

House Bill 2760

Sponsored by Representative CLEM

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Gives court appointed special advocate authority to copy and inspect records of individual or institution that seeks to become caregiver, custodian, guardian or adoptive parent of child or ward.

A BILL FOR AN ACT

1
2 Relating to court appointed special advocates; creating new provisions; and amending ORS 419A.170.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 419A.170 is amended to read:

5 419A.170. (1) In every case under ORS chapter 419B, the court shall appoint a court appointed
6 special advocate. The court appointed special advocate is deemed a party in these proceedings, and
7 in the furtherance thereof, may be represented by counsel, file pleadings and request hearings and
8 may subpoena, examine and cross-examine witnesses. If the court appointed special advocate is re-
9 presented by counsel, counsel shall be paid from funds available to the Court Appointed Special
10 Advocate Volunteer Program. [No] Funds from the Public Defense Services Account or Judicial
11 Department operating funds may **not** be used for this purpose.

12 (2) Subject to the direction of the court, the duties of the court appointed special advocate are
13 to:

14 (a) Investigate all relevant information about the case;

15 (b) Advocate for the child or ward, ensuring that all relevant facts are brought before the court;

16 (c) Facilitate and negotiate to ensure that the court, Department of Human Services, if appli-
17 cable, and the child or ward's attorney, if any, fulfill their obligations to the child or ward in a
18 timely fashion; and

19 (d) Monitor all court orders to ensure compliance and to bring to the court's attention any
20 change in circumstances that may require a modification of the court's order.

21 (3) If a juvenile court does not have available to it a CASA Volunteer Program, or a sufficient
22 number of qualified CASA volunteers, the court may, in fulfillment of the requirements of this sec-
23 tion, appoint a juvenile department employee or other suitable person to represent the child or
24 ward's interest in court pursuant to ORS 419A.012 or 419B.195.

25 (4) Any person appointed as a court appointed special advocate in any judicial proceeding on
26 behalf of the child or ward is immune from any liability for defamation or statements made in good
27 faith by that person, orally or in writing, in the course of the case review or judicial proceeding.

28 (5) Any person appointed as a court appointed special advocate, CASA Volunteer Program di-
29 rector, CASA Volunteer Program employee or member of the board of directors or trustees of any
30 CASA Volunteer Program is immune from any liability for acts or omissions or errors in judgment
31 made in good faith in the course or scope of that person's duties or employment as part of a CASA

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 Volunteer Program.

2 (6) Whenever the court appoints a court appointed special advocate or other person under sub-
 3 sections (1) to (3) of this section to represent the child or ward, it may require a parent, if able, or
 4 guardian of the estate, if the estate is able, to pay, in whole or in part, the reasonable costs of CASA
 5 services including reasonable attorney fees. The court’s order of payment is enforceable in the same
 6 manner as an order of support under ORS 419B.408.

7 (7) Upon presentation of the order of appointment by the court appointed special advocate, any
 8 agency, hospital, school organization, division, office or department of the state, doctor, nurse or
 9 other health care provider, psychologist, psychiatrist, police department or mental health clinic shall
 10 permit the court appointed special advocate to inspect and copy any records relating to the child
 11 or ward involved in *[the]* a case **under ORS chapter 419B**, without the consent of the child, ward
 12 or parents.

13 **(8)(a) A court appointed special advocate may inspect and copy all records relating to an**
 14 **individual or an institution that seeks to become a caregiver, a custodian, a guardian or an**
 15 **adoptive parent of a child or ward involved in a case under ORS chapter 419B, without the**
 16 **consent of the individual or institution.**

17 **(b) As used in this subsection, “records” includes but is not limited to health records,**
 18 **financial records and criminal history.**

19 [(8)] (9) All records and information acquired or reviewed by a court appointed special advocate
 20 during the course of official duties are deemed confidential under ORS 419A.255.

21 [(9)] (10) For the purposes of a Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et
 22 seq.) grant to this state under *[Public Law No.] P.L.* 93-247, or any related state or federal legis-
 23 lation, a court appointed special advocate or other person appointed pursuant to subsections (1) to
 24 (3) of this section is deemed a guardian ad litem to represent the interests of the child or ward in
 25 proceedings before the court. Any provisions of this section *[and ORS 419B.035 and 419B.045]* that
 26 cause this state to lose federal funding are null and void.

27 [(10)] (11) There is created a Court Appointed Special Advocate (CASA) Fund in the General
 28 Fund. The fund consists of all moneys credited to it. Moneys in the Court Appointed Special Advoca-
 29 cate Fund are continuously appropriated to the State Commission on Children and Families and may
 30 be used only to carry out the purposes of this section. The commission may apply for and receive
 31 funds from federal and private sources for carrying out the provisions of this section.

32 [(11)] (12) The *[state]* commission may expend moneys from the Court Appointed Special Advoca-
 33 cate Fund directly or indirectly through contracts or grants for the creation, supervision and oper-
 34 ation of CASA Volunteer Programs statewide in accordance with the provisions of ORS 419A.045
 35 to 419A.048. The commission may also expend moneys from the Court Appointed Special Advocate
 36 Fund to pay the reasonable costs of its administration of the Court Appointed Special Advocate
 37 Fund. The commission shall adopt rules for carrying out its responsibilities under this section *[and*
 38 *ORS 419B.035 and 419B.045]*.

39 **SECTION 2. The amendments to ORS 419A.170 by section 1 of this 2009 Act apply to court**
 40 **appointed special advocates appointed before, on or after the effective date of this 2009 Act.**