

BILL ANALYSIS

C.S.H.B. 1943
By: Herrero
Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Court Appointed Special Advocate (CASA) volunteers advocate to courts on behalf of children within the foster care system and spend substantially more time getting to know a child than an attorney or caseworker and can provide the court with unique insight into the child's situation because a CASA volunteer generally has a caseload of one child or sibling group. A family court judge determines how often the judge's court will partner with the local CASA program during a case affecting the custody of a child.

Some judges do not take full advantage of local CASA programs and instead allow an attorney ad litem to act in a dual role by assuming the responsibilities of guardian ad litem in the same case. In addition to being more expensive, this practice may sometimes cause conflicts among the child's wishes and best interests and the applicable law. When those conflicts arise, the judge may appoint a separate guardian ad litem to work on behalf of the child. The overall result can be expensive, fragmented advocacy and inadequate service to the child.

County courts compensate attorneys who are appointed as attorney ad litem, guardian ad litem, or both. This practice strains county financial resources. Even though using CASA volunteers, when available, can save courts money because the volunteers do not receive monetary compensation, they are not always used. When CASA volunteers are used, however, it is usually in the capacity of a "friend of the court," so their input often is limited or even ignored.

C.S.H.B. 1943 authorizes a court certified volunteer advocate to be appointed as guardian ad litem for a child and to act as a surrogate parent for a child in certain suits affecting the parent-child relationship. The bill makes conforming changes to references to a volunteer advocate.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1943 amends the Family Code to authorize a court certified volunteer advocate to be appointed as guardian ad litem for a child and to act as a surrogate parent for a child in suits affecting the parent-child relationship. The bill makes conforming changes to references to a volunteer advocate as the guardian ad litem of a child.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1943 omits a provision included in the original requiring, rather than authorizing, the

court to appoint as a guardian ad litem in suits affecting the parent-child relationship a charitable organization composed of volunteer advocates or an individual volunteer advocate if such an organization or advocate is in the county in which the court is located and available to serve.

C.S.H.B. 1943 omits a provision included in the original requiring a guardian ad litem mandatorily appointed in a suit filed by a governmental entity requesting the termination of the parent-child relationship or appointment of a conservator to be a charitable organization composed of volunteer advocates or an individual volunteer advocate if such an organization or advocate is in the county in which the court is located and is available to serve and makes conforming changes. The substitute omits a provision in the original authorizing the court, if the court is unable to appoint such an organization or advocate, to appoint an adult having the competence, training, and expertise determined by the court to be sufficient to represent the best interests of the child as guardian ad litem for the child.

C.S.H.B. 1943 omits a provision included in the original requiring, rather than authorizing, a court to appoint as guardian ad litem a charitable organization composed of volunteer advocates that meets certain requirements or an individual who meets certain requirements in a suit filed by a governmental entity requesting termination of the parent-child relationship or appointment of the entity as conservator of the child or a suit other than a suit filed by a governmental entity requesting the termination of the parent-child relationship, if such an organization or advocate is in the county in which the court is located and available to serve.

C.S.H.B. 1943 differs from the original by making conforming changes in provisions not included in the original to reflect the authorization of a court certified volunteer advocate to be appointed as guardian ad litem for a child and to act as a surrogate parent for a child in suits affecting the parent-child relationship.