

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Appropriations Subcommittee on Criminal and Civil Justice

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BILL: SB 222

INTRODUCER: Senator Bean

SUBJECT: Guardian Ad Litem Direct-support Organization

DATE: December 5, 2017

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Preston</u>	<u>Hendon</u>	<u>CF</u>	<b>Favorable</b>
2.	<u>Harkness</u>	<u>Sadberry</u>	<u>ACJ</u>	<b>Pre-meeting</b>
3.	_____	_____	<u>AP</u>	_____

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**I. Summary:**

SB 222 removes the scheduled repeal date for the law governing the Guardian ad Litem Foundation. The Foundation serves as a direct-support organization for the Statewide Guardian ad Litem Office.

The bill has no impact on state revenues or expenditures.

The bill takes effect upon becoming law.

**II. Present Situation:**

**Citizen-Support Organizations and Direct-Support Organizations**

Citizen-support organizations (CSOs) and direct-support organizations (DSOs) are statutorily created non-profit organizations<sup>1</sup> authorized to carry out specific tasks in support of public entities or public causes. The function and purpose of a CSO or DSO are prescribed by an enacting statute and a written contract with the agency the CSO or DSO was created to support.<sup>2</sup>

***CSO and DSO Transparency and Reporting Requirements***

In 2014, the Legislature created s. 20.058, F.S., establishing a comprehensive set of transparency and reporting requirements for CSOs and DSOs.<sup>3</sup> Specifically, the law requires each CSO and DSO to annually submit the following information to the appropriate agency by August 1:<sup>4</sup>

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<sup>1</sup> Chapter 617, F.S.

<sup>2</sup> See ss. 14.29(9)(a), 16.616(1), and 258.015(1), F.S. See also Rules of the Florida Auditor General, *Audits of Certain Nonprofit Organizations* (effective June 30, 2017), Rule 10.720(1)(b) and (d) available at [https://flauditor.gov/pages/pdf\\_files/10\\_700.pdf](https://flauditor.gov/pages/pdf_files/10_700.pdf) (last visited October 2, 2017).

<sup>3</sup> Section 3, ch. 2014-96, L.O.F

<sup>4</sup> Section 20.058(1), F.S.

- The name, mailing address, telephone number, and website address of the organization;
- The statutory authority or executive order that created the organization;
- A brief description of the mission of, and results obtained by, the organization;
- A brief description of the organization's plans for the next three fiscal years;
- A copy of the organization's code of ethics; and
- A copy of the organization's most recent Internal Revenue Service (IRS) Form 990.<sup>5</sup>

Additionally, the information submitted annually by a CSO or DSO must be available on the respective agency's website along with a link to the CSO or DSO's website, if one exists.<sup>6</sup> Any contract between an agency and a CSO or DSO must be contingent upon the CSO or DSO submitting the required information to the agency and posting the information on the agency's website.<sup>7</sup> The contract must include a provision for ending operations and returning state-issued funds to the state if the authorizing statute is repealed, the contract is terminated, or the organization is dissolved.<sup>8</sup> If a CSO or DSO fails to submit the required information to the agency for two consecutive years, the agency head must terminate its contract with the CSO or DSO.<sup>9</sup>

By August 15 of each year, the agency must report to the Governor, President of the Senate, Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability the information submitted by each CSO or DSO along with the agency's recommendation and supporting rationale to continue, terminate, or modify the agency's association with the CSO or DSO.<sup>10</sup>

Any law creating, or authorizing the creation of a CSO or DSO must state that the authorization for the organization repeals on October 1 of the 5th year after enactment unless reviewed and reenacted by the Legislature. CSOs and DSOs in existence prior to July 1, 2014, must be reviewed by the Legislature by July 1, 2019.<sup>11</sup>

### ***CSO and DSO Audit Requirements***

Section 215.981, F.S., requires each CSO and DSO with annual expenditures in excess of \$100,000 to provide for an annual financial audit of its accounts and records.<sup>12</sup> The audit must be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General and the state agency that created, approved, or administers the DSO or CSO. The audit report must be submitted within nine months after the end of the fiscal year to the Auditor General and to the state agency the CSO or DSO supports. Additionally, the Auditor

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<sup>5</sup> The IRS Form 990 is an annual information return required to be filed with the IRS by most organizations exempt from federal income tax under 26 U.S.C. 501. 26 C.F.R. 1.6033-2.

<sup>6</sup> Section 20.058(2), F.S.

<sup>7</sup> Section 20.058(4), F.S.

<sup>8</sup> Chapter 2017-75, L.O.F.

<sup>9</sup> Section 20.058(4), F.S.

<sup>10</sup> Section 20.058(3), F.S.

<sup>11</sup> Section 20.058(5), F.S.

<sup>12</sup> The independent audit requirement does not apply to a CSO or DSO for a university, district board of trustees of a community college, or district school board. Additionally, the expenditure threshold for an independent audit is \$300,000 for a CSO or DSO for the Department of Environmental Protection and the Department of Agriculture and Consumer Services.

General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements of a CSO's or DSO's accounts and records.<sup>13</sup>

### ***CSO and DSO Ethics Code Requirement***

Section 112.3251, F.S., requires a CSO or DSO to adopt a code of ethics. The code of ethics must contain the specified standards of conduct and disclosures provided in ss. 112.313 and 112.3143(2), F.S.<sup>14</sup> A CSO or DSO may adopt additional or more stringent standards of conduct and disclosure requirements and must post its code of ethics on its website.<sup>15</sup>

### **The Guardian ad Litem Program**

Florida's Guardian ad Litem Program (GAL Program) advocates for the best interests of children alleged to be abused, neglected, or abandoned who are involved in court proceedings. The GAL Program uses a team approach to represent children: GAL volunteers, Child Advocacy Managers (CAMs) and Child Best Interest (CBIs) Attorneys.<sup>16</sup>

Florida Statutes require that a guardian ad litem (GAL) be appointed at the earliest possible time in an abuse or neglect proceeding.<sup>17</sup> The GAL is required to review all disposition recommendations and changes in placements, and must be present at all critical stages of the dependency proceeding or submit a written report of recommendations to the court.<sup>18</sup> The GAL Program advocates on behalf of the child and monitors the child's safety and well-being, as well as significant changes in the parents' lives that could affect the child's safety.

Currently, there are more than 10,000 GAL volunteers, 175 CBI attorneys, 350 CAMs, 20 Circuit Directors and GAL staff representing the needs of thousands of dependent children. In the last 35 years, the GAL Program has had over 30,000 volunteers who have represented more than 250,000 children.<sup>19</sup>

### ***The Guardian ad Litem Foundation***

In 2007, the Legislature authorized the GAL Program to create a direct-support organization for the direct or indirect benefit of the Statewide Guardian ad Litem Office by conduct programs and activities; raising funds; request and receive grants, gifts, and bequests of moneys; and making expenditures to or for the direct or indirect benefit of the Statewide Guardian Ad Litem Office.<sup>20</sup>

The GAL Program established the Florida Guardian ad Litem Foundation (Foundation) as its direct-support organization. The executive director of the Statewide GAL Office appoints the

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<sup>13</sup> Section 11.45(3), F.S.

<sup>14</sup> Some of the standards of conduct and disclosures in ss. 112.313 and 112.3143(2), F.S., include misuse of public position, solicitation or acceptance of gifts, unauthorized compensation, and voting conflicts.

<sup>15</sup> Section 112.3251, F.S.

<sup>16</sup> Florida Guardian ad Litem Program, Annual Report, 2016, *A Voice Heard: Visualizing a Hopeful Future*, available at <http://guardianadlitem.org/wp-content/uploads/2014/08/GAL-Annual-Report-for-Print4.pdf>. (last visited October 2, 2017).

<sup>17</sup> Section 39.822(1), F.S.

<sup>18</sup> Section 39.822(4), F.S.

<sup>19</sup> Florida Guardian ad Litem Program, Annual Report, 2016, *A Voice Heard: Visualizing a Hopeful Future*, available at <http://guardianadlitem.org/wp-content/uploads/2014/08/GAL-Annual-Report-for-Print4.pdf>. (last visited October 2, 2017).

<sup>20</sup> Section 39.8298, F.S.

members of the board of directors. The board of directors serves at the pleasure of the executive director in carrying out the mission of the DSO to provide additional resources for the GAL Program, its volunteers, and its affiliated circuit nonprofit organizations<sup>21</sup> in order to promote guardian ad litem representation for abused, neglected and abandoned children in Florida's dependency system.<sup>22</sup> The DSO is repealed on October 1, 2018 unless reviewed and saved from repeal by the legislature.<sup>23</sup>

According to the Statewide GAL Program, the Foundation continues to provide support to the GAL Program and serves the critical function of soliciting and receiving grants and resources from private and philanthropic organizations for the Program and the children it represents. In addition, the Foundation conducts the following activities that further the Program's mission:

- Developing statewide partnerships;<sup>24</sup>
- Publicizing the Program's mission to represent the best interests of children;
- Coordinating with and serving as a resource to the twenty non-profit organizations affiliated with the local GAL Programs;
- Enhancing opportunities for recruitment and retention of volunteers; and
- Offering supplemental training opportunities for volunteers.

For the tax period beginning July 1, 2016 and ending June 30, 2017, the Foundation reported total revenue of \$178,092 and total expenditures of \$153,467.<sup>25</sup>

The Statewide Guardian ad Litem Program has stated that without the Foundation, the GAL Program would have fewer opportunities to educate, advocate, and support the needs of dependent children and the Program recommends the continuation of the Foundation as its Direct Support Organization.<sup>26</sup> The Foundation meets all of the statutory requirements.

### III. Effect of Proposed Changes:

The bill removes the scheduled repeal date for the law governing the Guardian ad Litem Foundation. The Foundation serves as a direct-support organization for the Statewide Guardian ad Litem Office.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

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<sup>21</sup> Many of Florida's judicial circuits have non-profit organizations that raise money and sponsor activities for the local guardian ad litem program. Those include, but are not limited to, Northwest Guardian ad Litem Foundation, Guardian ad Litem Foundation – 20<sup>th</sup> Judicial Circuit, Guardian ad Litem Foundation of Florida's First Coast, Child Advocates II of Tallahassee, and Voices for Children.

<sup>22</sup> Guardian ad Litem Foundation, Bylaws 2016, *available at*: <http://flgal.org/about/> (last visited October 3, 2017).

<sup>23</sup> Section 39.8298, F.S.

<sup>24</sup> Florida Statewide Guardian ad Litem Program, Annual Report of the Florida Guardian ad Litem foundation, August 10, 2017, *available at*: <http://flgal.org/wp-content/uploads/2017/07/GAL-Program-Report-to-Governor-re-Foundation-FINAL.pdf>. (last visited October 3, 2017).

<sup>25</sup> Internal Revenue Service, Form 990, Return of Organization Exempt From Income Tax, 2016.

<sup>26</sup> *Id.*

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Funding raised through the DSO will further the Guardian ad Litem Program's mission to represent the best interests of abused, abandoned, and neglected children.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

The bill substantially amends section 39.8298 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.