

**In the Best Interest of Abused and Neglected Children:
Ohio CASA/GAL Study Committee
Executive Summary
Presented to: Governor Ted Strickland
Bill Harris, President of the Ohio Senate
Jon Husted, Speaker of the Ohio House of Representatives
July 1, 2007**

The 126th Ohio General Assembly created the Ohio Court Appointed Special Advocate/Guardian ad Litem (CASA/GAL) Study Committee in Ohio Revised Code section 2151.282 as passed in Amended House Bill 66 (the Budget Bill). As set forth in the statute, membership of the Committee includes a representative of the Ohio CASA/GAL Association, the Ohio Juvenile Judges Association, the Ohio State Bar Association, the Office of the Ohio Public Defender and the County Commissioner's Association of Ohio.

The charge of the Committee is to collect data associated with state and local costs by county, by child and by the different methods (CASA/GAL programs, public defender offices and paid private attorneys) of the provision of guardian ad litem (GAL) services for abused, neglected or dependent children and to analyze the GAL services provided to these children. The final report prepared by the Committee containing all relevant data and information is presented herein to the Governor, Speaker of the House of Representatives and the President of the Senate on July 1, 2007.

The appointment of a GAL to any child who is the subject of abuse or neglect proceedings is one requirement of the Child Abuse and Neglect Prevention and Treatment Act (CAPTA), passed by Congress in 1974. In order to receive funding provided through CAPTA, states must demonstrate compliance with each of the programmatic mandates. R.C. 2151.281 requires the court to appoint a GAL to protect the interest of a child in any proceeding concerning alleged abuse or neglect. The statute provides broad objectives in addressing GAL responsibilities which includes but is not limited to: performing whatever functions are necessary to protect the best interest of the child, investigation, mediation, monitoring court proceedings and monitoring the services provided the child by the public children services agency or private child-placing agency that has temporary or permanent custody and to file any motions and other court documents in the best interest of the child.

Most children who are appointed a GAL have been previously involved in the child welfare system. Generally, Children's Services has been working with the child's family and a decision is made to request either court ordered services (protective supervision) or for the child to be removed from their home for safety reasons. It is estimated that in over 90 percent of the cases appointed a GAL the child is removed from their home.

In a best practice model, a GAL is a trained and committed adult appointed to thoroughly research and inform the court of the child's circumstances and needs and to support informed court decision making. The GAL provides one-on-one advocacy driven by the child's best interests and monitors the case, the court's orders and informs the court of relevant information. The GAL is charged with making sure the child does not get lost in the overburdened system or languish in foster care and advocates that the system finds a safe and permanent home for the child in a timely manner.

The impact of quality GAL services can make a difference in the child's life and future; and the financial and emotional cost of not providing such advocacy is significant.

The data collected for the CASA/GAL Study Committee to support the examination of GAL services were collected through a GAL survey, juvenile/family court judge survey and through information contained in a randomly selected sample of local court records. The case sample included abuse and neglect cases closed in 2005 where a GAL was appointed by the court in Carroll, Montgomery, Scioto, Summit and Warren counties.

Highlighted Study Findings:

- GAL services to abused and neglected children in the court system in Ohio are delivered by a pieced together system where practice varies greatly, and there is little to no statewide data collected regarding any aspect of GAL services.
- Using court data gathered by the Supreme Court, it is estimated that 23,000 abused and neglected children were in the juvenile/family court system during 2006 that should have been appointed a GAL.
- Local CASA/GAL programs served 8,255 abused and neglected children in 2006.
- Data provided by the Office of the Ohio Public Defender of payments made to attorney GALs indicates that there were 13,314 cases served by attorney GALs from March 2006 to February 2007.
- There are an unknown number of cases served by attorney GALs providing *pro bono* services and cases served by both paid and non-paid lay persons not affiliated with CASA.

Child and Family

- Children appointed a GAL are quite vulnerable based on age alone. Over one-third are between birth to five years of age and over one-quarter are ages six to 11.
- Of the children served by CASA/GAL programs, over 61 percent were Caucasian and over 26 percent African American indicating a disproportionate number of African American children represented in the population.
- In nearly one-third of the 128 court case records reviewed for the study child behavioral and educational issues were documented in the case. A child had received physical injuries in over 20 percent of the cases.
- The two most common final child outcomes in the cases reviewed were returned home (44.5 percent) and legal custody to a relative (32.8 percent).
- Parental/family issues most frequently identified were substance abuse (60.1 percent) and inadequate parenting skills (57 percent). Thirty-eight percent of the families lived in unsafe or inadequate housing, and 29 percent were living in poverty.

GAL Services

- For nine specified GAL investigation duties, judges were asked to rate their importance using “very important,” “somewhat important” and “not important.” The GAL survey asked GALs to indicate which of the same nine duties they “always or nearly always complete.” Documented completion of these duties was gathered during the court case review. A face-to-face interview/meeting with the child was most frequently rated by the judges as a very important GAL duty. Both CASA/GAL volunteers (99 percent) and attorney GALs (83 percent) indicated that they “always or nearly always” completed this activity. Documentation of a face-to-face interview/meeting was found in 100 percent of the CASA/GAL cases and in 63 percent in attorney GAL cases.
- The judge’s survey requested respondents to rate the quality of GAL services provided by attorney GALs and CASA/GAL volunteers operating in their courts. There were 35 judges indicating that CASA/GAL volunteers are appointed as GALs in their court and 61 indicating that attorney GALs serve in their court. For each GAL duty, a higher percent of the judges rated the CASA/GAL volunteers as excellent than the attorney GALs.

Cost of GAL Services

- The data used to examine costs are from local CASA/GAL programs, assigned counsel fee payments for attorney GALs provided by the Office of the Ohio Public Defender and attorney fee information collected through the court case review. It was determined that there is significant data not readily available and the data that were examined is not collected in a manner consistent enough to use for any legitimate comparisons.
- For attorney GALs where state reimbursement is provided, 72 percent of the funds for attorney fees and 45 percent of the funding for CASA/GAL programs are local funds.
- The cost for the provision of CASA/GAL services during 2006 to 8,255 children was \$4,827,501. This cost includes the majority of the administrative costs for non-profit CASA/GAL programs and a portion of the administrative costs for court-based programs.
- The attorney GAL fees paid by local government and submitted for state reimbursement from March 2006 to February 2007 was \$5,886,751 for 13,314 cases. This data contains some cases other than child abuse and neglect cases such as GALs appointed in delinquency matters. This figure does not include administrative costs to process appointments and payments nor the cost of GAL services determined to not be eligible for reimbursement for a variety of reasons.
- Each county sets the attorney GAL fee caps generally ranging from \$150 to \$1,500. These fees are well below a private attorney’s hourly billing rate which frequently limits the number of attorneys, particularly experienced attorneys, willing and able to take GAL appointments.
- For the 81 court cases with an attorney GAL, 26 percent contained no record of fees paid to the GAL. In the remaining 60 cases, the average time the case was open was 18 months. The average in-court service hours billed by the GALs was 3.8 hours and the average hours billed for out-of-court duties was 8.4. The average attorney fees paid per case was \$567.36.
- There is significant variance in the level of funding of CASA/GAL programs due to many variables including program structure (non-profit or court-based) and the degree to which the program seeks additional funding through donations, foundation funding and grants. For 2006, the median annual cost for serving one child was \$450.82 and the average annual cost for serving one child was \$604.77.

- The primary source of funds for CASA/GAL programs in 2006 were 45 percent local, 18 percent federal, 13 percent from fund raising, nine percent from foundations, and five percent from individual donors. Two percent were state funds.
- The judge's survey asked respondents to identify the best model for the provision of GAL services. Some judges indicated more than one response. Seventy-eight percent of the judges identified CASA/GAL volunteers with legal counsel as the best model followed by attorney GALs (70 percent), CASA/GAL volunteers without legal counsel (38 percent), other (8 percent), public defender (6 percent) and non-CASA lay volunteers (0).
- Judges and GALs through their prospective surveys were asked to rate the same five methods for enhancing the quality of GAL services in Ohio. A larger percentage of both judges and GALs rated "Clarification of GAL Responsibilities" as "very important" followed by "Allocation of Increased Resources."

Committee Recommendations

1. Mandating minimum GAL responsibilities, including but not limited to:

- **Face-to-face contact with the child**
- **When practical, interview biological parent(s) if location is known**
- **Review Children's Services case records and contact child's caseworker**
- **Request and review all available medical and school records**

Currently the statute offers little direction for GALs regarding duties. Every abused and neglected child in Ohio should have a GAL that fulfills minimum responsibilities. The Guardian ad Litem Standards Task Force recommendations which forwarded to the Supreme Court's Advisory Committee on Children, Families and the Court issued a report to the Supreme Court in December of 2005 with recommendations about standards for GALs. This committee supports timely implementation of these recommendations.

2. Dedicate new sources of funding for GAL programs for the provision of quality and cost-efficient services.

Increased funding will allow local GAL programs to serve more children with more effective services. These dollars should be seen as an investment in the future of abused and neglected children and in the long run save public dollars. The costs are enormous for young children languishing in foster care without appropriate services. The state currently participates financially with a small portion of the local cost of GAL services through the assigned counsel reimbursement program managed by the Office of the Ohio Public Defender. The state should also participate financially when local government has selected other quality and cost-efficient GAL programs such as CASA/GAL programs. A dedicated source of funds should be established for CASA/GAL programs.

3. Enumerate best interest factors in Ohio statute and require GALs to address factors in written report.

Currently best interest considerations for abused and neglected children do not exist except for permanent custody hearings.

4. Make mandatory the submission of written GAL reports at the first dispositional hearing after adjudication, annual review hearings or any hearing to determine the legal custody of a child in order that the relevant facts gathered by the GAL, relevant observations of the GAL and recommendations made to the court are documented.

Currently GAL reports differ greatly; while some are written, others are given orally in court. This allows for a lack of documentation regarding the GAL's investigation and the basis for recommendations to the court.

- 5. Establish a pilot program to support legal advisory services in several CASA/GAL programs to assess the effectiveness and benefit of experienced legal consultation for CASA/GAL volunteers.**

To examine the quality and cost-effectiveness of CASA volunteers with legal advisors which was rated most frequently by judges surveyed as “best model for the provision of GAL services.”

- 6. Establish a statewide data collection mechanism to collect basic information regarding the provision of GAL services.**

To support data necessary to further study and document the services rendered to abused and neglected children in Ohio. Currently, no entity is charged with maintaining statewide data.

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For a copy of the Final Report visit www.OhioCASA.org

Method of Providing Guardian ad Litem Services
In Ohio
CASA/GAL Study Committee
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