means that victims no longer have to wait for a conviction of their attacker, which may never come, in order to terminate parental rights of a rapist. To protect against false accusations in cases where there is no conviction, there is new language that provides for a fact-finding hearing to be held to establish if a person "is found by clear and convincing evidence to have committed an act of non-consensual sexual penetration or his conduct in fathering that child."<sup>14</sup>

Additional aspects of the new law allow mothers or guardians to deny maintenance or support from the father. The father is no longer allowed to inherit from the child without the mother's or guardian's consent. Further, notwithstanding the Illinois Marriage and Dissolution of Marriage Act, no other family member (parent, grandparent, great grandparent, or sibling of the father) will have standing to request custody or visitation with the child without the mother or guardian's consent. The final addition in the law details how a child's mother or guardian may file a petition as an affirmative defense in any proceeding regarding the child initiated by the sexual offender.<sup>15</sup>

Shauna Prewitt, a victim of sexual abuse, was active in bringing legislation forward to protect victims of sexual assaults and abuse. She explains the importance of the new Illinois law, "This law aligns custody and visitation matters involving women who conceive through rape with other custody and visitation cases – they all will be decided based on

the same burden of proof now." She further went on to state that this law is important because it allows rape victims an opportunity to parent without penalty or harm. "Today, Illinois legislators have given women who conceive through rape an opportunity to be heard in the family courts." The thoroughness of Illinois' new law will soon be tested as it becomes effective in January of 2014, but Shauna Prewitt's statements suggest that Illinois' new law may be one of the most thorough laws to protect the victims.<sup>16</sup>

The trauma of the rape does not end on the night of the attack. Recovering from a rape can be a lifelong struggle, as Prewitt explains in her interviews and in her journal article.<sup>17</sup> The physical and mental pain does not cease after the act of rape. Choosing to carry a child conceived by rape is a hard decision and one that comes bearing severe consequences under current Illinois law. Giving birth to a child conceived from rape is honorable but often leads to the victim's continued interaction with her attacker.

As determined many years ago, women in America have the right to choose whether or not to terminate their pregnancy, at least prior to viability. *Casey v. Planned Parenthood*. Further, courts have outlined freedoms of families to choose how to raise their child. But these freedoms afforded to all can have negative effects on victims of rape. When a woman becomes pregnant as a result of a rape, the rapist (absent legislation in few states to the contrary) has the same parental rights as any biological father. Because of the current laws, women who are raped in many states can be forced to continue contact with their attacker. While victims generally do not wish to continue contact with their attacker, victims of rape can be forced to.

Such is the case of Shauna Prewitt, an author, attorney, advocate, public speaker, and a rape victim. When Shauna was a mere twenty years old she was sexually assaulted. Prewitt gave birth to a daughter, a result of her assault, and a mere six months later Shauna learned that her attacker was seek-

## FREE to ISBA members

**Your research isn't complete until you've searched ISBA section newsletters**

Fourteen years' worth of articles, fully indexed and full-text searchable...and counting.



**The ISBA's online newsletter index organizes all issues published since 1999 by subject, title and author.**

More than a decade's worth of lawyer-written articles analyzing important Illinois caselaw and statutory developments as they happen.

[WWW.ISBA.ORG/PUBLICATIONS/SECTIONNEWSLETTERS](http://WWW.ISBA.ORG/PUBLICATIONS/SECTIONNEWSLETTERS)

ing custody of her baby girl. The closure and healing had occurred for Shauna in the fifteen months since the attack was immediately undone. Shauna could never fathom entrusting her baby to a man who attacked her, let alone spend the next eighteen years tethered to her attacker. But because of the way the law was written at that time, she had no choice.<sup>18</sup>

Few legal protections exist in the majority of states to protect victims and rape-conceived children from the rapist. Because of this, a countless number of women are forced to continually relive their attack by rapists who assert their parental rights. As of August 2013, there were thirty-one states that had some type of law barring rapists for seeking custody or visitation rights from the children they fathered through rape. By creating and enforcing legislation, states attempt to protect the victims and to prevent the rapist fathers from asserting their rights in an attempt to maintain control over their victims.

### Progress not product

What Illinois has done in order to protect sexual assault victims is highly commendable and the legislation passed in August

should be mirrored by many states who do not afford these protections. While Illinois was not the first state to enact such legislation, it is a state that has done a more thorough job of protecting the victims from a variety of issues stemming from custody and visitation rights. By allowing these protections, Illinois is helping pave the road toward a future for these victims, their children, and the recovery from such a traumatic experience. Illinois's new legislation is progress, but not an end product. It is important for our country as a whole to recognize the need for these protections, and that women nationwide can all be afforded the same protections against their attackers.

1. Emma G. Fitzsimmons, *Cleveland Man Admits to Abductions*, New York Times (July 26, 2013), <http://www.nytimes.com/2013/07/27/us/ohio-enslavement-plea-deal-life-plus-1000-years.html>

2. Ohio Rev. Code Ann. § 3107.07

3. In August 2013, Ohio Senate Bill 171 was introduced to enact section 3109.044 of the Revised Code which allows a victim of rape or sexual assault to terminate specified rights of her rapist. S.B. 171. 130<sup>th</sup> Gen. Ct. (Ohio 2013). Accessed at [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_171](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_171).

4. Kara N. Bitar, *The Parental Rights of Rapists*, 19 Duke J. Gender L. & Pol'y 275, 287 (2012)

5. Black's Law Dictionary (9<sup>th</sup> ed. 2009), visitation rights.

6. Black's Law Dictionary (9<sup>th</sup> ed. 2009), custody; *McCarty v McCarty*, 807 A.2d 1211, 1213-14 (Md. Ct. Spec. App. (2002))(the distinction between legal and physical custody), held 147 Md.App.268 (2002).

7. Rape and Sexual Violence, National Institution of Justice, <http://www.nij.gov/topics/crime/rape-sexual-violence> (last visited September 30, 2013).

8. 750 Ill. Comp. Stat. 45/6.5 (West 2013).

9. *Id.*

10. Kara N. Bitar, *The Parental Rights of Rapists*, 19:275 Duke J. Gender L. & Pol'y 275 (2012) (Discussing legislation that limits rapists parental rights concerning adoption, visitation, custody and other parental rights).

11. *See Id* at 287, 290.

12. *See Id* at 287.

13. *See Id* at 289, 290.

14. 750 Ill. Comp. Stat. 45/6.5 (West 2013).

15. *Id.*

16. *Rapists Don't Deserve Parental Rights*, ILLINOIS SENATE DEMOCRATIC CAUCUS. (last visited November 20, 2013.)

17. Shauna R. Prewitt, *Giving Birth to a "Rapist's Child": A Discussion and Analysis of the Limited Legal Protections Afforded to Women Who Become Mothers Through Rape*, 98:827 Georgetown L.J. 827, 828 (2010) (introduction discussing general statistics).

18. *See Id*; *See also* Shauna Prewitt, <http://www.shaanaprewitt.com> (last visited October 1, 2013).

## ORDER YOUR 2014 ISBA ATTORNEY'S DAILY DIARY TODAY!

*It's still the essential timekeeping tool for every lawyer's desk and as user-friendly as ever.*

**A**s always, the 2014 Attorney's Daily Diary is useful and user-friendly.

It's as elegant and handy as ever, with a sturdy but flexible binding that allows your Diary to lie flat easily.

The Diary is especially prepared for Illinois lawyers and as always, allows you to keep accurate records of appointments and billable hours. It also contains information about Illinois courts, the Illinois State Bar Association, and other useful data.



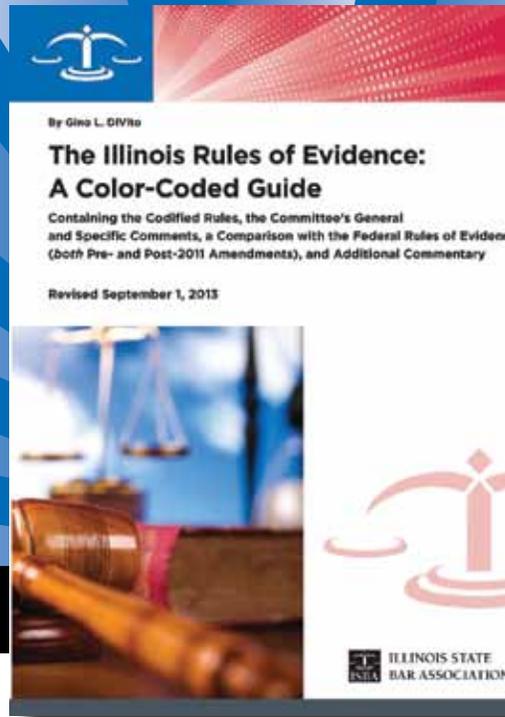
The ISBA Daily Diary is an attractive book, with a sturdy, flexible sewn binding, ribbon marker, and elegant silver-stamped, black cover.

Order today for \$28.45 (Includes tax and shipping)

*The 2014 ISBA Attorney's Daily Diary*  
**ORDER NOW!**

Order online at  
<https://www.isba.org/store/merchandise/dailydiary>  
or by calling Janice at 800-252-8908.

***The must-have reference guide to the Illinois Rules of Evidence!***



## **THE ILLINOIS RULES OF EVIDENCE: A COLOR-CODED GUIDE**

Still learning the intricacies of the Illinois Rules of Evidence? Don't be without this handy hardcopy version of Gino L. DiVito's authoritative color-coded reference guide, which is now updated through September 1, 2013. It not only provides the complete Rules with insightful commentary, but also features a side-by-side comparison with the full text of the Federal Rules of Evidence (both pre- and post-2011 amendments). DiVito, a former appellate justice, serves on the Special Supreme Court Committee on Illinois Evidence, the body that formulated the Rules approved by the Illinois Supreme Court.

Order the new guide at  
[www.isba.org/store/books/rulesofevidencecolorcoded](http://www.isba.org/store/books/rulesofevidencecolorcoded)  
 or by calling Janice at 800-252-8908  
 or by emailing Janice at [jishmael@isba.org](mailto:jishmael@isba.org)

**THE ILLINOIS RULES OF EVIDENCE: A COLOR-CODED GUIDE**

\$35 Member/\$50 Non-Member *(includes tax and shipping)*



Illinois has a history of  
 some pretty good lawyers.  
 We're out to keep it that way.

## Upcoming CLE programs

To register, go to [www.isba.org/cle](http://www.isba.org/cle) or call the ISBA registrar at 800-252-8908 or 217-525-1760.

### November

**Friday, 11/1/13- Teleseminar**—UCC 9: Lien Foreclosure & Remedies. Presented by the Illinois State Bar Association. 12-1.

**Tuesday, 11/5/13 – Webinar**—Intro to Legal Research on Fastcase. Presented by the Illinois State Bar Association – Complimentary to ISBA Members Only. 1:30 – 2:30 p.m. CST.

**Tuesday, 11/5/13- Teleseminar**—Treatment of Trusts in Marital Separation. Presented by the Illinois State Bar Association. 12-1.

**Tuesday, 11/5/13- Live Webcast, ISBA Studio**—Children and Trauma; A Guide for Attorneys. Presented by the ISBA Child Law Section. 11-12.

**Tuesday, 11/5/13- Live Webcast, ISBA Studio**—2013 Immigration Law Update—Changes which Affect Your Practice & Clients. Presented by the ISBA International & Immigration Law Section, ISBA Young Lawyers Division and the ISBA General Practice, Solo and Small Firm Section. 1:00-2:00.

**Thursday, 11/7/13 – Webinar**—Advanced Tips for Enhanced Legal Research on Fastcase. Presented by the Illinois State Bar Association – Complimentary to ISBA Members Only. 1:30 – 2:30 p.m. CST.

**Thursday, 11/7/13- Teleseminar**—Transfer, Sales & Use Taxes in M&A. Presented by the Illinois State Bar Association. 12-1.

**Friday, 11/8/13- Chicago, ISBA Regional Office**—Successfully Navigating Civil Litigation Evidence and Theory Involving Topics of Expert Testimony. Presented by the ISBA Civil Practice & Procedure Section. 8:50-4:00.

**Tuesday, 11/12/13- Teleseminar**—Estate Planning and IRAs. Presented by the Illinois State Bar Association. 12-1.

**Wednesday, 11/13/13- Live Webcast**—Marketing and Networking Strategies. Presented by the ISBA Committee on Law Office Management and Economics. 2:30-3:30.

**Thursday, 11/14/13- Chicago, ISBA Regional Office**—SETTLE IT!- Resolving Financial Family Law Conundrums. Presented by

the ISBA Family Law Section and the ISBA Alternative Dispute Resolution Committee. 8-5.

**Thursday, 11/14/13- Springfield, INB Conference Center**—Drug Case Issues and Specialty Courts. Presented by the ISBA Criminal Justice Section. 9-4.

**Friday, 11/15/13- Chicago, ISBA Regional Office**—Collection Issues You Don't Know About...But Should. Presented by the ISBA Commercial Banking, Collections and Bankruptcy Section. 9-4:30.

**Monday, 11/18/13- Teleseminar**—LIVE REPLAY: Ethics, Virtual Law (from 8/15/13). Presented by the Illinois State Bar Association. 12-1.

**Tuesday, 11/19/13- Teleseminar**—Estate Planning for the Elderly, Part 1. Presented by the Illinois State Bar Association. 12-1.

**Wednesday, 11/20/13- Teleseminar**—Estate Planning for the Elderly, Part 1. Presented by the Illinois State Bar Association. 12-1.

**Wednesday, 11/20/13 – Webinar**—Introduction to Boolean (Keyword) Search. Presented by the Illinois State Bar Association – Complimentary to ISBA Members Only. 1:30 – 2:30 p.m. CST.

**Friday, 11/22/13- Chicago, ISBA Regional Office**—Drug Case Issues and Specialty Courts. Presented by the ISBA Criminal Justice Section. 9-4.

**Monday, 11/25/13- Teleseminar**—LIVE REPLAY: Corporate Governance for Nonprofits (from 7/11/13). Presented by the Illinois State Bar Association. 12-1.

**Tuesday, 11/26/13- Teleseminar**—Indemnification and Hold Harmless Provisions in Business Agreements. Presented by the Illinois State Bar Association. 12-1.

### December

**Tuesday, 12/3/13- Teleseminar**—2013 Fiduciary Litigation Update. Presented by the Illinois State Bar Association. 12-1.

**Thursday, 12/5/13- Teleseminar**—Mergers and Buyouts of Closely Held Busi-

nesses, Part 1. Presented by the Illinois State Bar Association. 12-1.

**Thursday, 12/5/13- Chicago, ISBA Regional Office**—Civility in the Courtroom. Presented by the ISBA Bench and Bar Section. 1-5.

**Friday, 12/6/13- Teleseminar**—Mergers and Buyouts of Closely Held Businesses, Part 2. Presented by the Illinois State Bar Association. 12-1.

**Friday, 12/6/13- Chicago, ISBA Regional Office**—Medical Cannabis in Illinois. Presented by the ISBA Health Care Section. 9:30-11:30.

**Friday, 12/6/13- Live Webcast**—Medical Cannabis in Illinois. Presented by the ISBA Health Care Section. 9:30-11:30.

**Tuesday, 12/10/13- Teleseminar**—Multi-Family Development and Management Agreements. Presented by the Illinois State Bar Association. 12-1.

**Thursday, 12/12/13- Chicago, Sheraton Hotel (Midyear)**—Speaking to Win: Building Effective Communication Skills. Master Series presented by the ISBA. 8:30-11:45.

**Thursday, 12/12/13- Chicago, Sheraton Hotel (Midyear)**—Legal Writing in the Smartphone Age. Master Series presented by the ISBA. 1:00-4:15.

**Tuesday, 12/17/13- Teleseminar**—Joint Ventures in Business, Part 1. Presented by the Illinois State Bar Association. 12-1.

**Wednesday, 12/18/13- Teleseminar**—Joint Ventures in Business, Part 1. Presented by the Illinois State Bar Association. 12-1.

**Thursday, 12/19/13- Teleseminar**—Attorney Ethics and Alternative Fee Arrangements. Presented by the Illinois State Bar Association. 12-1.

**Friday, 12/20/13- Teleseminar**—Incentive Compensation in LLCs and Partnerships. Presented by the Illinois State Bar Association. 12-1. ■