

SENATE BILL NO. 299—SENATOR SETTELMAYER

MARCH 22, 2021

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to the protection of children. (BDR 38-904)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State: Contains Appropriation not included in Executive Budget.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to the protection of children; providing for the appointment of a guardian ad litem in certain proceedings; making an appropriation to the Nevada CASA Association for the hiring of a state training director for guardians ad litem and development of a new training program and recruitment initiatives; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a court to appoint a guardian ad litem when a petition is filed that a child is in need of protection, thereby placing the child under the jurisdiction of the court. (NRS 432B.500) Federal law requires a state to appoint a guardian ad litem in proceedings involving a child who has experienced abuse or neglect in order to receive certain grants. (42 U.S.C. § 5106a(b)(2)(B)(xiii)) **Section 1** of this bill requires a court to appoint a guardian ad litem only when the child who is in need of protection is a victim of abuse or neglect or when the court finds such an appointment to be in the best interest of the child. In determining if the appointment of a guardian ad litem is in the best interest of a child, **section 1** requires the court to consider: (1) the age of the child; (2) whether the child has the mental or verbal capacity to participate in decisions affecting the child; and (3) any other relevant factor.

Existing law also requires a court to refer a child under the jurisdiction of the court to an attorney if the child is 17 years of age and not likely to be returned to his or her parents before turning 18 years of age so the child may be properly advised about the legal consequences of remaining under the jurisdiction of the court after reaching 18 years of age. (NRS 432B.592) **Section 2** of this bill requires a court to appoint a guardian ad litem if it is in the best interest of the child before the child is counseled on the legal consequences of remaining under the jurisdiction of the court after reaching 18 years of age. In determining if a guardian ad litem is in the best interest of a child, the court is required to consider: (1) whether the child has



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the mental or verbal capacity to participate in decisions affecting the child; and (2) any other relevant factor.

Section 3 of this bill makes an appropriation to the Nevada CASA Association for the hiring of a training director for guardians ad litem, development of a new statewide training program and recruitment initiatives for additional guardians ad litem.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 432B.500 is hereby amended to read as follows:

432B.500 1. After a petition is filed that a child is in need of protection pursuant to NRS 432B.490, the court shall appoint a guardian ad litem for the child ~~if~~ *if:*

(a) *The child is a victim of abuse or neglect; or*
(b) *The court finds such an appointment is in the best interest of the child.*

2. The person appointed ~~is~~ *as a guardian ad litem:*

(a) Must meet the requirements of NRS 432B.505 or, if such a person is not available, a representative of an agency which provides child welfare services, a juvenile probation officer, an officer of the court or another volunteer ; ~~is~~

(b) Must not be a parent or other person responsible for the child's welfare ; ~~is~~

(c) Must not be an attorney appointed to represent the child pursuant to NRS 432B.420 ~~is~~ ; *and*

(d) *May, but need not be, an attorney.*

~~2.~~ 3. A guardian ad litem appointed pursuant to this section shall:

(a) Represent and protect the best interests of the child until excused by the court;

(b) Thoroughly research and ascertain the relevant facts of each case for which the guardian ad litem is appointed, and ensure that the court receives an independent, objective account of those facts;

(c) Meet with the child wherever the child is placed as often as is necessary to determine that the child is safe and to ascertain the best interests of the child;

(d) Explain to the child the role of the guardian ad litem and, when appropriate, the nature and purpose of each proceeding in the case;

(e) Participate in the development and negotiation of any plans for and orders regarding the child, and monitor the implementation of those plans and orders to determine whether services are being provided in an appropriate and timely manner;



- (f) Appear at all proceedings regarding the child;
- (g) Inform the court of the desires of the child, but exercise independent judgment regarding the best interests of the child;
- (h) Present recommendations to the court and provide reasons in support of those recommendations;
- (i) Request the court to enter orders that are clear, specific and, when appropriate, include periods for compliance;
- (j) Review the progress of each case for which the guardian ad litem is appointed, and advocate for the expedient completion of the case; and
- (k) Perform such other duties as the court orders.

4. *In determining whether the appointment of a guardian ad litem is in the best interest of a child, the court shall consider, without limitation:*

- (a) *The age of the child;***
- (b) *Whether the child has the mental or verbal capacity to participate in decisions affecting the child; and***
- (c) *Any other factor which the court deems relevant to the proceedings.***

Sec. 2. NRS 432B.592 is hereby amended to read as follows:

432B.592 1. A court shall refer a child who is in the custody of an agency which provides child welfare services to an attorney in the county who provides legal services without a charge to abused or neglected children if the court determines that the child:

- (a) Has reached the age of 17 years; and
- (b) Is not likely to be returned to the custody of his or her parent before reaching the age of 18 years.

2. The court shall request the attorney to whom such a child is referred to counsel the child regarding the legal consequences of remaining under the jurisdiction of the court after reaching 18 years of age and assist the child in deciding whether to remain under the jurisdiction of the court.

3. *Before the court makes a request pursuant to subsection 2, the court shall appoint a guardian ad litem to exercise independent judgment regarding the best interest of the child if:*

- (a) *The court finds such an appointment is in the best interest of the child or the child is a victim of abuse or neglect; and***
- (b) *The child was not already appointed a guardian ad litem.***

4. *In determining whether the appointment of a guardian ad litem is in the best interest of a child, the court shall consider, without limitation:*

- (a) *Whether the child has the mental or verbal capacity to participate in decisions affecting the child; and***
- (b) *Any other factor which the court deems relevant to the proceedings.***



Sec. 3. 1. There is hereby appropriated from the State General Fund to the Nevada CASA Association the sum of \$5,000,000 for:

(a) The development of a statewide training program for guardians ad litem;

(b) The hiring of a training director to coordinate the development, implementation and management of the statewide training program for guardians ad litem; and

(c) Other training, outreach and management services for county-based Court Appointed Special Advocate programs throughout this State.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2023, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 15, 2023, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 15, 2023.

3. Upon acceptance of the money appropriated by subsection 1, the Nevada CASA Association agrees to:

(a) Develop and implement a mandatory training program for guardians ad litem that educates guardians ad litem about the court system, child development, trauma and effective child advocacy and support. The training program must include distance learning and online training tools for guardians ad litem in areas that make personal attendance at a training event difficult.

(b) Develop outreach programs to increase the number of guardians ad litem available to be appointed by a court to ensure that a guardian ad litem may be appointed to each child who needs one and reduce the caseload of guardians ad litem.

(c) Assist Court Appointed Special Advocacy programs in counties throughout this State with training, outreach, management or administrative support.

(d) Seek all available gifts, grants and donations from any source for the purpose of carrying out the provisions of this section.

(e) Prepare and transmit a report to the Interim Finance Committee on or before December 16, 2022, that describes each expenditure made from the money appropriated by subsection 1 from the date on which the money was received by the Nevada CASA Association through December 1, 2022.

(f) Prepare and transmit a final report to the Interim Finance Committee on or before September 15, 2023, that describes each



1 expenditure made from the money appropriated by subsection 1
2 from the date on which the money was received by the Nevada
3 CASA Association through June 30, 2023.

4 (g) Upon request of the Legislative Commission, make available
5 to the Legislative Auditor any of the books, accounts, claims,
6 reports, vouchers or other records of information, confidential or
7 otherwise, of the Nevada CASA Association regardless of their
8 form or location, that the Legislative Auditor deems necessary to
9 conduct an audit of the use of the money appropriated pursuant to
10 subsection 1.

11 **Sec. 4.** This act becomes effective on July 1, 2021.

