

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 2434  
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Jurisprudence  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

A family court judge determines how often the judge's court will partner with the local Court Appointed Special Advocate (CASA) program during a case affecting the custody of a child. CASA volunteers advocate to courts on behalf of children within the foster care system. CASA volunteers are able to spend substantially more time getting to know a child and his or her situation than an attorney or caseworker because they generally have a caseload of one child or sibling group. CASA volunteers are a valuable, no-cost resource to the children and courts of Texas because the insight they provide is a product of donated time.

Some judges do not take full advantage of their local CASA programs and instead allow an attorney ad litem to act in a dual role by also assuming the responsibilities of guardian ad litem in the same case. In addition to being more expensive, this practice may sometimes cause conflicts between the child's wishes, the child's best interest, and the applicable law. When those conflicts arise a judge may appoint a separate guardian ad litem to work on behalf of the child. County courts compensate attorneys whom they appoint as attorneys ad litem or guardians ad litem, or both. This practice strains county financial resources. Even though using CASA volunteers, when available, would save courts money because CASA volunteers do not receive monetary compensation, they are not always utilized. When CASA volunteers are utilized, however, they are used as a "friend of the court." As a "friend of the court," their input is sometimes limited and/or ignored. The overall result is expensive, fragmented advocacy and inadequate service to the child.

This bill requires judges to appoint a CASA volunteer as guardian ad litem when available, in order to have the CASA volunteers serve the children of Texas in the most beneficial and cost-effective manner.

As proposed, S.B. 2434 amends current law relating to the appointment of guardians ad litem in suits affecting the parent-child relationship.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 107.011, Family Code, by amending Subsection (b) and adding Subsection (b-1), as follows:

(b) Requires, rather than authorizes, the guardian ad litem appointed for a child under this section to be a charitable organization composed of volunteer advocates or an individual volunteer advocate appointed under Subchapter C if there is an organization or individual volunteer advocate in the county in which the court is located that is available to serve as guardian ad litem for the child. Makes a nonsubstantive change.

(b-1) Creates this subsection from existing text. Authorizes the court, if the court is unable to appoint a guardian ad litem for the child as provided by Subsection (b), to appoint one of the following individuals to serve as guardian ad litem: an adult having the competence, training, and expertise determined by the court to be sufficient to represent

the best interests of the child; or an attorney appointed in the dual role. Makes nonsubstantive changes.

SECTION 2. Amends Section 107.021, Family Code, by adding Subsections (c) and (d), as follows:

(c) Requires a guardian ad litem for a child appointed under this section to be a charitable organization composed of volunteer advocates or an individual volunteer advocate appointed under Subchapter C if there is an organization or individual volunteer advocate in the county in which the court is located that is available to serve as guardian ad litem for the child.

(d) Authorizes the court, if the court is unable to appoint a guardian ad litem for the child as provided by Subsection (c), 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.

SECTION 3. Amends Section 107.031, Family Code, as follows:

Sec. 107.031. New heading: VOLUNTEER ADVOCATES AS GUARDIANS AD LITEM. (a) Requires, rather than authorizes, the court, 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, to appoint a charitable organization composed of volunteer advocates whose charter mandates the provision of services to allegedly abused and neglected children or an individual who has received the court's approved training regarding abused and neglected children and who has been certified by the court to appear at court hearings as a guardian ad litem for the child, rather than as a volunteer advocate, if there is an organization or individual volunteer advocate in the county in which the court is located that is available to serve as guardian ad litem for the child.

(b) Makes conforming changes.

(c) Deletes existing text authorizing a court-certified volunteer advocate appointed under this section to be assigned to act as a surrogate parent for the child, as provided by 20 U.S.C. (Education), Section 1415(b) (Types of Procedures, if the volunteer advocate is serving as guardian ad litem for the child. Makes nonsubstantive changes.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2009.