

## **BILL ANALYSIS**

H.B. 2794  
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Juvenile Justice & Family Issues  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Court appointed special advocate (CASA) programs are essential to promoting positive outcomes for children and families involved in the child welfare process. Advocates become familiar with the child's family, community members, and legal team to represent the child's best interest in court proceedings, help ensure the child's safety, and advocate to keep families together if possible. An advocate may also be appointed in a case involving recommended court-ordered services for one or both parents, such as drug treatment services or parenting courses, to advocate for the best interest of the child in court while supporting the family to complete such services.

The legislature provides funding for local CASA programs to ensure volunteers can provide high-quality advocacy for children in the conservatorship of the state; however, such funding is currently limited to serving children who are formally in foster care. H.B. 2794 seeks to allow CASA programs to use state funding to serve on court-ordered services cases in addition to cases involving a suit affecting the parent-child relationship. The bill also clarifies that judges may appoint a guardian ad litem in cases relating to certain court-ordered services.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **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**

H.B. 2794 amends the Family Code to authorize a court to appoint a guardian ad litem to represent a child's best interests immediately after the filing of a petition by the Department of Family and Protective Services but before the hearing regarding a temporary order requiring the parent, managing conservator, guardian, or other member of the child's household to participate in certain child welfare services and to permit the child and any of the child's siblings to receive those services. The bill entitles the appointed guardian ad litem to the powers and duties of a guardian ad litem under statutory provisions relating to special appointments, child custody evaluations, and adoption evaluations and authorizes the guardian ad litem to be one of the following:

- a charitable organization composed of volunteer advocates or an individual volunteer advocate appointed under statutory provisions relating to child and family services;
- an adult with the competence, training, and expertise the court determines is sufficient to represent the child's best interests; or
- an attorney appointed in the dual role.

H.B. 2794 prohibits the court from appointing a guardian ad litem in a suit filed by a governmental entity if an attorney is appointed in the dual role unless the court appoints another person to serve as the child's guardian ad litem and restricts the attorney's role to acting as the child's attorney ad litem. The bill authorizes the court to appoint an attorney to serve as a child's guardian ad litem without appointing the attorney to serve in the dual role only if the attorney is specifically appointed to serve only in the role of guardian ad litem. The bill restricts the authorized actions of an attorney appointed solely as a guardian ad litem to those actions that may be taken by a nonattorney guardian ad litem and prohibits such an attorney from performing legal services in the case or taking any action that is restricted to a licensed attorney, including engaging in discovery other than as a witness, making opening and closing statements, or examining witnesses. The bill authorizes the court to appoint the person appointed as the child's guardian ad litem under applicable juvenile justice code provisions to also serve as the child's guardian ad litem in the suit filed by a governmental entity if the person is qualified to serve as guardian ad litem under statutory provisions relating to special appointments, child custody evaluations, and adoption evaluations.

H.B. 2794 revises certain definitions for purposes of statutory provisions relating to court-appointed volunteer advocate programs as follows:

- changes the term "abused or neglected child" to "allegedly abused or neglected child";
- expands the definition to include a child who is the subject of a suit filed by a governmental entity to require participation in certain child welfare services; and
- replaces, within the definition of "volunteer advocate program," the program's goal of obtaining a permanent placement for such a child that is in the child's best interest with a goal of promoting the child's best interest.

The bill revises criteria for awarding a contract to court-appointed volunteer advocate programs and requirements relating to such a contract to reflect the revised goal of such a program. The bill's provisions apply to a suit filed by a governmental entity that is pending in a trial court on or filed on or after the bill's effective date.

#### **EFFECTIVE DATE**

September 1, 2023.