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BILL ANALYSIS



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House Bill 5429 (Substitute S-1)
Sponsor: Representative Christine Morse
House Committee: Judiciary
Senate Committee: Civil Rights, Judiciary, and Public Safety

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INTRODUCTION

The bill would allow State courts to establish court-appointed special advocate (CASA) programs, which generally advocate for the best interests of abused and neglected children (for more information see **BACKGROUND**). Generally, a CASA volunteer would have to conduct an independent investigation regarding the best interests of a CASA child and make recommendations to the court of the services for the CASA child and the CASA child's family. The bill would require CASA volunteers to meet certain eligibility requirements, including training and continuing education hours and the ability to pass an initial and repeated background checks. Volunteers would have to be willing to commit to the court for the duration of an assigned case until permanency for the child had been established. The bill would establish the procedure for appointing volunteers, specify that volunteers would be considered Friends of the Court (FOC), and grant volunteers access to a child's court records.

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on local units of government and the Department of Health and Human Services (DHHS). There could be a small fiscal impact on counties in establishing CASA program, though the magnitude would depend on how many courts established a program. The impact on the DHHS would be at the discretion of the Legislature. The CASA program is a volunteer run non-profit and there is no binding level of State spending required to support the program. In the current year FY 2023-2024 budget, there is \$1.0 million in ongoing funding for the CASA program.

As the language of the bill is permissive, it would not have a fiscal impact on local units of government to support CASA programs unless courts chose to create and maintain such programs. Costs to local court systems would be indeterminate for those that established CASA programs; however, a program currently established and operating in Kent County receives an annual appropriation of \$1.0 million through the DHHS budget. Under the bill, CASA programs could serve multiple court jurisdictions.

The bill's provision requiring criminal history background checks for prospective CASA volunteers would have a mixed fiscal impact on a CASA program. The normal charge for an internet criminal history access tool (ICHAT) background check is \$10, the FBI charges \$13.25 for a background check, and the State charges \$30 for fingerprint-based background checks. The charges for an ICHAT background check are waived for various groups such a criminal justice employment. It is not clear under the bill who would assume the cost of the FBI or State background checks.

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CONTENT

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

- Allow a State court to establish a CASA program to advocate for the interests of abused and neglected children and prescribe the administration of each program.
- Specify that a director of a CASA program would be responsible for the program's operations, recruitment, selection, training, supervision, and evaluation of CASA program staff and volunteers.
- Prescribe the requirements a prospective volunteer would have to meet to be an eligible CASA volunteer, including being at least 21 years old, complying with a background check, and having the ability to commit to being available for the duration of a case until a child found a permanent home.
- Dismiss a CASA volunteer or deny a prospective volunteer who had been convicted of or had charges pending for a misdemeanor or felony involving a sex offense, child abuse or neglect, or related crimes that posed or could pose a risk to a child or affect the credibility of the CASA Program.
- Require CASA volunteers to meet certain training standards.
- Prescribe the CASA volunteer appointment process and specify that a volunteer would be considered an FOC.
- Require a CASA volunteer to conduct independent investigations for the best interest of a child and make recommendations to the court of services.
- Allow a CASA volunteer to have access to a child's confidential court records and prohibit the volunteer from disclosing that information to a person other than the court, a party to the action, or another person authorized by the court.

Court Established CASA Program

The bill would allow each court in the State to establish a CASA Program and specify that CASA Programs would have to be administered under the bill. Specifically, a CASA Program would have to do all the following:

- Screen, train, and supervise CASA volunteers to advocate for the best interests of a child when appointed by a court.
- Hold regular case conferences with volunteers to review case progress and conduct annual performance reviews for all volunteers.
- Provide CASA program staff and volunteers with written program policies, practices, and procedures.
- Provide training in accordance with the National CASA/GAL Association standards (see **BACKGROUND**) with at least 12 in-service training hours annually.

The bill would specify that each court could be served by a CASA program and that one CASA program could serve more than one court.

The director of a CASA program (program director) would be responsible for administration of the CASA program, including program operations, recruitment, selection, training, supervision, and evaluation of staff and volunteers.

Volunteer Requirements

All CASA volunteers would have to be screened, trained, and supervised in accordance with National CASA/GAL Association standards. Each volunteer would have to participate in

observing court proceedings before appointment was allowed by the court. Additionally, each CASA program would have to provide 12 hours of in-service training per year to its volunteers.

A prospective CASA volunteer would have to meet all the following minimum requirements:

- Be at least 21 years of age.
- Complete an application.
- Sign a release of information form or submit the required information necessary for the required background check.
- Participate in required screening interviews.
- Be willing to commit to the court for the duration of the CASA case until permanency had been established for the CASA child.
- Participate in the training described above.

"Court-appointed special advocate child" or "CASA child" would mean a child under the jurisdiction of the court. "Child" would mean an individual under 18 years of age.

Each program director would have to conduct a background check on each prospective CASA volunteer who was assigned an initial CASA case. A prospective CASA volunteer who refused to comply with signing a release of information form or submitting necessary information for the background check would be ineligible to be a volunteer.

A background check would have to include all the following:

- A criminal history background check using the Department of State Police's (MSP) ICHAT and an equivalent check on that individual from the state or province of residence.
- Criminal background check through the FBI.
- A national and State offender registry check.
- A Child Abuse and Neglect Central Registry check in the State and in each state of residence for the previous five years, where permissible by law.
- A Social Security number trace that showed aliases, additional names, and former addresses.

A program director would have to conduct a background check on volunteers every two years after the initial background check.

If the background check showed that a CASA volunteer or prospective CASA volunteer had been convicted of or had charges pending for a misdemeanor or felony involving a sex offense, child abuse or neglect, or related crimes that posed or could pose a risk to a child or affect the credibility of the CASA Program, any of the following would apply:

- The CASA volunteer would have to be dismissed.
- The application of the prospective CASA volunteer would not be accepted, and the CASA volunteer would be considered ineligible to participate in a program.

Volunteer Appointment

A court could appoint a CASA volunteer in a proceeding under Section 2 or 19b of the juvenile code, when, in the court's opinion, a child who could have been affected by the proceeding

required services that a CASA volunteer could provide, and the court found that appointing a CASA volunteer was in the best interests of the child.¹

A CASA volunteer would have to be appointed according to a court order. The court order would have to specify the CASA volunteer as an FOC acting on the court's authority². The CASA volunteer acting as an FOC would have to offer a written report with recommendations consistent with the best interests of the child, subject to all pertinent objections, as evidence.

A memorandum of understanding between a court and a CASA Program would be required in a county with an established CASA Program. The memorandum of understanding would have to set forth the roles and responsibilities of the CASA volunteer.

The CASA volunteer's appointment would end when one of the following occurred:

- When the court's jurisdiction over the CASA child ended.
- Upon discharge by the court on its own or another party's motion.
- With the approval of the court, at the request of the program director.

Volunteer Standards and Duties

The bill specifies that it would be against the National CASA/GAL standards and the Michigan CASA Association standards for a CASA volunteer to do any of the following:

- Accept compensation for the duties and responsibilities of the volunteer's appointment.
- Have an association that created a conflict of interest with the volunteer's duties.
- Be related to a party or attorney involved in the case.
- Be employed in a position that could result in conflict of interest or give rise to the appearance of such.
- Use the CASA volunteer position to seek or accept gifts or special privileges.

Upon appointment in a proceeding, a CASA volunteer would have to do the following:

- Conduct an independent investigation regarding the best interests of the CASA child that would provide factual information to the court regarding the CASA child and the CASA child's family.
- Make recommendations to the court of the services for the CASA child and the CASA child's family and report to the court on the participation in, benefits of, and outcomes of the services.

The bill would specify that the independent investigation could include interviews with, and observations of the CASA child and the CASA child's family, interviews with other appropriate individuals, and review of relevant records and reports.

The CASA volunteer, with the support and supervision of CASA program staff, would have to make recommendations consistent with the best interest of the CASA child regarding placement, visitation, and appropriate services for the CASA child and the CASA child's family.

¹ Section 2 and Section 19b of the juvenile code prescribe the authority and jurisdiction of a court over a minor and the procedure for a court to conduct a permanency planning hearing for a child in foster care for the consideration of terminating parental rights.

² Friend of the Court services are a part of a circuit court family division and assists court administrators on issues such as custody and parental support, among other things.
https://www.legislature.mi.gov/Publications/Friend_of_the_Court-WEB.pdf

The CASA volunteer with the CASA program staff would have to prepare a written report to be distributed to the court and the parties to the proceeding.

The bill would require the CASA volunteer to monitor the volunteer's appointed case to ensure that the CASA child's essential needs were being met. The CASA volunteer would have to make every effort to attend all hearings, meetings, and other proceedings concerning the CASA child to which the volunteer had been appointed. The CASA volunteer could be called as a witness in a proceeding by a party or the court.

Court Records

A CASA volunteer would have access to all documents, records, or information that were accessible to the court that appointed the volunteer and related to a case to which the volunteer was assigned. A CASA volunteer would have to cooperate with all governmental agencies, service providers, professionals, school districts, school personnel, parents, families, and other involved individuals and entities. The bill would specify that a CASA volunteer would have to engage in regular visits with the CASA child. The volunteer would have to be notified in a timely manner of all hearings, meetings, and other proceedings concerning the case to which the volunteer was appointed.

The contents of a document, record, or other information relating to a case to which the CASA volunteer had access would have to be confidential. The CASA volunteer could not disclose that information to a person other than the court, a party to the action, or another person authorized by the court.

Under the bill, a CASA volunteer would be immune from civil liability provided by the Volunteer Protection Act.

BACKGROUND

According to its website, the Court Appointed Special Advocates Guardians ad Litem (CASA GAL) Association for Children has programs with 941 state organizations and local programs in 49 states and has approximately 88,000 volunteers, serving 227,500 children with 23 programs in Michigan.³ The CASA GAL Association for Children supports a network of court appointed volunteers advocating for the best interests, safety, and permanency of children who have experienced abuse or neglect. Volunteers are responsible for an assigned case until the child receives a permanent home.

The CASA GAL Association for Children standards for volunteer training include over 30 hours of initial training on court procedures, child development, trauma-informed care, cultural competency, and advocacy. Additionally, volunteers must complete 12 hours of continuing education annually and receive access to resources and consultation opportunities within local programs.⁴

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

³ "State and Local Programs". National CASA/GAL Association for Children. <https://nationalcasagal.org/our-work/programs/?ps=MI> Retrieved 6-7-24.

⁴ "Be a CASA or GAL Volunteer", National CASA/GAL Association for Children. <https://nationalcasagal.org/advocate-for-children/be-a-casa-gal-volunteer/>. Retrieved 6-7-24.