

## COURT-APPOINTED SPECIAL ADVOCATE ACT

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**House Bill 5429 (S-2) as passed by the Senate**

**Sponsor: Rep. Christine Morse**

**House Committee: Judiciary**

**Senate Committee: Civil Rights, Judiciary, and Public Safety**

**Complete to 10-7-24**

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

*(Enacted as Public Act 124 of 2024)*

### SUMMARY:

House Bill 5429 would create the Court-Appointed Special Advocate Act to allow courts to establish a court-appointed special advocate (CASA) program to provide for screened and trained volunteers to advocate for the best interests of children in the foster care system. As described below, a CASA volunteer would regularly visit with a child; conduct independent investigations; provide information and placement, visitation, and services recommendations to the court; coordinate with school, child welfare, and justice system professionals to advance the child's best interests; and attend hearings and monitor the child's case until it is resolved. A volunteer could confidentially access all of the child's records available to the court.

#### 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. There would have to be a memorandum of understanding between a court and the program that sets forth the roles and responsibilities of CASA volunteers. If established, a program would have to do all of the following:

- Screen, train, and supervise CASA 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 and the 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.<sup>1</sup> Before appointment, volunteers would have to participate in observing court proceedings, as allowed by the court. 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 be at least 21 years old and meet all of the following:

- Complete an application.
- Sign a release-of-information form or submit the information needed for a background check as described below.
- 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.

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

### **Background checks**

Before a prospective CASA volunteer is assigned to an initial case, the program director would have to conduct a background check that includes all of the following:

- A criminal history background check using the Internet Criminal History Access Tool (ICHAT) of the Department of State Police or an equivalent check from the prospective volunteer's state or Canadian province of residence.
- A criminal background check through the Federal Bureau of Investigation or other national crime database.
- A national and state offender registry check, which appears to include state and national sex offender registries as well as the registries created in other states for, e.g., violent offenders, habitual offenders, those convicted of murder, and those with specified repeat drunk driving convictions.
- A child abuse and neglect central registry check in Michigan and, where allowed by law, each state of residence for the previous five years.
- A Social Security number trace that shows aliases, additional names, and former addresses.

A prospective CASA volunteer who refuses to sign a release-of-information form or submit the information needed for a background check would be ineligible to be a CASA volunteer.

A background check also would have to be conducted on CASA volunteers every two years after their initial check.

If a background check shows a conviction, or charges pending, for a misdemeanor or felony involving a sex offense, child abuse or neglect, or related crimes that pose or would pose a risk to a child or affect the credibility of the CASA program, the individual would be ineligible to participate in the program (if a prospective volunteer) or be dismissed (if a volunteer).

### **Appointment**

A court could appoint a CASA volunteer in a proceeding brought under section 2 or 19b of the juvenile code<sup>2</sup> when the court determines both of the following:

- A child who might be affected by the proceeding requires services a CASA volunteer can provide.
- 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's appointment would end when the court's jurisdiction over the child ends, upon discharge by the court on its own or another party's motion, 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.

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<sup>2</sup> <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 XIII of the Probate Code.

- Make recommendations to the court for services for the child and the child’s family and report to the court on the participation in, and outcomes and benefits of, the services.
- Offer as evidence, subject to relevant objections, a written report that contains recommendations consistent with the best interests of the child.
- 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.

A CASA volunteer would have access to all documents, records, and information that is accessible to the appointing court and related to a case they are assigned to. The volunteer would have to be notified in a timely manner of all hearings, meetings, and other proceedings concerning a case they were appointed to. A CASA volunteer could be called as a witness in a proceeding by a party or by the court.

### **Standards**

The bill notes that it is against the National CASA/GAL standards and the Michigan CASA Association standards<sup>3</sup> 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.
- Have a job 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.

### **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. The bill does not provide penalties for a violation.

A CASA volunteer would be immune from civil liability as provided in the federal Volunteer Protection Act of 1997, 42 USC 14501 to 14505.<sup>4</sup>

## **BRIEF DISCUSSION:**

According to committee testimony, children who become wards of the court because of abuse or neglect find themselves caught, through no fault of their own, in a confusing and often frightening world defined in part by how many strangers are coming into and going out of their

<sup>3</sup> <https://www.michigancasa.org/> and <https://www.michigancasa.org/policy-templates-and-other-documents>

<sup>4</sup> <https://www.law.cornell.edu/uscode/text/42/chapter-139>

lives: judges, caseworkers, lawyers, guardians ad litem,<sup>5</sup> teachers, foster parents, other children. Because CASA volunteers are appointed for one particular child or sibling group and stay with their case until a safe and permanent placement is found, their relationship with the child can be an important point of stability in this whirl of process. Cases typically last six to 18 months and can involve several foster care placements, foster care caseworkers, teachers, and peer groups—but only one CASA volunteer, who ideally becomes a consistent adult presence in the child’s life, someone the child can count on and go through the placement process with.

Similarly, other professionals concerned with the child’s welfare, such as caseworkers and guardians ad litem, are typically handling several cases at once, but a CASA volunteer is assigned to only one case and can give it their full focus. Thus, a CASA volunteer will visit with the child once every seven to 10 days—according to testimony, this could mean crayons and coloring books, or tossing a Frisbee around, or going out for milkshakes—while a foster care caseworker is required to visit at least once every 30 days, and the child’s attorney must visit once every 90 days.

After prospective volunteers apply and undergo an initial screening and background check, they have at least 30 hours of training on such topics as child development, child abuse and trauma, juvenile law, social and medical factors, family supports, effective communication, the court system, and the roles and responsibilities of CASA volunteers. They also must complete four hours of courtroom observation. According to testimony, this training is standardized through the national and state nonprofit organizations that facilitate CASA programs, which ensures the same quality of advocacy in all geographic areas.<sup>6</sup> Individuals who become CASA volunteers are sworn in as officers of the court before the judge appoints or assigns them to a case. They have access to confidential information pertaining to the child, such as medical records, caseworker reports, and school records.

Beyond their unique relationship with the child throughout the process, CASA volunteers play a unique role in the process itself. Ideally, and while maintaining their role as an independent observer, they make sure the child’s voice is heard. CASA volunteers ask the child what they want, and what they think is important for the judge to know, and present those wishes and interests to the court on the child’s behalf. CASA volunteers investigate and learn about the child and the child’s family and circumstances and report that information to the court so judges can be familiar with the child’s specific qualities and needs. CASA volunteers also make their own recommendations regarding services and placement.<sup>7</sup>

According to some county CASA programs in Michigan, children with a CASA volunteer have more educational supports and perform better in school, are more likely to graduate high school, receive more support services such as therapy, have fewer foster care placements, are more likely to have a permanent placement more quickly (often with their parents), and are

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<sup>5</sup> A court-appointed attorney who represents the child legally in the juvenile system. In states where a guardian ad litem is not required to be an attorney, the roles of CASA volunteer and guardian ad litem are sometimes combined.

<sup>6</sup> Individuals who become CASA volunteers also must complete 12 hours of continuing education each year.

<sup>7</sup> CASA volunteers look after the child’s interests in other ways, too, often collaborating or conferring with others to do so. Examples from committee testimony include making sure visits with siblings can take place, helping parents get into required parenting classes, calling teachers to get the child’s grades for a caseworker’s report, accompanying caseworkers for safety and support on some home visits, attending education plan meetings with parents, and tracking down high school credits so a child who had been placed in 14 different high schools along the way could still graduate on time.

less likely to come back into the child welfare system. These outcomes are the more notable in that judges are reportedly more likely to assign their most difficult cases to CASA volunteers.

The nation's first CASA volunteer program was launched in Seattle in 1977 to provide judges with a better understanding of the particular best interests of specific children to inform their decisions regarding the child's placement. The program's success brought it national attention, and by 1983 there were CASA programs in 29 states.<sup>8</sup> Today, programs in the District of Columbia and every state but North Dakota serve over a quarter million children each year.

The first CASA program in Michigan began in Kalamazoo County in 1984. Today, 30 of Michigan's 83 counties have a program.<sup>9</sup> In 2023, according to Michigan CASA, about 10% of the state's 14,569 abused and neglected children were served by CASA volunteers.<sup>10</sup>

Supporters of the bill note that it would codify in statute the basic elements of all CASA programs, including those now operating in Michigan, and would not change how these programs currently function and operate. They argue that enacting these provisions into law would legitimize the mission and work of the programs and volunteers and better allow courts to assign CASA volunteers without question from parties to the case. It could also facilitate the adoption of CASA programs by courts and counties that do not have one.

#### **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 on 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.

#### **POSITIONS:**

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

The following entities indicated support for the bill (6-13-24):

- State Bar of Michigan
- Michigan Probate Judges Association
- Wayne County CASA

Legislative Analyst: Rick Yuille  
Fiscal Analyst: Sydney Brown

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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.

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<sup>8</sup> See <https://www.ojp.gov/pdffiles/164512.pdf> and <https://nationalcasagal.org/about-us/history/>

<sup>9</sup> Allegan, Barry, Bay, Berrien, Branch, Cass, Clinton, Eaton, Genesee, Grand Traverse, Gratiot, Hillsdale, Huron, Ingham, Kalamazoo, Kent, Leelanau, Livingston, Menominee, Monroe, Montcalm, Muskegon, Oakland, Oceana, Ogemaw, Ottawa, Saginaw, St. Joseph, Van Buren, and Wayne. <https://www.michigancasa.org/county-programs>

<sup>10</sup> <https://www.michigancasa.org/michigan-casa>