

COURT-APPOINTED SPECIAL ADVOCATE (CASA) ACT

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House Bill 5429 as reported from committee

Sponsor: Rep. Christine Morse

Committee: Judiciary

Complete to 5-21-24

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 5429 would create a new act, the Court-Appointed Special Advocate Act, to authorize courts to establish a court-appointed special advocate (CASA) program to provide for court-appointed special advocate volunteers to advocate for a child's best interests. As described below, volunteers would conduct independent investigations to provide the court with information about the child, evaluate services and treatment or permanency plans, and make recommendations on placement, visitation, and appropriate services.

CASA program

Each Michigan court could establish or be served by a CASA program under the new act. A program could serve more than one court. A program would have to do all of the following:

- Screen, train, and supervise court-appointed special advocate volunteers.
- Hold regular case conferences with volunteers to review progress.
- Conduct annual performance reviews for all volunteers.
- Provide program staff and volunteers with written policies, practices, and procedures.

A program director would be responsible for administering the program, including operations, recruitment, selection, training, supervision, and evaluation of staff and volunteers.

CASA volunteers

Volunteers would have to be screened, trained, and supervised in accordance with National CASA/GAL Association standards.¹ Volunteers would have to participate in observing court proceedings, as allowed by the court, before appointment. A program would have to provide its volunteers with at least 12 hours of in-service training a year. A prospective volunteer would have to meet all of the following:

- Be at least 21 years of age.
- Complete an application, including providing information for a background check.
- Participate in required screening interviews.
- Participate in training.
- Be willing to commit for the duration of a CASA case until permanency has been established for the child.

The program director would have to obtain written authorization and secure a background check on each prospective volunteer before any contact with a CASA child according to National CASA/GAL standards, Michigan CASA Association standards.²

¹ <https://nationalcasagal.org/> and <https://member.nationalcasagal.org/wp-content/uploads/2021/03/Overview-of-2020-Local-Standards-1.pdf>

² <https://www.michigancasa.org/> and <https://www.michigancasa.org/policy-templates-and-other-documents>

Appointment

A court could appoint a CASA volunteer in a proceeding brought under section 2 or 19b of the juvenile code³ when the court determines that a child who may be affected by the proceeding requires services that a CASA volunteer can provide and also finds that appointing a volunteer is in the best interests of the child.

A CASA volunteer would have to be appointed under a court order that specifies that the volunteer is a friend of the court acting on the court's authority. The CASA volunteer would have to offer as evidence, subject to relevant objections, a written report with recommendations consistent with the best interests of the child.

A memorandum of understanding between a court and a CASA program, setting forth the roles and responsibilities of the CASA volunteer, would be required in a county where a program is established.

The CASA volunteer's appointment would end upon discharge by the court on its own motion, when the court's jurisdiction over the child ends, or (with the approval of the court) at the request of the program director.

Duties of a volunteer

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

- Conduct an independent investigation regarding the child's best interests that will provide factual information to the court regarding the child and the child's family. This could include observations of the child and the child's family, interviews with them and with other appropriate individuals, and review of relevant records and reports.
- Determine whether appropriate services are being provided to the child and the child's family.
- Determine whether the *treatment plan* and *permanency plan* are progressing in a timely manner.
- With the support and supervision of CASA program staff, make recommendations consistent with the best interests of the child regarding placement, visitation, and appropriate services for the child and the child's family.
- With program staff, prepare a written report to be distributed to the court and the parties to the proceeding.
- Monitor the case to ensure that the child's essential needs are being met.
- Engage in regular visits with the child.
- Make every effort to attend all hearings, meetings, and other proceedings concerning the child.
- Cooperate with all government agencies, service providers, professionals, school districts and personnel, parents, families, and other involved individuals and entities.

Treatment plan would mean the plan developed by an *agency* and prepared under section 18f of the juvenile code⁴ that includes services to be provided by and responsibilities and obligations of the *agency* and activities, responsibilities, and

³ <http://legislature.mi.gov/doc.aspx?mcl-712A-2> or <http://legislature.mi.gov/doc.aspx?mcl-712A-19b>

The juvenile code is the informal name of Chapter XIIA of the Probate Code.

⁴ <http://legislature.mi.gov/doc.aspx?mcl-712A-18f>

obligations of the parent. (As used here, *agency* means a public or private organization, institution, or facility that is performing the functions under part D of title IV of the federal Social Security Act, 42 USC 651 to 669b,⁵ or that is responsible under court order or contractual arrangement for a juvenile's care and supervision.)

Permanency plan would mean a plan ordered by the court at a permanency hearing conducted under section 19a of the juvenile code.

The CASA volunteer could be called as a witness in a proceeding by a party or the court.

Violation of standards

The bill states that it is 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 their appointment.
- Have an association that creates a conflict of interest with their duties.
- Be employed in a position that may result in a conflict of interest or the appearance of one.
- Be related to a party or attorney involved in the case.
- Use the CASA volunteer position to seek or accept gifts or special privileges.

Duties of others

All government agencies, service providers, professionals, school districts and personnel, and parents would have to cooperate with all reasonable requests of a CASA volunteer. The CASA volunteer would have to be notified in a timely manner of all hearings, meetings, and other proceedings concerning the case the volunteer has been appointed to.

Confidentiality and immunity

The contents of a document or record or other case-related information the CASA volunteer has access to would be confidential, and the volunteer could not disclose it to anyone other than the court, a party to the action, or someone authorized by the court.

A CASA volunteer would be immune from civil liability as provided in the federal Volunteer Protection Act of 1997, 42 USC 14501 to 14505.⁶

FISCAL IMPACT:

House Bill 5429 would not have a significant fiscal impact on state expenditures for the Department of Health and Human Services (DHHS) but would increase expenditures for local units of government that choose to establish a CASA program by an indeterminate amount. The fiscal impact of the bill would be dependent of the cost of establishing and maintaining a CASA program within a county's court. For FY 2023-24, \$1.0 million GF/GP is allocated on an ongoing basis to support a CASA program in Kent County. An additional \$1.5 million is allocated on a one-time basis in the FY 2023-24 DHHS budget.

⁵ <https://www.law.cornell.edu/uscode/text/42/chapter-7/subchapter-IV/part-D>

⁶ <https://www.law.cornell.edu/uscode/text/42/chapter-139>

POSITIONS:

A representative of Michigan Court Appointed Special Advocates (CASA) testified in support of the bill. (2-21-24)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.