



A SUMMARY OF HOUSE BILL 4101 AS INTRODUCED 2-6-91

The bill would amend the juvenile code to create a state child advocacy office and provide for the establishment of local child advocacy programs that would provide staff attorneys and trained volunteer advocates for children involved in abuse or neglect proceedings. At present, the juvenile court must appoint an attorney to represent a child in such proceedings; under the bill, the court would choose between appointing a local child advocacy program (which would be equivalent to requiring the program to assign a volunteer special advocate), the staff attorney of a local program, or an attorney who was independent of a local program. However, if an attorney independent of a local program was selected, he or she would have to fulfill the duties of a special advocate under the bill, and the court could require him or her to fulfill the duties of a staff attorney. Attorneys representing children in abuse or neglect cases would have to attend training programs prescribed by the state court administrator's office. A more detailed explanation follows.

State child advocacy office and board. A state child advocacy office would be created in the State Court Administrative Office; it would be governed by a nine-member board representing a geographic cross-section of the state, and coming from diverse fields such as education, law, medicine, and social work. Board members would have to have demonstrated an interest in children and their welfare. Initial board members would be appointed to staggered terms by the supreme court; the board would reappoint members or appoint new ones when terms expired.

In addition to overseeing the state child advocacy office, the board would: appoint an administrator with experience in law and social work and who had demonstrated an interest in children; promulgate rules and policies for the state office and local programs to be established under the bill; appoint initial members of local program boards; review the administrator's evaluation of local programs' effectiveness; identify state and local child advocacy program needs; and monitor and evaluate child services and report to the legislature annually on the need for improved child services.

The administrator would implement the rules and policies of the state board; propose eligibility criteria to apply to local boards seeking state funds; consult with and assist groups interested in establishing local programs; review applications for and distribute state funds; develop a special advocate training manual and training program; approve local special advocate training programs; and evaluate and report to the state board on the effectiveness of local programs.

Local programs. Staff attorneys and trained volunteer advocates would be provided to children by local programs established under the bill by interested groups. Local programs would operate under provisions paralleling those for the state office: the program would be overseen by a policy-making local board initially appointed to staggered terms by the state board, but appointing its own replacement members; the local board would appoint a program director to administer the local program, apply for state and local funds, appoint staff attorneys as needed, and recruit, train, and supervise special advocates. The director could employ clerical staff as required, and could appoint one or more coordinators, who could be paid or unpaid, to assist in recruiting, training, and supervising special advocates.

Staff attorneys. Each local program would have to have at least one staff attorney, who could be a volunteer or paid. The staff attorney would provide legal consultation to special advocates, the director, and the local board, and would attend all hearings at which an assigned special advocate required legal assistance.

Special advocates. A special advocate would be a trained volunteer who was at least 21 years old, had demonstrated an interest in children and their welfare, and had reliable transportation. A prospective special advocate would have to consent to a criminal record check and participate in interviews with the director or coordinator. A special advocate would have to commit to at least one year of service. Before assignment to a case, he or she would have to successfully complete a training program approved by the state administrator; the special advocate would participate in subsequent training prescribed by the local director.

Assignment of advocate. If the court appointed a local program to represent a child involved in abuse or neglect proceedings, the director would assign a special advocate to the case. The special advocate would be a party to the proceeding, and entitled to notice of all hearings and service of all documents as provided by court rules. The special advocate would file a statement disclosing any interest that he or she held in relation to the child, the child's family, or any other person in the proceeding, and disclosing other matters as directed by the court. A special advocate's appointment would continue while the court had jurisdiction over the child and through all appeals. The court or the director could discharge the special advocate at any time; if a special advocate was discharged, the director would have to appoint a replacement.

Duties of advocate. A special advocate would have to ascertain and competently represent the child's interests; a child 14 years of age or older would be presumed capable to determining his or her own best interests, while for younger children the advocate would determine the child's best interests, taking the child's wishes into account. The special advocate would have to appear at all hearings in the case, conduct an independent investigation into the charges of abuse or neglect, submit written findings and recommendations, urge the court to enter specific and clear orders for evaluation and services for the child and the child's family, and monitor the implementation of case plans and dispositional orders. The advocate would mediate between the parties to the extent possible, consult liberally with local program staff and other professionals, and advocate for the child's interests in the mental health, educational, juvenile justice, and other community systems. The child advocate would have to confer regularly with his or her supervisor, who

would be the local program director or coordinator; a special advocate's recommendations and reports would have to be reviewed by the supervisor before being submitted to the court.

Liability. The following entities would be relieved of civil liability for acts or omissions in connection with the activities under the bill, if the person or agency acted in good faith and was not guilty of gross negligence: the state child advocacy office, the state board, the local board, a member of the state or a local board, the administrator, a director, a coordinator, a staff attorney, and a special advocate.

MCL 712A.17c et al.