

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 229 Guardian Ad Litem Direct-Support Organization
SPONSOR(S): Mahon; Nehr; Zapata
TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 1612

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Courts</u>	<u>4 Y, 0 N</u>	<u>Larson</u>	<u>Bond</u>
2) <u>Safety & Security Council</u>	<u>15 Y, 0 N, As CS</u>	<u>Larson</u>	<u>Havlicak</u>
3) <u>Policy & Budget Council</u>	<u></u>	<u>Leznoff</u>	<u>Hansen</u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

Current law requires that a guardian ad litem be appointed to represent a child involved in a legal proceeding related to abuse, abandonment or neglect. The Statewide Guardian Ad Litem Office was created to provide such representation.

A direct-support organization (DSO) is a Florida corporation created to raise funds and make expenditures to benefit a governmental entity.

The bill authorizes the Statewide Guardian Ad Litem Office to create a DSO. The DSO may conduct programs and activities, raise funds, and make expenditures that directly or indirectly benefit the Guardian Ad Litem Office.

The bill has no fiscal impact on state or local government.

The bill is effective July 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government -- This bill creates a direct-support organization.

B. EFFECT OF PROPOSED CHANGES:

Background

"The mission of the State of Florida Guardian Ad Litem Program (GAL) is to advocate for the best interests of children who are alleged to be abused, neglected or abandoned and who are involved in court proceedings."¹ As of December 2006, the Statewide Guardian Ad Litem Office represents an estimated 32,787 children annually². Currently, the Office has a volunteer base of 5,413 people, which is the largest number of volunteers in its 26 year history.³

A direct-support organization is typically created to give a governmental entity the flexibility to seek an additional funding source. Numerous direct-support organizations are provided for in statute including ones for the Statewide Public Guardianship Office⁴ and for the Office of Tourism, Trade and Economic Development.⁵

Effect of the Bill

This bill creates a direct-support organization for the Statewide Guardian Ad Litem Office. A direct-support organization is defined as a not for profit, incorporated under the provisions of chapter 617 and approved by the Department of State and:

- Organized and operated to conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer in its own name, securities, funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the Statewide Guardian Ad Litem Office; and
- Operated in a manner consistent with the goals and purposes of the executive director of the Guardian Ad Litem Office and in the best interest of the state.

The bill provides that the DSO must operate under a written contract with the Statewide Guardian Ad Litem Office. The contract must provide that:

- The executive director of the Guardian Ad Litem Office approve the articles of incorporation and bylaws and an annual budget;
- The executive director of the Guardian Ad Litem Office will certify that the DSO is complying with the contract in a manner that is consistent with the goals and purposes of the Guardian Ad Litem Office and acting in the best interest of the state;
- If the DSO ceases to exist, all moneys and property will revert back to the Guardian Ad Litem Office
- The fiscal year of the DSO begins July 1st of one year and ends June 30th of the next year;
- Material provisions of the contract and the distinction between the DSO and the Guardian Ad Litem Office be provided to the donors of gifts, contributions, or bequests, as well as any promotional and fundraising publications.

¹ Mission statement found on www.guardianadlitembigbend.org

² Guardian Ad Litem 2006 Annual Report, *A Voice for Florida's Abused & Neglected Children*

³ *Id.*

⁴ Section 744.7082, F.S.

⁵ Section 288.1229, F.S.

The bill provides for the appointment of a Board of Directors by the Executive Director of the Guardian Ad Litem Office to serve at the pleasure of the of the Executive Director. Employees of the Statewide Guardian Ad Litem Office may be designated by the Executive Director to serve on the Board. With regard to property, the executive director: may permit the use of property other than money, facilities, and personal services; may determine how the DSO must comply in order to use said properties, facilities, and personal services; and may not allow use of said properties unless the DSO complies with equal employment opportunities regarding race, color, religion, sex, age, or national origin.

The bill also defines the term "personal services" as including full-time and part-time personnel as well as payroll processing. In addition, the bill specifies that any moneys acquired by the DSO may be held in a separate depository account in the name of the organization and subject to the contract with the Guardian Ad Litem Office. Pursuant to s. 215.981, F.S., the DSO must also provide for an annual financial audit.

The bill limits the DSO from exercising certain corporate powers.⁶ The bill also prohibits state employees from receiving compensation for the DSO for service on the board of directors or for services rendered to the DSO.

C. SECTION DIRECTORY:

Section 1 creates s. 39.8298, F.S., to create a direct-support organization affiliated with the Statewide Guardian Ad Litem Office.

Section 2 provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

⁶ See 617.0302 (12), (16) F.S.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The following comments were provided by the Executive Director of the Guardian Ad Litem Office:

“By providing authority for the Program to establish a DSO, the Program could contract with a private entity to conduct programs and activities, including raising funds, for the benefit of the Program and the abused, abandoned and neglected children the Program represents.”

D. STATEMENT OF THE SPONSOR

No statement submitted by the original bill sponsor.

The chair of the Safety & Security Council chose not to submit any further comments regarding the council substitute.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On February 21, 2007, the Committee on Courts adopted one amendment that:

- Makes a number of grammatical and organizational changes.
- Exempts the DSO created from paying state corporate fees.
- Removes the requirement of contract certification by the executive director.
- Specifies that members of the board of directors serve at the pleasure of the executive director.
- Removes rulemaking authority by the executive director regarding use of property, facilities, or personal services of the office.
- Restricts the DSO from forming subsidiary corporations.
- Restricts state employees from receiving compensation from the DSO.

The bill was then reported favorably with an amendment. The bill was reported favorably by the Safety and Security Council as a council substitute. This analysis is drafted to the council substitute.