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BILL ANALYSIS

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Senate Bill 141 (as introduced 1-31-07)
Sponsor: Senator Gerald Van Woerkom
Committee: Families and Human Services

Date Completed: 6-4-07

CONTENT

The bill would create the "Court-Appointed Special Advocate Act" to do the following:

- Allow a circuit court or courts to create a court-appointed special advocate (CASA) program, to provide for the appointment of volunteers to advocate for the best interests of children in cases before the family division of circuit court.**
- Require a CASA volunteer to meet certain criteria and undergo preservice training, as well as at least 10 hours of in-service training per year.**
- Require a CASA volunteer applicant to provide a copy of any criminal record and three character references.**
- Authorize a CASA volunteer, if required by the court, to conduct an independent investigation regarding the child's best interests, determine if an appropriate case service plan had been developed, and perform other functions in the child's best interest.**
- Allow a CASA volunteer to be called as a witness in the action, or request to appear as a witness.**
- Allow a CASA volunteer to be a party to the action, if authorized by the court and the CASA program.**
- Require a guardian ad litem and a State or local agency to cooperate with a CASA volunteer, and cooperate with a CASA program to facilitate its implementation.**
- Require the court to issue an order giving an appointed CASA volunteer access to relevant records and other information related to the child, the parents, or other individuals of interest.**

"Court-appointed special advocate" or "CASA volunteer" would mean an individual who was a volunteer whom the court appointed to assist in advocating for a child as provided under the proposed Act.

CASA Program

A circuit court could establish a CASA program for the circuit. Courts in two or more adjacent circuits could establish a single CASA program for all of those circuits.

A CASA program would be established by the execution of a memorandum of understanding between the CASA program and the chief judge of the Circuit court. The memorandum of understanding would have to identify a CASA volunteer's role and responsibilities if appointed in that circuit.

A CASA program would have to do all of the following:

- Screen, train (as required below), and supervise CASA volunteers.
- Maintain a membership in good standing with the Michigan Association of Court-Appointed Special Advocates and the National Court-Appointed Special Advocates Association, and adhere to the guidelines established by those associations and approved by the Supreme Court.
- Appoint a program director.
- Maintain adequate supervisory and support staff who were easily accessible, held regular case conferences with CASA volunteers to review case progress, and conducted annual performance reviews for all CASA volunteers.
- Provide staff and CASA volunteers with written program policies, practices, and procedures.
- Attempt to maintain a CASA volunteer-to-supervisor ratio of not more than 30 to one.

A CASA program director would be responsible for administering the program, including recruitment, selection, training, supervision, and evaluation of program staff and CASA volunteers. The program director would serve as a professional liaison between the court and community agencies serving children.

Qualifications & Training

At a minimum, a prospective CASA volunteer would have to meet all of the following qualifications:

- Be 21 years of age or older.
- Have a demonstrated interest in children and their welfare.
- Be willing to commit to the court for a minimum of one year of service to a child.
- Complete an application that included certain information (described below).
- Participate in a screening interview.
- Participate in the required training.
- Have other qualifications as determined by the CASA program director and the chief judge of the circuit court.

A prospective CASA volunteer's application would have to include at least all of the following:

- A copy of any criminal history record, central registry record, and motor vehicle record.
- At least three references who could address his or her character, judgment, and suitability for the position.
- Records from any other jurisdiction in which he or she resided during the year before the application date, if the prospective volunteer had resided in this State for less than 12 months.

Each CASA volunteer would have to participate fully in preservice training, including instruction on recognizing child abuse and neglect, cultural awareness, child development, court procedures, permanency planning, the volunteer role and its responsibilities, advocacy, information gathering, and documentation. A CASA volunteer also would have to observe court proceedings before accepting an appointment.

Each CASA volunteer would have to receive a training manual that included guidelines for his or her role and responsibilities.

Each CASA program would have to provide a minimum of 10 hours of in-service training per year to each volunteer.

Each CASA program would have to adopt regulations consistent with those requirements and with the State and national CASA associations' guidelines governing qualification and selection of CASA volunteers. Each program's regulations would have to include provisions that qualified adults could not be discriminated against based on gender, socioeconomic, religious, racial, ethnic, or age factors.

Appointment

A judge or referee could appoint a CASA volunteer in an action brought in the family division of circuit court when, in the judge's or referee's opinion, a child who could be affected by the action required services that a CASA volunteer could provide. At the judge's or referee's discretion, a CASA volunteer could be a party to the action if provided for in the memorandum of understanding.

The circuit court would have to appoint a CASA volunteer at the earliest stages of an action under a court order that gave him or her the authority to review relevant documents and interview parties involved in the case, including parents, other parties in interest, and other people having significant information relating to the child.

A CASA volunteer's appointment would end when the court's jurisdiction over the child terminated, or when the volunteer was discharged by the court, either on its own motion or at the request of his or her program director.

Responsibilities

A memorandum of understanding executed under the proposed Act could require a CASA volunteer, upon appointment, to conduct an independent investigation regarding the child's best interest that provided factual information to the court about the child and his or her family. The investigation would have to include interviews with and observations of the child, interviews with other appropriate individuals, and the review of relevant records and reports.

A memorandum of understanding also could require a CASA volunteer to determine if an appropriate case service plan, as defined under the juvenile code, had been developed for the child, whether appropriate services were being provided to the child and family, and whether the case service plan was progressing in a timely manner.

(Under the juvenile code, "case service plan" means the plan developed by an agency and prepared under the code that includes services to be provided by and responsibilities and obligations of the agency and activities, responsibilities, and obligations of the parent. The service plan must provide for placing the child in the most family-like setting available and in as close proximity to the child's parents' home as is consistent with the child's best interests and special needs. The plan must include the type of home or institution in which the child is to be placed; efforts to be made by the child's parent to enable the child to return home; a schedule of services to be provided to the parent, child, and, if the child is to be placed in foster care, the foster parent, to facilitate the child's return home or permanent placement; and a schedule for regular and frequent parenting time between the child and his or her parent at least once every seven days, unless the court determined that parenting time would be harmful to the child.)

Unless otherwise ordered by the court, a CASA volunteer, with the support and supervision of the CASA program staff, would have to make recommendations consistent with the child's best interest regarding placement, parenting time, and appropriate services for the child and family, and would have to prepare a written report to be distributed to each party to the action.

In addition, a CASA volunteer would have to assure that the child's best interest was being advocated at every stage of the case, and prepare written reports to be distributed to each party to the action.

A CASA volunteer also would have to monitor the case to which he or she had been appointed to assure that the child's essential needs were being met and that the terms of the court's orders had been fulfilled in an appropriate and timely manner.

The court or a party to the action could call as a witness the CASA volunteer appointed in the action, and a CASA volunteer appointed in an action could request to appear as a witness.

Prohibited Activities

A CASA volunteer could not do any of the following:

- Accept compensation for performance of the responsibilities of an appointment.
- Have an association that created a conflict of interest with his or her responsibilities.
- Accept an appointment if he or she were related to a party or attorney involved in the case.
- Accept or continue an appointment if he or she were or became employed in a position that could result in a conflict of interest or the appearance of a conflict of interest.
- Use the CASA volunteer position to seek or accept gifts or special privileges.

Cooperation with Other Parties

A guardian ad litem, and a State or local agency, department, authority, or institution would have to cooperate and share information with a CASA volunteer appointed to serve on a case and with each local CASA program to facilitate the implementation of its program.

In a case in which the court appointed both a CASA volunteer and a guardian ad litem, the two would have to cooperate to represent the child's best interest.

A CASA volunteer would have to be notified of a hearing, meeting, or other proceeding concerning the case to which he or she had been appointed.

A CASA program would have to help facilitate the cooperation and sharing of information among CASA volunteers, attorneys, the county Family Independence Agency, and other community agencies.

Access to Records; Confidentiality

Upon appointment of a CASA volunteer, the court would have to issue an order authorizing access to records and other information relating to the child, parent, legal guardian, or other parties in interest as the court considered necessary.

A CASA volunteer could not disclose the contents of a document, record, or other information relating to a case to which he or she had access in the course of an investigation. All such information would be confidential and could not be disclosed to a person other than the court or a party to the action.

Legislative Analyst: Curtis Walker

FISCAL IMPACT

The bill would have no fiscal impact on State or local government. These programs are already in place throughout the State, and the bill would codify Federal guidelines currently being followed.

Fiscal Analyst: Stephanie Yu