

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2664 Session of
1998

INTRODUCED BY TRUE, GRUPPO, BLAUM, EGOLF, MILLER, SANTONI,
STURLA, BENNINGHOFF, STERN, CAWLEY, PHILLIPS, BELARDI,
MASLAND, RAMOS, MUNDY, KREBS, MANDERINO, ARGALL,
E. Z. TAYLOR, PESCI, SCHULER, SHANER, STABACK, NAILOR,
READSHAW, PETRARCA, BEBKO-JONES, FICHTER, TANGRETTI,
LAUGHLIN, VAN HORNE, YEWCIC, ZIMMERMAN, HARHAI, ARMSTRONG,
HENNESSEY, L. I. COHEN, ORIE, BROWNE, SEMMEL, LEH,
YOUNGBLOOD, TRELLO, STEELMAN, WASHINGTON, SAYLOR AND
WOJNAROSKI, JUNE 3, 1998

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF
REPRESENTATIVES, AS AMENDED, OCTOBER 6, 1998

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for court
3 appointed special advocates in juvenile matters.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Section 6302 of Title 42 of the Pennsylvania
7 Consolidated Statutes is amended by adding definitions to read:

8 § 6302. Definitions.

9 The following words and phrases when used in this chapter
10 shall have, unless the context clearly indicates otherwise, the
11 meanings given to them in this section:

12 "CASA program." Any local court-administered or court-
13 approved program that utilizes trained citizen volunteers
14 appointed by the court pursuant to standards adopted by the

1 Juvenile Court Judges' Commission to advocate on behalf of
2 dependent children and alleged dependent children involved in
3 juvenile court proceedings.

4 * * *

5 "Court appointed special advocate" or "CASA." A trained
6 citizen volunteer appointed by the court to advocate on behalf
7 of dependent children and alleged dependent children involved in
8 juvenile court proceedings.

9 * * *

10 "Juvenile Court Judges' Commission." The commission as
11 described in the act of December 21, 1959 (P.L.1962, No.717),
12 entitled "An act providing for the creation and operation of the
13 Juvenile Court Judges' Commission in the Department of Justice;
14 prescribing its powers and duties; and making an appropriation."

15 * * *

16 Section 2. Title 42 is amended by adding a section to read:
17 § 6342. Court appointed special advocates.

18 (a) General rule.--The court, at any stage of a juvenile
19 court proceeding involving a dependent child or a child alleged
20 to be a dependent child, has the authority to appoint a
21 volunteer court appointed special advocate (CASA) who shall
22 serve until discharged by the court and whose primary duties
23 shall be to obtain an understanding of the child's situation and
24 needs, and to make recommendations to the court to assist the
25 court in determining a disposition that is best suited to the
26 protection and physical, mental and moral welfare of the child.

27 ~~(b) Immunity. Any person so appointed as a court appointed~~ <—
28 ~~special advocate shall be presumed prima facie to be acting in~~
29 ~~good faith and in doing so shall be immune from any liability,~~
30 ~~civil or criminal, that otherwise might be incurred or imposed.~~

(B) IMMUNITY.--NO PERSON WHO, WITHOUT COMPENSATION AND AS A VOLUNTEER, RENDERS SERVICES AS A COURT APPOINTED SPECIAL ADVOCATE SHALL BE LIABLE TO ANY PERSON FOR CIVIL DAMAGES AS A RESULT OF ACTS OR OMISSIONS IN RENDERING THE SERVICES UNLESS THE CONDUCT OF THE ACTOR FALLS SUBSTANTIALLY BELOW THE STANDARDS GENERALLY PRACTICED AND ACCEPTED IN LIKE CIRCUMSTANCES BY SIMILAR PERSONS RENDERING SUCH SERVICES AND UNLESS IT IS SHOWN THAT THE ACTOR DID AN ACT OR OMITTED THE DOING OF AN ACT WHICH THE ACTOR WAS UNDER A RECOGNIZED DUTY TO ANOTHER TO DO, KNOWING OR HAVING REASON TO KNOW THAT THE ACT OR OMISSION CREATED A SUBSTANTIAL RISK OF ACTUAL HARM TO THE PERSON OR PROPERTY OF ANOTHER. IT SHALL BE INSUFFICIENT TO IMPOSE LIABILITY TO ESTABLISH ONLY THAT THE CONDUCT OF THE ACTOR FELL BELOW ORDINARY STANDARDS OF CARE. NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO LIMIT OR OTHERWISE AFFECT OR PRECLUDE LIABILITY RESULTING FROM GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT, RECKLESS MISCONDUCT OR WILLFUL OR WANTON MISCONDUCT.

(c) Qualifications.--Any volunteers appointed by the court
to serve as a CASA shall meet all of the following:

(1) Be at least 21 years of age.

(2) Have successfully passed screening requirements, including criminal and child abuse history background checks.

(3) Have successfully completed the training requirements of the local CASA program pursuant to standards developed by the Juvenile Court Judges' Commission.

(4) Remain under the supervision of the local CASA
program.

(5) Serve at the discretion of the court, in consultation with the local CASA program director.

(d) Powers.--A CASA appointed by the court shall:

1 (1) have full access to and shall be provided with
2 copies of any records, including those under 23 Pa.C.S. Ch.
3 63 (relating to child protective services) relating to the
4 child involved in the case to which the CASA has been
5 assigned, without the consent of the child or the parent, <—
6 provided that the confidentiality of any such information
7 shall be maintained and that the information shall be
8 utilized only in the performance of assigned duties; IN <—
9 ACCORDANCE WITH, AND NOT IN VIOLATION OF THE CONFIDENTIALITY
10 PROVISIONS OF 23 PA.C.S. CH. 63 AND THIS CHAPTER;

11 (2) have full and unlimited UNRESTRICTED access to any <—
12 child to whose case the CASA has been assigned, EXCEPT THAT, <—
13 IF THE CHILD IS REPRESENTED BY COUNSEL, COUNSEL SHALL BE
14 NOTIFIED IN ADVANCE OF THE MEETING AND THE CHILD SHALL HAVE
15 THE RIGHT TO HAVE THE COUNSEL PRESENT AT THE MEETING;

16 (3) be given reasonable prior notice of and have the
17 opportunity to attend all hearings, staff meetings,
18 investigations or other proceedings or meetings relating to
19 the case of a child to which they have been assigned;

20 (4) be given reasonable prior notice of intent to move a
21 child from one placement to another placement, or to return a
22 child home, or to remove a child from his or her home, if the
23 child's case has been assigned to the CASA and there has been
24 no court approval for any such action;

25 (5) assist the court in determining what disposition
26 under section 6351 (relating to disposition dependent child)
27 or modification thereto is best suited to the protection and
28 physical, mental and moral welfare of the child, by
29 investigating all relevant aspects of the child's situation
30 and submitting reports and recommendations to the court; and

1 (6) be given reasonable prior notice of any actions
2 materially affecting the status of treatment of a child to
3 whose case the CASA has been assigned.

4 (e) Duties.--Any volunteer appointed to serve as a CASA
5 shall be assigned duties, consistent with standards adopted by
6 the Juvenile Court Judges' Commission, which shall include, but
7 are not limited to:

8 (1) reviewing records pertaining to the child involved
9 in the case to which the CASA has been assigned, with the
10 exception of records to which access is limited by the court;

11 (2) interviewing appropriate persons;

12 (3) monitoring the progress of the case;

13 (4) preparing reports and making recommendations to the
14 court; and

15 (5) fulfilling assigned duties while maintaining the
16 confidentiality of information obtained pertaining to the
17 child's case.

18 (F) RECOMMENDATIONS.--RECOMMENDATIONS TO THE COURT SHALL BE <—
19 PROVIDED IN OPEN COURT IN THE PRESENCE OF EACH PARTY AND
20 COUNSEL. IF THE REPORT IS WRITTEN, COPIES OF THE REPORT SHALL BE
21 PROVIDED TO EACH PARTY AND COUNSEL WHEN THE REPORT IS PRESENTED
22 TO THE COURT.

23 (G) EX PARTE.--EX PARTE COMMUNICATIONS BY THE CASA ARE
24 PROHIBITED.

25 ~~(f)~~ (H) Standards.--The Juvenile Court Judges's Commission <—
26 shall develop standards, in consultation with Pennsylvania CASA
27 program directors and upon consideration of standards and
28 guidelines developed by the National CASA Association, governing
29 the qualifications, training, appointment and duties of court
30 appointed special advocates.

1 (I) PRACTICE OF LAW.--NOTHING IN THIS SECTION SHALL AUTHORIZE <—
2 A COURT APPOINTED SPECIAL ADVOCATE WHO IS NOT AN ATTORNEY AT LAW
3 TO ENGAGE IN THE PRACTICE OF LAW OR TO VIOLATE SECTION 2524
4 (RELATING TO PENALTY FOR UNAUTHORIZED PRACTICE OF LAW).

5 ~~(g)~~ (J) Definition.--As used in this section, the term <—
6 "person" shall include any director, coordinator, administrator
7 or court appointed special advocate of any CASA program as
8 defined in section 6302 (relating to definitions).

9 Section 3. This act shall take effect in 60 days.