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Senate Health, Education and Social Services Committee

Legislation Checklist

Bill number: SB434

Sponsor: Kauttula

Date referred to committee:

Synopsis completed:

Fiscal note:

Further referrals: Judiciary

CONTACTS:

Introduced: 2/14/86
Referred: Health, Education and
Social Services and
Judiciary

1 IN THE SENATE

BY KERTTULA

2

SENATE BILL NO. 434

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to volunteer guardians ad litem and
7 court-appointed special advocates in the Office of
8 Public Advocacy."

9

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10

* Section 1. AS 44.21.410 is amended to read:

11

Sec. 44.21.410. POWERS AND DUTIES OF PUBLIC ADVOCACY OFFICE.

12

(a) The office of public advocacy shall

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(1) perform the duties of the public guardian under AS 13.-

14

26.36C - 13.26.410;

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(2) provide visitors and experts in guardianship proceed-

16

ings under AS 13.26.131;

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(3) provide guardian ad litem services to children in child

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protection actions under AS 47.17.030(e) and to wards and respondents

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in guardianship proceedings who will suffer financial hardship or

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become dependent upon a government agency or a private person or

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agency if the services are not provided at state expense under AS 13.-

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26.112;

23

(4) provide legal representation in guardianship proceed-

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ings to respondents who are financially unable to employ attorneys

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under AS 13.26.106(b), to indigent parties in cases involving child

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custody in which the opposing party is represented by counsel provided

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by a public agency, and to indigent parents or guardians of a minor

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respondent in a commitment proceeding concerning the minor under

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AS 47.30.775;

1 (5) provide legal representation and guardian ad litem
2 services under AS 25.24.310; in cases arising under the Uniform Inter-
3 state Compact on Juveniles (AS 47.15); in cases involving petitions to
4 adopt a minor under AS 25.23.100(j); in cases involving petitions to
5 remove the disabilities of a minor under AS 09.55.590; in children's
6 proceedings under AS 47.10.050(a); and in cases involving indigent
7 persons who are entitled to representation under AS 18.85.100 and who
8 cannot be represented by the public defender agency because of a
9 conflict of interests;

10 (6) develop and coordinate a program to recruit, select,
11 train, assign, and supervise volunteer guardians ad litem and court-
12 appointed special advocates from local communities to aid in deliver-
13 ing services in cases in which the office of public advocacy is ap-
14 pointed as guardian ad litem.

15 (b) The commissioner of administration may

16 (1) adopt regulations that the commissioner considers
17 necessary to implement AS 44.21.400 - 44.21.440;

18 (2) report on the operation of the office of public advo-
19 cacy when requested by the governor or legislature or when required by
20 law;

21 (3) solicit and accept grants of funds from the federal
22 government, local governments, persons, and [FROM] private foun-
23 dations, and allocate or restrict the use of those funds as required
24 by the grantor.

25 * Sec. 2. AS 44.21 is amended by adding a new section to read:

26 Sec. 44.21.450. CIVIL LIABILITY OF SPECIAL ADVOCATES AND VOLUN-
27 TEER GUARDIANS. A volunteer guardian ad litem or court-appointed
28 special advocate under the supervision of the office of public advoca-
29 cy may not be held civilly liable for acts or omissions during the

1 good faith performance of duties as a guardian unless the volunteer
2 was guilty of gross negligence or reckless or intentional misconduct.

FEB 25 1986



Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

KARLA L. FORSYTHE
STAFF COUNSEL

303 K Street
Anchorage, Alaska 99501

(907) 264-8228

February 20, 1986

Senator Bettye Fahrenkamp
Chair, Senate HESS Committee
P. O. Box V
Juneau AK 99811

Dear Senator Fahrenkamp:

I am writing to bring to your attention a concern with SB 434 relating to volunteer guardians ad litem and court-appointed special advocates in the Office of Public Advocacy (identical to CS for HB 474 (HESS)). The concern arises from the use of the phrase "court-appointed special advocates" (CASA) which is a term new to the Alaska Statutes.

It is my understanding from Jay McCarthy with the Office of Public Advocacy that CASA is the acronym used by a national movement which seeks to improve the quality of services provided through the function additionally known as "guardian ad litem." The term CASA is preferred in part because it will have more meaning to the public than the Latin term "guardian ad litem".

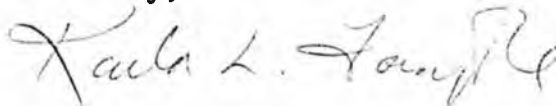
I have reviewed the bill with Judge Carlson, who is the presiding judge for the family division in Anchorage. He indicated that the term "court-appointed special advocates" is confusing and should be deleted from this legislation, because there is no such separately-denominated function. In his view the wording of proposed paragraph (6) creates the impression that the court will make case-by-case appointments for special advocates as a new function separate from the role of the guardian ad litem.

If the committee does not wish to delete the term, since this is the first use of this term in the Alaska statutes, it would be helpful if this legislation could be further amended to define "court appointed special advocate". The legislation should clarify that although such a program can be established through the Office of Public Advocacy, the court will not make appointments on a case-by-case basis nor compensate persons serving in this role.

Sen. Fahrenkamp
Re: HB 434
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If the committee has any questions regarding the court system's position, I will be glad to provide further information.

Sincerely,



Karla L. Forsythe
Staff Counsel

KF/k1

cc: Sen. Kerttula
Jay McCarthy, Office of Public Advocacy
Judge Carlson

POSITION PAPER

SENATE BILL NO. 434

file

For an Act entitled: "An Act relating to volunteer guardians ad litem in the Office of Public Advocacy."

The purpose of this bill is to amend AS 44.21.410 to the Office of Public Advocacy to develop and coordinate a program to recruit, select, train, assign, and supervise volunteer guardians ad litem from local communities to aid in delivering services in cases in which the Office of Public Advocacy is appointed as guardian ad litem. The bill would allow for using a variety of funding sources, including corporate donations. The addition of the term Court Appointed Special Advocate identifies the specific program for Volunteer Guardian Ad Litem.

The provision of a guardian ad litem is widely supported by the division as an essential means of ensuring the protection of abused or neglected children. The division's policy states that if the court finds probable cause and orders the child committed to the department for temporary placement, the worker shall request the appointment of a guardian ad litem to represent the child in future proceedings in accordance with AS 47.17.030(e) which states that "in all actions taken by the Department or a Health and Social Services agency of a local government under this chapter that result in a judicial proceeding the child shall be represented by a guardian ad litem in that proceeding."

The court is given authority by statute to appoint an attorney or a guardian ad litem for the child in a proceeding which is concerned with the child's custody, support, or visitation or in any other legal proceedings involving his welfare. A guardian ad litem appointed pursuant to the Alaska Statutes is an advocate for the best interests of the child, with not only the power but the responsibility to represent the child zealously and to the best of his ability. While the child's attorney advocates the child's wishes, these are not always in his "best" interest. In 1974, Congress enacted the "Child Abuse Prevention and Treatment Act". According to the Act, the guardian ad litem was to be more than a simple advocate for the child, but rather a guardian to protect the child's long range interests.

Because the duties of a guardian ad litem are varied and numerous, it is important that the guardians ad litem receive appropriate training in their roles, duties, and responsibilities. It is important to maintain an adequate pool of trained guardians ad litem to meet children's needs. The division strongly believes that a trained, knowledgeable pool of guardians ad litem would assist the division to ensure that children receive appropriate services and that the case plan for each child is

Position Paper
Senate Bill 434
Page 2

being appropriately administered. The division will offer technical assistance and coordination in any training program developed by the Office of Public Advocacy.

The department strongly supports this bill.

RECOMMENDED:

Michael L. Price
Michael L. Price, Director
Division of Family
and Youth Services

DATE:

Feb 24, 1986

APPROVED:

John R. Pugh
John R. Pugh, Commissioner
Department of Health
and Social Services

DATE:

2/28/86

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : SB 434
 Title : An Act relating to volunteer guardians ad litem
 Sponsor : Kerttula
 Requestor : _____
 Date of Request : 2/20/86

FISCAL DETAIL

Agency Affected: Health & Social Services
 B.U. : Social Services
Youth Services
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING : (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-	-0-	-0-

POSITIONS :

FULL-TIME		-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORAR.						

ANALYSIS : Attach a separate page if necessary

Prepared by: Michael L. Price, Director
 Division: Family & Youth Services

Phone: 465-3170
 Date: February 20, 1986

Approved by Commissioner: John R. Pugh
 Agency: Health & Social Services

Date: 2/28/86

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)