

Enrolled
House Bill 2272

Sponsored by Representative KOTEK; Representatives BARKER, DEMBROW, GELSNER (Pre-session filed.)

CHAPTER

AN ACT

Relating to court appointed special advocates; amending ORS 419A.170.

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

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

419A.170. (1) In every case under ORS chapter 419B, the court shall appoint a court appointed special advocate. The court appointed special advocate is deemed a party in these proceedings, and in the furtherance thereof, may be represented by counsel, file pleadings and request hearings and may subpoena, examine and cross-examine witnesses. If the court appointed special advocate is represented by counsel, counsel shall be paid from funds available to the Court Appointed Special Advocate Volunteer Program. No funds from the Public Defense Services Account or Judicial Department operating funds may be used for this purpose.

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

- (a) Investigate all relevant information about the case;
- (b) Advocate for the child or ward, ensuring that all relevant facts are brought before the court;
- (c) Facilitate and negotiate to ensure that the court, Department of Human Services, if applicable, and the child or ward's attorney, if any, fulfill their obligations to the child or ward in a timely fashion; and
- (d) Monitor all court orders to ensure compliance and to bring to the court's attention any change in circumstances that may require a modification of the court's order.

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

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

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

(6) Whenever the court appoints a court appointed special advocate or other person under subsections (1) to (3) of this section to represent the child or ward, it may require a parent, if able, or

guardian of the estate, if the estate is able, to pay, in whole or in part, the reasonable costs of CASA services including reasonable attorney fees. The court's order of payment is enforceable in the same manner as an order of support under ORS 419B.408.

(7) Upon presentation of the order of appointment by the court appointed special advocate, any agency, hospital, school organization, division, office or department of the state, doctor, nurse or other health care provider, psychologist, psychiatrist, police department or mental health clinic shall permit the court appointed special advocate to inspect and copy, **and may consult with the court appointed special advocate regarding**, any records relating to the child or ward involved in the case, without the consent of the child, ward or parents.

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

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

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

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

Passed by House March 29, 2011

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Passed by Senate May 17, 2011

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2011

Approved:

.....M,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2011

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Kate Brown, Secretary of State