

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 807 Guardians ad Litem
SPONSOR(S): Seiler; McBurney
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1582

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Courts	6 Y, 0 N	Webb	Bond
2) Safety & Security Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

A guardian ad litem is a volunteer appointed by the court to protect the rights and advocate the best interests of a child involved in a court proceeding. This bill provides that citizens who are affiliated with a not-for-profit legal aid organization may be a guardian ad litem in dissolution of marriage, modification, parental responsibility, custody, and visitation cases once they have completed a security background investigation.

This bill appears to have an indeterminate positive fiscal impact for the Florida Department of Law Enforcement. This bill does not appear to have a fiscal impact on local government revenues. This bill requires an individual or a non-for-profit organization to pay \$23 for a background check in order for a citizen associated with a not-for-profit to be a guardian ad litem.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the house principles.

B. EFFECT OF PROPOSED CHANGES:

Background

A guardian ad litem (GAL) is a volunteer appointed by the court to protect the rights and advocate the best interests of a child involved in a court proceeding.¹ The Florida Guardian Ad Litem Program is a partnership of community advocates and professional staff who act on behalf of Florida's abused and neglected children.² As of September 14, 2007, there were 41,180 children under the Department of Children and Family Services' supervision and involved in court proceedings.³ Of this number, the Guardian Ad Litem Program represents 32,411 children.⁴ As of July 31, 2007, there are 5,687 certified volunteers in the Guardian Ad Litem Program.⁵

Part XII of ch. 39, F.S., addresses GALs and guardian advocates. In 2003, the Statewide Guardian Ad Litem Office was created within the Justice Administrative Commission.⁶ The Statewide Guardian Ad Litem Office's purpose is to oversee responsibilities for and provide technical assistance to all guardian ad litem and attorney ad litem programs located within the judicial circuits.⁷

Chapter 61, F.S., provides for the appointment of a GAL in a dissolution of marriage, modification, parental responsibility, custody, or visitation proceeding.⁸ In order to be a GAL under ch. 61, F.S., a person must be certified by the Guardian Ad Litem Program or be an attorney who is a member in good standing of The Florida Bar.⁹ The Guardian Ad Litem Program must conduct a security background investigation as provided in s. 39.821, F.S., prior to certifying a person as a GAL.

The Guardian Ad Litem Program ("Program") under the Statewide Guardian Ad Litem Office provides representation for children in child abuse, abandonment, or neglect proceedings. However, the Program does not provide guardian ad litem representation in most dissolution of marriage cases.¹⁰ General revenue for the Program is only provided in proceedings where allegations of child abuse or neglect have been made.¹¹ "[F]unds... [are not] used to represent children in dissolution of marriage proceedings unless the child is also subject to dependency proceedings."¹²

¹ Florida Guardian ad Litem Program, <http://www.guardianadlitem.org> (last visited February 22, 2008).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ Chapter 2003-53, L.O.F.

⁷ Section 39.8296(2)(b), F.S.

⁸ Section 61.401, F.S.

⁹ Section 61.402, F.S.

¹⁰ E-mail correspondence with Debra Lacombe, Director of Legislative Affairs for the Statewide Guardian ad Litem Office. February 25, 2008. Correspondence on file with Committee on Courts.

¹¹ *Id.*

¹² See Ch. 2007-72, Laws of Florida

Effect of Proposed Changes

This bill amends s. 61.402, F.S., to provide that a citizen affiliated with a not-for-profit legal aid organization¹³ may be a guardian ad litem in dissolution of marriage, modification, parental responsibility, custody, and visitation cases, once he or she has completed a positive security background investigation as described in s. 39.821, F.S. A security background investigation must include, but is not limited to, employment history checks, checks of references, local criminal records checks through local law enforcement agencies, and statewide criminal records checks through the Department of Law Enforcement.¹⁴

This bill also requires the Guardian Ad Litem program ensure that the not-for-profit legal aid organization has conducted a security background investigation pursuant to s. 39.821, F.S.

C. SECTION DIRECTORY:

Section 1 amends s. 61.402, F.S., relating to the qualifications of guardians ad litem.

Section 2 provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill will require either an individual associated with a not-for-profit organization or the not-for-profit organization itself to pay \$23 for a background check for each citizen who wishes to become a guardian ad litem under this bill.

D. FISCAL COMMENTS:

This bill appears to have an indeterminate positive fiscal impact for the Florida Department of Law Enforcement from revenues generated by this background check fee.

¹³ A "not-for-profit legal aid organization" means a "not-for-profit organization operated in this state that provides as its primary purpose civil legal services without charge to eligible clients." Section 68.096(4), F.S.

¹⁴ Section 39.821(1), 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 any action requiring 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:

None.

D. STATEMENT OF THE SPONSOR

No Statement Submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 5, 2008, the Committee on Courts adopted one amendment to this bill. The amendment made the following revisions to the bill:

- Provides that guardian ad litem associated with not-for-profit legal aid organizations may only serve in marriage, modification, parental responsibility, custody, or visitation actions and actions where the court has determined that there are well-founded allegations of child abuse, abandonment, or neglect.
- The bill provides that the Statewide Guardian Ad Litem Office must verify that the background check of GALs affiliated with not-for profit legal aid organizations conform to s. 39.821, F.S. This amendment provides instead that local not-for-profit legal aid organizations verify that the background check of GALs affiliated with not-for-profit legal aid organizations conforms to s. 39.821, F.S.

The bill was then reported favorably with an amendment.