

HB

7

(11)

Date referred: 3/11/87

FURTHER REFERRALS:

DATE: 3/18/87

The Finance Committee has considered HB 7

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

RECOMMENDS:

- replace with CS HB 7 (Fin) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

HAMS Alberto L. Adams

BURCHOT Est. Burchot

ARSON Ronald J. Arson

GOLT Peter Golt

SWACK-HAMMER Ed Swack-Hammer

BOYER Mark Boyer

RIEGER Steve Rieger

WALLS F. Kay Wallis

FRANK D. Frank

BROWN Jay Brown

DAVIS Mike Davis

SIGNING OTHER RECOMMENDATIONS:

Alberto L. Adams
Chairman's signature

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: CSHB 7 (Fin)
Publish Date: _____

REQUEST: _____

Revision Date: 2/09/87

Agency Affected: Administration
BRU: Office of Public Advocacy

Title: "An Act relating to volunteer guardian ad litem program.."

Sponsor: Rep. Sund

Components: _____

Requestor: House HESS

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		53.1	84.2	87.6	91.1	94.7
TRAVEL		3.6	3.7	3.8	4.0	4.2
CONTRACTUAL		2.0	0	0	0	0
SUPPLIES		2.0	2.1	2.2	2.3	2.4
EQUIPMENT		2.4	9.3	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	63.1	99.3	93.6	97.4	101.3
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	63.1	99.3	93.6	97.4	101.3
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	63.1	99.3	93.6	97.4	101.3

POSITIONS:

FULL-TIME	-0-	1.0	2.0	2.0	2.0	2.0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Brant McGee, Public Advocate Phone: 274-1684
Division: Office of Public Advocacy Date: 2/7/87

Approved by Commissioner: Garrey Peska, Commissioner Date: 2/10/87
Agency: Department of Administration

Distribution (by preparer):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 7

This bill relates to the establishment of a volunteer guardian ad litem program within the Office of Public Advocacy. This bill would substantially improve the ability of the Office of Public Advocacy to provide guardian ad litem representation to children in abuse and neglect cases as well as contested custody cases.

It is anticipated that the Office of Public Advocacy would need a program director position in FY88 and a clerk typist III position in FY89 in order to implement a volunteer guardian ad litem program.

BUDGET ANALYSIS

<u>Personal Services</u>	<u>FY88</u>	<u>FY89</u>
Associate Attorney II - Range 19/A (FY88)	53.1	55.2
Clerk Typist III - Range 08/A (FY89)	0	29.0
	53.1	84.2
 <u>Travel</u>		
3 Trips to Ketchikan		
3 Trips to Fairbanks	3.6	3.7
 <u>Contractual</u>		
Advertising		
Printing Training Material	2.0	0
 <u>Supplies</u>		
	2.0	2.1
 <u>Equipment</u>		
Associate Attorney II (FY88)	2.4	
Clerk Typist III (FY89)	—	9.3
TOTAL:	63.1	99.3

Position Title Associate Attorney II		No. of Positions 1	Range/Step 19/A	Org. Unit X
Time Status PFT	Staff Months 12	Location Anchorage-EBA		Election District 8
Justification				
An Associate Attorney II position to act as program director is essential if the CASA, volunteer guardian ad litem program, is to be successfully implemented. It is not possible for present staff positions to carry a full guardian ad litem case-load and assume the duties of establishing and coordinating the volunteer program. The half-time position that is currently funded by federal and private money is inadequate and ends in February, 1988. It is anticipated that the program director will coordinate recruitment, screening and training of volunteers in the Anchorage area. The program director will also be responsible for establishing similar volunteer programs in Fairbanks and Ketchikan, and will study the feasibility of establishing such a program in the rural areas of Alaska. Additionally, the position will be devoted to extensive community education and fundraising for the project.				
Type of Expenditure		Amount		
1	2	3		
Salary	40,236			
Benefits	12,882			
Premium Pay				
Other				
Total Personal Services		53,118		
Travel				
Contractual		2,000		
Commodities		2,000		
Equipment		2,429		
Other				
Total Cost		59,547		
Funding Source for Total Cost				
Federal Receipts	1002			
G. P. Match	1003			
General Fund	1004	59,547		
IA Receipts	1006			
CIP Receipts	1061			
Other				

**Request For
New Position**

Agency Department of Administration
 BRU Office of Public Advocacy
 Component Office of Public Advocacy

Page 3 of 4
 Revised Date _____

FY 88

Position Title Clerk Typist III		No. of Positions 1	Range/Step 08/A	Barg. Unit G
Time Status FTT	Staff Months 12	Location Anchorage-EB4		Election District 8
Justification				
A Clerk Typist III position will be needed to provide clerical support to the volunteer guardian ad litem program director. At present, Office of Public Advocacy has only 3 clerical support positions who provide clerical support to a professional staff of 12 in the Anchorage office. It is not possible for the present secretarial positions to absorb the additional clerical support generated by the program director and the volunteer program.				
Type of Expenditure		Amount		
1	2	3		
Salary	21,078			
Benefits	7,954			
Premium Pay				
Other				
Total Personal Services		29,032		
Travel				
Contractual				
Commodities				
Equipment		9,338		
Other				
Total Cost		38,370		
Funding Source for Total Cost				
Federal Receipts	1002			
G. E. Match	1003			
General Fund	1004	38,370		
FA Receipts	1006			
CIP Receipts	1061			
Other				

**Request For
New Position**

Agency Department of Administration
 BRU Office of Public Advocacy
 Component Office of Public Advocacy

Page 1 of 1
 Revised Date _____

FY 89

Original sponsors: Sund, Gruenberg
and Goll

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 7 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the office of public advocacy and
7 volunteer guardians ad litem."

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

9 * Section 1. AS 44.21.410 is amended to read:

10 Sec. 44.21.410. POWERS AND DUTIES [OF PUBLIC ADVOCACY OFFICE].

11 (a) The office of public advocacy shall

12 (1) perform the duties of the public guardian under AS 13.-
13 26.360 - 13.26.410;

14 (2) provide visitors and experts in guardianship proceed-
15 ings under AS 13.26.131;

16 (3) provide guardian ad litem services to children in child
17 protection actions under AS 47.17.030(e) and to wards and respondents
18 in guardianship proceedings who will suffer financial hardship or
19 become dependent upon a government agency or a private person or
20 agency if the services are not provided at state expense under AS 13.-
21 26.112;

22 (4) provide legal representation in guardianship proceed-
23 ings to respondents who are financially unable to employ attorneys
24 under AS 13.26.106(b), to indigent parties in cases involving child
25 custody in which the opposing party is represented by counsel provided
26 by a public agency, and to indigent parents or guardians of a minor
27 respondent in a commitment proceeding concerning the minor under
28 AS 47.30.775;

29 (5) provide legal representation and guardian ad litem

1 services under AS 25.24.310; in cases arising under the Uniform Inter-
2 state Compact on Juveniles (AS 47.15); in cases involving petitions to
3 adopt a minor under AS 25.23.125(b); in cases involving petitions to
4 remove the disabilities of a minor under AS 09.55.590; in children's
5 proceedings under AS 47.10.050(a); and in cases involving indigent
6 persons who are entitled to representation under AS 18.85.100 and who
7 cannot be represented by the public defender agency because of a
8 conflict of interests;

9 (6) develop and coordinate a program to recruit, select,
10 train, assign, and supervise volunteer guardians ad litem from local
11 communities to aid in delivering services in cases in which the office
12 of public advocacy is appointed as guardian ad litem.

13 (b) The commissioner of administration may

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

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

19 (3) solicit and accept grants of funds from governments
20 [THE FEDERAL GOVERNMENT] and from persons [PRIVATE FOUNDATIONS], and
21 allocate or restrict the use of those funds as required by the gran-
22 tor.

23 * Sec. 2. AS 44.21.410 is amended by adding a new subsection to read:

24 (c) The commissioner of administration shall separately account
25 for money received under (b)(3) of this section and deposited in the
26 general fund. The annual estimated balance in the account may be used
27 by the legislature to make appropriations to the Department of Admin-
28 istration to carry out the purposes of this section.

29 * Sec. 3. AS 44.21 is amended by adding new sections to read:

1 Sec. 44.21.450. CIVIL LIABILITY OF VOLUNTEER GUARDIANS. (a) A
2 volunteer guardian ad litem under the supervision of the office of
3 public advocacy is not civilly liable for acts or omissions during the
4 good faith performance of duties as a guardian unless the acts or
5 omissions constitute gross negligence.

6 (b) This section does not affect the civil liability of the
7 office of public advocacy.

8 Sec. 44.21.460. NONATTORNEY VOLUNTEER GUARDIANS AD LITEM. A
9 nonattorney volunteer guardian ad litem may not give legal advice or
10 act in the capacity of attorney for a minor before a court or adminis-
11 trative agency.

12 Sec. 44.21.490. DEFINITION. In AS 44.21.410 - 44.21.490, "vol-
13 unteer guardian ad litem" means a court-appointed special advocate
14 (CASA).
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STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
POUCH WF-STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 455-3795

17 March 1987

To: LouAnn Cutler

From: Jim Slocum *J*

Subj: Guardian ad Litem Program, Office of Public Advocacy

There have been two RPL's (attached) for this program in FY87:

RPL 02-7-0062 provides \$25,596 to start up and run the program. There will be a \$17,500 carryover to FY88.

RPL 02-7-0347 provides an additional \$11,000 for the program, \$4,936 of which will be spent in FY87. \$6064 will be carried over to FY88 for a total of \$23,564.

MEMORANDUM

State of Alaska

TO: Jay Hogan
Associate Director
Division of Budget Review
Office of Management and Budget
Office of the Governor

DATE: January 29, 1987

FILE NO:

TELEPHONE NO: 465-2200

FROM: Commissioner Garrey Peska
Department of Administration

SUBJECT: Request for Revised
Program Type 4 - RPL
ADN 027-0347

The Department of Administration, Office of Public Advocacy (OPA), is requesting authority to receive and expend additional federal funds.

(1) Funding Availability

- (a) Office of Public Advocacy has applied for a grant in the total amount of \$11,000.00 to expand the Volunteer Guardian ad litem Program (VGAL). This grant will be partially received in FY 87 in the amount of \$4,936.00.
- (b) Funding will be pass-through funds provided by the U.S. Department of Justice, Office of Juvenile Justice and Delinquency, through the National Council and Family Court Judges, Permanent Families for Children Project.
- (c) It is anticipated that these funds will be awarded, however, official notification has not as yet been received. These funds would be awarded to carry out a one-time-only special project, i.e., to expand the VGAL. No future support is anticipated.

(2) New or Expanded Services to be Provided

- (a) The funds are needed to expand operation of the Volunteer Guardian ad litem Program which has previously received funding from the U.S. Department of Health and Human Services, the Alaska Bar Association, and the National Court-Appointed Special Advocate Association (CASA). The Volunteer Guardian ad litem Program is aimed at providing higher quality representation to abused and neglected children through a cost effective means by using volunteers in addition to Office of Public Advocacy staff. The funds provide partial salary and travel expenses for a half-time Program Director of the program. Beneficiaries of these activities are the clients of the Office of Public Advocacy, specifically abused and neglected children before the Court on Child in Need of Aid petitions.
- (b) The funds in this program will be added to those grants previously mentioned to increase hours of the Program Director, provide supplies for program operation and volunteer recruitment, and allow for travel to Ketchikan and Fairbanks to establish the beginnings of Volunteer Guardian ad litem Programs in those

communities. The funds will be utilized to allow the Program Director to develop advisory committees and to train and recruit prospective volunteers for these activities in other parts of Alaska as well. Funds anticipated to be received and expended during FY 87 are as follows:

Personnel Services	\$3,353.00
Travel	1,034.00
Supplies	375.00
Other	174.00
	<u>\$4,936.00</u>

- (c) Direct services to abused and neglected children will be provided through the expansion of the Volunteer Guardian ad litem Program.
- (d) This RPL request will expand activities previously authorized by RPL No. ADN 02-7-0062.
- (e) The effect of a delay in approval of this RPL would be the inability of the Program Director to increase her hours and jeopardize the ability of the program to meet its goals and objectives.

(3) Impact on the General Fund

- (a) No general funds have been appropriated for this Volunteer Guardian ad litem Program.
- (b) Receipt of these funds will not obligate the state to replace the non-general funds in the future.
- (c) No matching state funds are required as a condition of receiving these funds.

(4) Position to be Funded

No new positions or existing vacant positions will be created or funded by this grant.

(5) Technical and Budget Aspects of the RPL

- (a) These funds were not included in OPA's FY 87 budget as OPA did not know at the time the budget was prepared if the grant would be awarded. Funds anticipated to be received and expended during FY 87 (January 1, 1987 to June 30, 1987) are as follows:

Personnel Services	\$3,353.00
Travel	1,034.00
Supplies	375.00
Other	174.00
	<u>\$4,936.00</u>

- (b) As the grant period of this project is January 1, 1987, through February 14, 1988, OPA has included the remaining funds from this grant for the final seven-and-one-half months of the project (July 1, 1987 through February 14, 1988), in its FY 88 budget.
- (c) OPA has not received official funding approval for this project, and the increased expenditure authorization will be restricted pending receipt of the official document.
- (d) The funds requested in this RPL will be spent during FY 87 from January 1, 1987, through June 30, 1987.

GP/GMB/ljo
4/1D1/0122-03

REVISED PROGRAM NO. 02-7-0347

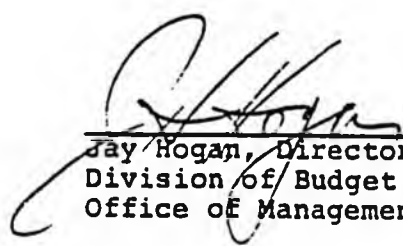
DATE 2/11/87

PAGE NO. 4

✓ Mike Maher 2/11/87

Mike Maher
Budget Analyst
Division of Budget Review
Office of Management and Budget

Approved this 12 day of Feb, 1987.


Jay Hogan, Director
Division of Budget Review
Office of Management and Budget

MEMORANDUM


State of Alaska

TO: Jay Hogan
Associate Director
Division of Budget Review
Office of the Governor


DATE: August 14, 1986

FILE NO:

TELEPHONE NO: 465-2277

THRU: 
Commissioner Eleanor Andrews
Department of Administration

SUBJECT: Request for Revised
Program Type 4 - RPL-FY 87
ADN 02-7-0062

FROM: Gary Bader 
Director
Division of Administrative Services
Department of Administration

100 - 21194

200 4150

300 2552

The Department of Administration, Office of Public Advocacy (OPA), requests authorization to receive and expend an additional \$25,596.00 in funds from grants awarded to support a one-time volunteer project.

I. Funding Availability

- A. Office of Public Advocacy was awarded two grants: (1) in the amount of \$23,096.00 to carry out a demonstration grant, and (2) \$2,500.00 for a start-up grant.
- B. The Department of Health and Social Services, Office of Human Development Services (OHD), awarded the demonstration grant funds to OPA; the National Court Appointed Special Advocate Association (CASA) awarded the \$2,500.00 start-up grant to OPA.
- C. These funds were awarded to carry out a one-time-only special project, Volunteer Guardian Ad Litem Program (VGAL) and no future support is anticipated.

II. New or Expanded Services to be Provided

- A. Funds are necessary as a matching requirement to the OHD grant provided to the OPA. Without matching funds, the federal grant will not be awarded. The funds will specifically be utilized to implement a volunteer guardian ad litem program. As can be found in detail in the attached proposal that was submitted to the OHD, guardian ad litem services are utilized to represent the best interests of a minor in judicial proceedings. Most cases involve child abuse and neglect, juvenile delinquency, or contested custody in divorce. Due to very high caseloads, the current staff at the OPA is barely able to adequately represent clients. Each staff guardian ad litem is currently carrying a caseload of 100 to 120 cases. The volunteer guardian ad litem program will follow for

All personal services for staff attorney time, secretarial time, and contractual funds for office space will be in the form of an in-kind contribution from OPA and will not require general fund disbursements. Funds from OPA's general fund appropriation in the amount of \$1,954.00 for travel and \$500.00 for printing a VGAL manual will be used in carrying out this grant project and should be transferred to the federal grant collocation code assigned.

4. Position to be Funded

No new positions or existing vacant positions will be created or funded by these grants. ✓

5. Technical and Budget Aspects of the RPL

- A. These funds were not included in OPA's FY 87 budget as OPA did not know at the time the budget was prepared if the grants would be awarded.
- B. As the grant period of this project is September 1, 1986, through January 31, 1988, OPA will include the remaining funds from the OHD grant for the final seven months of the project (July 1, 1987, through January 31, 1988) in its FY 88 budget.
- C. OPA has received official grant approval for this project. A copy of the Notice of Financial Assistance Awarded is attached.
- D. The funds requested in this RPL will be sent during FY 87 from September 1, 1986, through June 30, 1987.
- E. The indirect costs involved in carrying out this project are included as part of the matching funds (in-kind contributions) provided by OPA as a condition of receipt of the OHD grant.

Your approval of this increased authorization is appreciated. If we can be of further assistance, please let us know.

GB/JH/jr
7/101/0813-02
Attachments

07-02-05-00-00 (00-00-0-00-00-00)

STATE OF ALASKA -- COMPONENT BUDGET SUMMARY

SALSFRMA 12:56 1/28/87

AGENCY: DEPARTMENT OF ADMINISTRATION
CATEGORY: ADMINISTRATION OF JUSTICEPROGRAM: OFFICE OF PUBLIC ADVOCACY
SUB-PROGRAM:

LEG. FIN.

EXPENDITURES & FUNDING	FISCAL YEAR 1988												
	(01) FY86 ACT	(02) FY87 ATH	(03) FY87 REV	(04) TRANSFER	(05) DECRMTS	(06) INCRMNTS	(07)	(08) GOVERNOR	(09) HOUSE	(10) SENATE	(11) C. C.	(12) BILLS	(13) LEG.REC.
01 PERS. SERV.	1341.0	1380.3	1380.3	30.4		14.3		1425.0					
02 TRAVEL	73.1	131.0	131.0			3.1		134.1					
03 CONTRACTUAL	1878.2	2070.7	2070.7	-30.4				2040.3					
04 COMMODITIES	21.7	27.0	27.0			.1		27.1					
05 EQUIPMENT	4.4	20.0	20.0					20.0					
06 LANDS/BLDGS													
07 GRANTS, CLMS	30.0	30.0	30.0					30.0					
08 MISC.													
** TOTAL EXPEND	3348.4	3659.0	3659.0			17.5		3676.5					
09 I-A TRANSFER													
1002 FED RCPTS						17.5		17.5					
1004 GEN FUND	3348.4	3659.0	3659.0					3659.0					
15 FULL TIME	25.0	25.0	25.0	1.0				26.0					
16 PART TIME													
17 TEMPORARY													
18 STAFF MONTHS	300.0	289.0	289.0	12.0				301.0					

07-02-05-00-00 (00-00-0-00-00-00)

STATE OF ALASKA -- COMPONENT BUDGET ANALYSIS

SALSFRMA 12:56 1/28/87

AGENCY: DEPARTMENT OF ADMINISTRATION
CATEGORY: ADMINISTRATION OF JUSTICE

PROGRAM: OFFICE OF PUBLIC ADVOCACY
SUB-PROGRAM:

LEG. FIN.

***** FY87 REV ANALYSIS *****

***** GOVERNOR'S ANALYSIS (87 REV TO 88 GOV) *****

TOTAL GEN_FUND	OTH_FUND	PFT	PPT	DESC
0.0	0.0	0.0	1.0	0.0 TRANSFER I/A REC. POS. INTO OPA #2035
0.0	0.0	0.0	0.0	0.0 GENERAL REDUCTION IN CONTRACTUAL #2036
17.5	0.0	17.5	0.0	0.0 ESTABLISH FED. FUNDS/VOLUNTEER GUARDIANS #2037

***** PROGRAM DESCRIPTION & PRIOR YEAR INFORMATION *****

1986 LEGISLATION: HB 574 (CH 130/SEC 2) \$825.9 GF FY86 SUPPLEMENTAL.

HB 574 (CH 130/SEC 30) \$323.3 GF COSTS OF: STATE VERSUS MACKAY ET AL. \$97.8 , STATE VERSUS PEEL \$225.5 .

JOHN SUND, REPRESENTATIVE

2504 2nd Avenue
Ketchikan, Alaska 99901
(907) 225-5552

While in Juneau
P. O. Box V
Juneau, Alaska 99811
(907) 465-4919

March 12, 1987

MEMORANDUM

TO: House Finance Committee
FROM: Representative John Sund
RE: HB7 "An Act relating to volunteer guardian ad litem
in, and grants to, the Office of Public Advocacy

.....
I would appreciate it if you would schedule HB7 at your earliest convenience.

The purpose of this bill is to amend AS 44.21.410 allowing 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 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, 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 the 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.

HB7 carries a fiscal note, but is expected to save money in the long-run, as the funds needed to train and supervise 60 new volunteers would only fund two additional OPA staff.

3/15/87
JMS

CSHB 7 (Judiciary) - An act relating to volunteer guardians ad litem in, and grants to, the Office of Public Advocacy
Overview prepared by Rep. John Sund's office

SECTIONAL ANALYSIS

Section 1, subsection (a)(6) allows the Office of Public Advocacy set up a program to train and supervise volunteers to serve as guardians ad litem. The Office of Public Advocacy began a volunteer guardian program in August 1985, as a pilot project, because of the overwhelming need for additional guardians ad litem and the lack of available staff time. (each attorney guardian ad litem carries a caseload of between 80 and 100 people) As of 2/25/87, 10 volunteers were under the supervision of an attorney guardian from the Office of Public Advocacy.

The volunteers have been able to provide more personal attention to the everyday requirements of their wards, such as coordinating meetings and conferring with social workers. This has allowed the staff additional time to perform the more specialized duties required of guardian ad litem.

Subsection (b)(3) allows the Office of Public Advocacy to solicit funds from governments and persons. Offers of monetary assistance for training and materials have been forthcoming from the Alaska Bar Association, the City of Anchorage and others, so this subsection was included in the bill to allow entities other than state government to support the program.

Section 2: restricts non-attorney guardians ad litem from giving legal advice or acting as an attorney for a minor and limits the civil liability of volunteer guardians, while participating within the program.

Sec. 44.21.450.: Limits the civil liability of volunteer guardians, while participating within the program. The National Court Appointed Special Advocate Association (CASA) suggested that the liability issue be addressed, as volunteer guardian programs in states without legislative protection are finding difficulty in obtaining affordable liability insurance.

Sec. 44.21.460.: Prohibits a nonattorney volunteer guardian ad litem from giving legal advice or acting in the capacity of an attorney. This section was added in Judiciary CS at the request of the OPA.

Sec. 44.21.490.: Defines volunteer guardian ad litem as a court-appointed special advocate (CASA) to relate Alaska's program to the national program. This section was added in the Judiciary CS at the request of the Court System.

POSITION PAPER
House Bill 7

An Act relating to Volunteer Guardian
ad litem/Court Appointed Special Advocates
(VGAL/CASA) in the Office of Public Advocacy

House Bill 7 mandates that the Office of Public Advocacy (OPA) develop a volunteer guardian ad litem program and allows the agency to receive funds from additional sources for this purpose.

The following review of the history of OPA and the volunteer concept will provide the background underlying the OPA's support of HB7.

HISTORY AND DUTIES OF OFFICE OF PUBLIC ADVOCACY:

The Office of Public Advocacy was created and placed within the Department of Administration in the Spring of 1984. The Office of Public Advocacy is required by Statute (A.S. 44.21.410) to provide services in the following three areas.

(1) Guardian ad litem representation to abused children in Child In Need of Aid proceedings, guardian ad litem representation of children in custody disputes, legal representation of parents in Child In Need of Aid proceedings where there is a conflict with the Public Defender's Office, guardian ad litem activities in guardianships for minors, and a host of other civil functions, including legal representation of parents involved in custody disputes where the other party is represented by a public agency, i.e. Alaska Legal Services.

(2) Legal representation of indigent persons charged with crimes where the Alaska Public Defender Agency has a conflict of interest;

(3) Public Guardian services as well as payment to visitors, experts and attorneys for the respondent.

Prior to 1984, the Alaska Court System had provided these services primarily through a system of court appointed attorneys. The Public Guardian function was also within the Alaska Court System.

RESPONSIBILITIES OF A VOLUNTEER GUARDIAN AD LITEM/COURT APPOINTED SPECIAL ADVOCATE:

A Court Appointed Special Advocate/Volunteer Guardian ad litem (hereinafter known as VGAL/CASA) is an individual who is an advocate for a child's best interests in court proceedings. A

VGAL/CASA does not have the legal authority to make decisions effecting the child's person or property, i.e. medical decisions or financial investments. A VGAL/CASA's obligation is to objectively insure that the court receives all pertinent information necessary to make a decision which is in the child's best interest. A major difference between an attorney appointed to represent a child and a VGAL/CASA for a child is that the VGAL/CASA may disagree with the position of the child. A guardian ad litem from the Office of Public Advocacy or its contractors are appointed for every child for which the State of Alaska, Department of Health and Social Services petitions to be a Child In Need of Aid under A.S. 47.10.010 due to abuse or neglect. A child may also have a GAL in contested divorce custody proceedings, contested adoptions, and guardianships.

HISTORY OF CASA

In 1976, King County, Seattle, Washington, Superior Court Presiding Judge David W. Soukop began exploring ways to insure abused and neglected children's best interests were consistently presented to the court. Traditionally, the court appointed attorneys to serve as guardians ad litem for these children. However, due to the high number of cases involving children and the lack of adequate training by many attorneys, as well as cost considerations, Judge Soukop decided to recruit and train community volunteers who would be asked to make a long-term commitment to each child for whom they serve as GAL. The term Court Appointed Special Advocates (CASA) was coined by the National Council of Juvenile and Family Court Judges in 1982. This organization of judicial experts also recommended that every juvenile court in the United States implement a CASA project.

In May of 1985, the Office of Public Advocacy became a member of the National Court Appointed Special Advocate Association and began exploring the feasibility of a VGAL/CASA program in Alaska. The Office of Public Advocacy had informal meetings in Anchorage with judges, family and children's court masters, the Division of Family and Youth Services, Alaska Youth Advocates, the District Attorney's Office, Attorney General's Office, Public Defender's Office, community mental health providers, and the Alaska Bar Association to request their input and recommendations as to whether or not a VGAL/CASA program would be acceptable in the Anchorage area. Due to the overwhelming support of the concept, the Office of Public Advocacy recruited and trained five volunteers in the summer of 1985. The five volunteers were screened by an Advisory Committee. The Advisory Committee continues to assist Office of Public Advocacy staff in the development and operation of the VGAL/CASA program.

THE OFFICE OF PUBLIC ADVOCACY'S SUPPORT FOR HOUSE BILL 7:

The Office of Public Advocacy strongly supports passage of HB7. The Office of Public Advocacy would request that the statute be amended to state Volunteer Guardian ad litem/Court

Appointed Special Advocate so as to be able to utilize the efforts of the National Court Appointed Special Advocate Association. The passage of HB7 would require that the Office of Public Advocacy recruit and develop a permanent VGAL/CASA program. Passage of HB7 would require creating the position of Program Director. It is believed that a non-attorney should be hired in order to implement the VGAL/CASA program first in Anchorage, then in Fairbanks and Ketchikan, and then study the feasibility of developing such a program in other areas of Alaska.

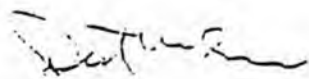
A national survey of all VGAL/CASA programs in the nation was undertaken by the National Court Appointed Special Advocates Association in July, 1985. This nationwide survey found that the average volunteer handled 2.56 cases. It is the belief of the Office of Public Advocacy that a VGAL/CASA program in Anchorage would result in the recruitment of at least 30 volunteers in its first year who could be assigned at least 60 cases. It is believed that a system could be developed in 3 years to have in excess of 100 volunteers in the Anchorage area providing advocacy services to children.

Passage of HB7 would substantially improve the ability of the Office of Public Advocacy to provide guardian ad litem representation to children. Since the Anchorage Office of Public Advocacy began accepting guardian ad litem cases, approximately 1200 cases in Anchorage alone have been opened from the period of January, 1985 through January, 1987. The Office of Public Advocacy currently has two attorney and two associate attorney positions who handle guardian ad litem responsibilities. Under Alaska law a guardian ad litem does not need to be an attorney. The Office of Public Advocacy is attempting to use non-attorneys with training in the needs of children to provide the effective delivery of guardian ad litem services.

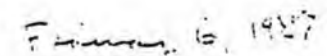
A 1985 national study by Donald N. Duquette, J.D., of the Child Advocacy Law Clinic at the University of Michigan Law School and Sarah H. Ramsey, J.D. of the Syracuse College University of Law clearly indicates that a trained and supervised VGAL/CASA provides superior services than an attorney without specific training in child abuse, and services equal to that of trained social workers and attorneys. However, it is essential that non-attorney VGAL/CASA's have the backup support of an attorney to ensure that the best interests of the child are adequately litigated in contested court cases. Staff attorneys at the Office of Public Advocacy would provide this function.

It is anticipated that the trend of dramatic increases in child abuse and neglect cases will continue. Additionally, the State of Alaska, Department of Health and Social Services' decision in October of 1985 to be in compliance with the Adoption Assistance and Child Welfare Act of 1980, Public Law 96-272, will result in the involvement of the guardian ad litem past the

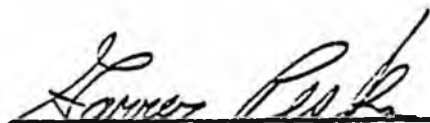
dispositional stage of a Child In Need of Aid proceeding. The effect of Public Law 92-272 will be higher caseloads for the Office of Public Advocacy due to the continued monitoring of cases by a guardian ad litem. With current average caseloads of 150 children per staff person at the Anchorage Office of Public Advocacy, there is grave concern that the quality of representation will decline with these projected increases. The implementation of the VGAL/CASA project is a viable solution to this impending crisis.



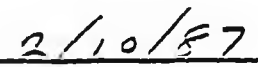
Brant McGee
Public Advocate



Date



Commissioner Garrey Peska
Department of Administration



Date

POSITION PAPER

HOUSE BILL NO. 7

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

This bill amends AS 44.21.410 to allow the Office of Public Advocacy to expand services of guardians ad litem by developing and maintaining a corps of volunteer guardians ad litem.

AS 47.17.030(e) 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. Funds available for salaried guardians ad litem are not adequate to retain sufficient personnel to serve all children in Alaska who have a legal right to the services of a guardian ad litem under AS 47.17.030(e). This results in assignment of guardians only to those cases determined to be the most complicated and a lowering in quality of guardian services due to excessive caseloads. The average caseload in Anchorage is 150 cases per guardian ad litem. This is well above the level at which adequate services can be provided.

Volunteer guardian ad litem programs such as proposed in this bill have proven successful in many states. A stable corps of paid professional staff would be able to maintain a quality service at an expanded level by providing necessary recruitment, training, and supervision for a volunteer corps.

The Department strongly supports this bill.

RECOMMENDED:

Yvonne M. Chase, Director
Division of Family
and Youth Services

DATE:

APPROVED:

Myra M. Munson
Myra M. Munson, Commissioner
Department of Health
and Social Services

DATE:

2/24/87

BILL SHEFFIELD, GOVERNOR

OFFICE OF PUBLIC ADVOCACY

300 W. 5TH AVENUE
SUITE 525
ANCHORAGE, ALASKA 99501
PHONE: (907) 274-1684

FEB 10 1987

January 26, 1987

The Honorable John Sund
Alaska State Representative
P.O. Box V
Juneau, Alaska 99811

Dear Representative Sund:

The Office of Public Advocacy is currently in the process of developing a Volunteer Guardian ad litem Program. A Guardian ad litem (GAL) is appointed by the Court for every child the State of Alaska, Department of Health and Social Services petitions to be a Child In Need of Aid due to abuse or neglect. The volunteers are individuals who advocate to the Court what he or she believes to be in the child's best interest.

The Volunteer Guardian ad litem Program is headed by an advisory committee consisting of volunteers who are judges, family and children's court masters, attorneys, community mental health providers, and current volunteer GALs. The advisory board strongly supports the passage of the volunteer GAL Bill, HB7, and establishment of Alaska Children's Trust Corp., SB19 and HB57.

The advisory committee would like to arrange a joint teleconference with Representative Sund, Representative Goll, Senator Kerttula, and Commissioner Peska. We would like to discuss with you these bills and the possibility of the VGAL Program being a beneficiary of the Children's Trust. Jay

(Continued)

Letter, Representative Sund
January 26, 1987

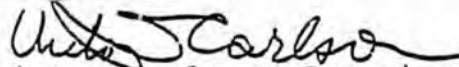
Page 2 of 2

McCarthy, Assistant Public Advocate, is coordinating this effort. He will be contacting you in the next week to make these arrangements.

We appreciate your concern for children in Alaska and look forward to working with you on these matters.


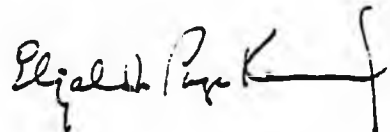
Sincerely,

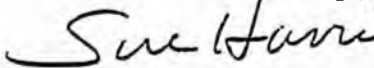
Volunteer Guardian ad litem Advisory Committee

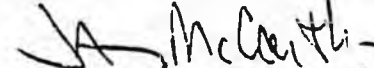

Victor Carlson, Superior Court Judge


William Hitchcock, Children's Court Master

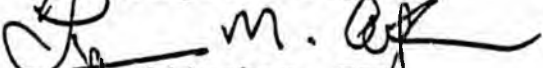
Janet Kowalski, Executive Director, AWAIC

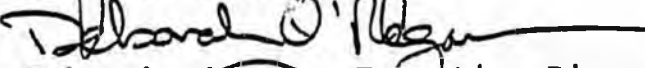

Elizabeth Kennedy, Assistant Attorney General 


Sue Harris, Division of Family and Youth Services



Jay McCarthy, Assistant Public Advocate



Nan Thompson, Esq.


Lynn Allingham, Esq.

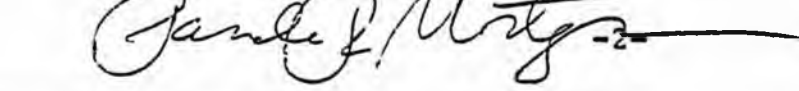

Deborah O'Regan, Executive Director, Alaska Bar Association


John Beese, Esq.


Colleen Ray, Esq.


Lynn Freeman, Municipality of Anchorage


Pamela R. Montgomery, ACSW, VGAL Program Director



HB 7 - Volunteer Guardian Ad Litem Program

Letters of Support for the program are from:

Deborah O'Regan, Executive Director
Alaskan Bar Association

Frank Dalley, Regional Social Services Manager
Division of Family and Youth Services

Dana Fabe, Public Defender

Veronica Duke, Chief of Clinical Social Work Services
Division of Mental Health and Developmental Disabilities

Elizabeth Sheley, Assistant District Attorney

Ann Stockman, Director of Crisis Services
S.T.A.R.

Gordon Lantrip, Director
Alaska Baptist Family Services

Milli Andreini, Executive Director
The Center for Children and Parents

William D. Hitchcock
Master, Childrens Court, Third Judicial District

Pamela Kirk and Phillip Kaufman
Human Relations Center

Corrine Radergraham, Coordinator
Close Encounters and Alaska Permanency Planning Task Force

Douglas J. Serdahely, Presiding Judge
Third Judicial District

Rick Calcote
Ohlson Psychological Services

Ardis J. Cry, Custody Invesigator
Superior Court Third Judicial District

Yvonne Chase, Deputy Director
Southcentral Counseling Center

Peter Scales, PhD
Family Connection

Letters and petition signatures from 137 individuals.

Original sponsors: Sund, Gruenberg
and Goll

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR HOUSE BILL NO. 7 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - FIRST SESSION
5 A BILL
6 For an Act entitled: "An Act relating to the office of public advocacy and
7 volunteer guardians ad litem."
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
9 * Section 1. AS 44.21.410 is amended to read:
10 Sec. 44.21.410. POWERS AND DUTIES OF PUBLIC ADVOCACY OFFICE.
11 (a) The office of public advocacy shall
12 (1) perform the duties of the public guardian under AS 13.-
13 26.360 - 13.26.410;
14 (2) provide visitors and experts in guardianship proceed-
15 ings under AS 13.26.131;
16 (3) provide guardian ad litem services to children in child
17 protection actions under AS 47.17.030(e) and to wards and respondents
18 in guardianship proceedings who will suffer financial hardship or
19 become dependent upon a government agency or a private person or
20 agency if the services are not provided at state expense under AS 13.-
21 26.112;
22 (4) provide legal representation in guardianship proceed-
23 ings to respondents who are financially unable to employ attorneys
24 under AS 13.26.106(b), to indigent parties in cases involving child
25 custody in which the opposing party is represented by counsel provided
26 by a public agency, and to indigent parents or guardians of a minor
27 respondent in a commitment proceeding concerning the minor under
28 AS 47.30.775;
29 (5) provide legal representation and guardian ad litem

1 services under AS 25.24.310; in cases arising under the Uniform Inter-
2 state Compact on Juveniles (AS 47.15); in cases involving petitions to
3 adopt a minor under AS 25.23.125(b); in cases involving petitions to
4 remove the disabilities of a minor under AS 09.55.590; in children's
5 proceedings under AS 47.10.050(a); and in cases involving indigent
6 persons who are entitled to representation under AS 18.85.100 and who
7 cannot be represented by the public defender agency because of a
8 conflict of interests;

9 (6) develop and coordinate a program to recruit, select,
10 train, assign, and supervise volunteer guardians ad litem from local
11 communities to aid in delivering services in cases in which the office
12 of public advocacy is appointed as guardian ad litem.

13 (b) The commissioner of administration may

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

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

19 (3) solicit and accept grants of funds from governments
20 [THE FEDERAL GOVERNMENT] and from persons [PRIVATE FOUNDATIONS], and
21 allocate or restrict the use of those funds as required by the
22 grantor.

23 * Sec. 2. AS 44.21 is amended by adding new sections to read:

24 Sec. 44.21.450. CIVIL LIABILITY OF VOLUNTEER GUARDIANS. (a) A
25 volunteer guardian ad litem under the supervision of the office of
26 public advocacy is not civilly liable for acts or omissions during the
27 good faith performance of duties as a guardian unless the acts or
28 omissions constitute gross negligence.

29 (b) This section does not affect the civil liability of the

1 office of public advocacy.

2 Sec. 44.21.460. NONATTORNEY VOLUNTEER GUARDIANS AD LITEM. A
3 nonattorney volunteer guardian ad litem may not give legal advice or
4 act in the capacity of attorney for a minor before a court or adminis-
5 trative agency.

6 Sec. 44.21.490. DEFINITION. In AS 44.21.410 - 44.21.490,
7 "volunteer guardian ad litem" means a court-appointed special advocate
8 (CASA).

Original sponsors: Sund and Gruenberg

1 IN THE HOUSE BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE
2 CS FOR HOUSE BILL NO. 7 (HESS)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - FIRST SESSION
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28 omissions constitute gross negligence.

Introduced: 1/19/87
 Referred: Health, Education &
 Social Services, Judiciary and
 Finance

1 IN THE HOUSE

BY SUND AND GRUENBERG

2

HOUSE BILL NO. 7

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

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