

2A:4A-92

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2009 **CHAPTER:** 217

NJSA: 2A:4A-92 (Establishes Court Appointed Special Advocate (CASA) program)

BILL NO: S2276 (Substituted for A3365)

SPONSOR(S) Vitale and Others

DATE INTRODUCED: October 20, 2008

COMMITTEE: **ASSEMBLY:** ---

SENATE: Judiciary

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** January 11, 2010

SENATE: May 21, 2009

DATE OF APPROVAL: January 16, 2010

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Senate Committee Substitute enacted)

S2276

SPONSOR'S STATEMENT: (Begins on page 3 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL NOTE: Yes 1-26-09
 3-11-09

A3365

SPONSOR'S STATEMENT: (Begins on page 3 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes Judiciary 1-26-09
 Approp. 3-9-09

SENATE: No

FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL NOTE: Yes 1-29-09
 3-11-09
 1-19-10

(continued)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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LAW/RWH

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2276

STATE OF NEW JERSEY
213th LEGISLATURE

ADOPTED JANUARY 26, 2009

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Senator DANA L. REDD

District 5 (Camden and Gloucester)

Assemblywoman SHEILA Y. OLIVER

District 34 (Essex and Passaic)

Assemblywoman NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

Assemblyman SAMUEL D. THOMPSON

District 13 (Middlesex and Monmouth)

Assemblyman REED GUSCIORA

District 15 (Mercer)

Co-Sponsored by:

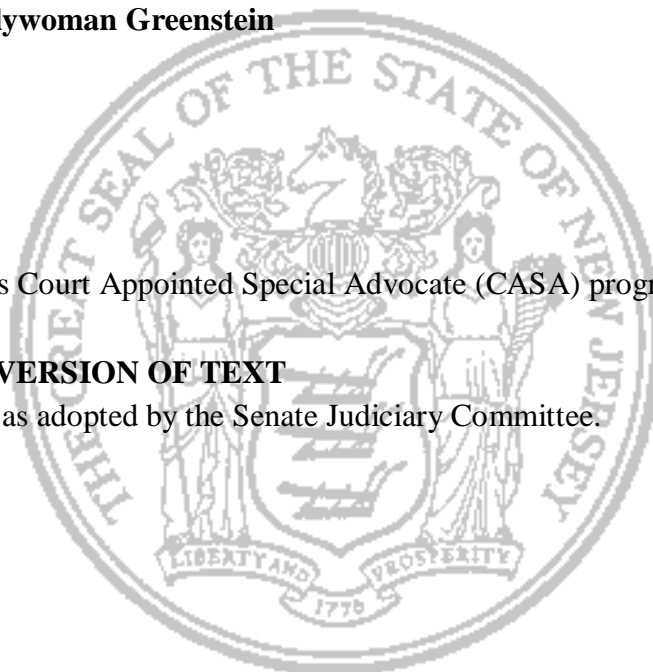
**Senators Beck, Pennacchio, Ruiz, Assemblyman McKeon,
Assemblywomen Jasey, Vainieri Huttler, Spencer, Assemblyman Diegnan
and Assemblywoman Greenstein**

SYNOPSIS

Establishes Court Appointed Special Advocate (CASA) program.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Judiciary Committee.



(Sponsorship Updated As Of: 1/12/2010)

1 AN ACT concerning court appointed special advocates, amending
2 P.L.1982, c.79 and supplementing Title 2A of the New Jersey
3 Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) a. As provided in this act, a “Court
9 Appointed Special Advocate” (CASA) shall mean a community
10 volunteer who has been recruited, screened, trained, and supervised
11 by a CASA program affiliated with Court Appointed Special
12 Advocates of New Jersey or a similar organization as determined by
13 the Administrative Office of the Courts. An affiliate CASA program
14 shall meet all State Court Appointed Special Advocate and National
15 Court Appointed Special Advocate standards, and shall be affiliated
16 with Court Appointed Special Advocates of New Jersey and the
17 National Court Appointed Special Advocates Association.

18 b. There shall be established in the State of New Jersey a Court
19 Appointed Special Advocate program which shall serve as a
20 resource to the courts in determining the best interests of any child
21 less than 18 years of age who has been removed from his home due
22 to abuse or neglect. A Court Appointed Special Advocate may
23 continue to undertake activities in furtherance of the child’s best
24 interests, in appropriate cases, until the child who is the subject of
25 the court appointment reaches 21 years of age.

26 c. Pursuant to the Rules of Court, the court may appoint a
27 special advocate from the CASA program to act on behalf of the
28 court. The special advocate shall undertake certain activities in
29 furtherance of the child’s interests, but shall not supplant or
30 interfere with the role of counsel or guardian ad litem for that child.
31 Any such special advocate shall be a volunteer associated with a
32 court-authorized CASA program. The duties and activities of a
33 CASA program and all of its volunteers shall be subject to
34 guidelines and standards established by the Administrative Director
35 of the Courts.

36 d. A person seeking to volunteer as a Court Appointed Special
37 Advocate shall be subject to the following:

38 (1) a criminal history record background check submitted by the
39 Administrative Office of the Courts or its designee to the
40 appropriate authorities. A copy of the results shall be provided to
41 the affiliate CASA program. A person shall not be approved as a
42 Court Appointed Special Advocate if criminal history record
43 information exists on file with the Federal Bureau of Investigation
44 or the Division of State Police which would disqualify that person

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 from serving in that capacity, as determined by the affiliate CASA
2 program; and

3 (2) a child abuse record information check conducted by the
4 Department of Children and Families to determine if an incident of
5 child abuse or neglect has been substantiated, pursuant to section 4
6 of P.L.1971, c.437 (C.9:6-8.11), against the prospective CASA
7 volunteer. The department shall cooperate by conducting the child
8 abuse record information check and providing the results to the
9 affiliate CASA program.

10 If a prospective volunteer refuses to consent to, or cooperate in,
11 the securing of a criminal history record background check or a
12 child abuse record information check, the person shall not be
13 appointed as a Court Appointed Special Advocate.

14 e. Upon presentation of an order of appointment, the special
15 advocate shall be provided access to all information and records
16 relevant to the child, including but not limited to: school records,
17 child care records, medical records, mental health records, family
18 court and juvenile court records, and records of the Division of
19 Youth and Family Services in the Department of Children and
20 Families.

21 f. Any special advocate or affiliate CASA program staff
22 member acting in good faith within the scope of his appointment or
23 employment shall have immunity from any civil or criminal liability
24 that otherwise might result by reason of his actions or failure to act,
25 except in cases of willful or wanton misconduct.

26

27 2. Section 1 of P.L.1982, c.79 (C.2A:4A-60) is amended to
28 read as follows:

29 1. Disclosure of juvenile information; penalties for disclosure.

30 a. Social, medical, psychological, legal and other records of the
31 court and probation division, and records of law enforcement
32 agencies, pertaining to juveniles charged as a delinquent or found to
33 be part of a juvenile-family crisis, shall be strictly safeguarded from
34 public inspection. Such records shall be made available only to:

35 (1) Any court or probation division;

36 (2) The Attorney General or county prosecutor;

37 (3) The parents or guardian and to the attorney of the juvenile;

38 (4) The Department of Human Services or Department of
39 Children and Families, if providing care or custody of the juvenile;

40 (5) Any institution or facility to which the juvenile is currently
41 committed or in which the juvenile is placed;

42 (6) Any person or agency interested in a case or in the work of
43 the agency keeping the records, by order of the court for good cause
44 shown, except that information concerning adjudications of
45 delinquency, records of custodial confinement, payments owed on
46 assessments imposed pursuant to section 2 of P.L.1979, c.396
47 (C.2C:43-3.1) or restitution ordered following conviction of a crime

1 or adjudication of delinquency, and the juvenile's financial
2 resources, shall be made available upon request to the Victims of
3 Crime Compensation Board established pursuant to section 3 of
4 P.L.1971, c.317 (C.52:4B-3), which shall keep such information
5 and records confidential;

6 (7) The Juvenile Justice Commission established pursuant to
7 section 2 of P.L.1995, c.284 (C.52:17B-170);

8 (8) Law enforcement agencies for the purpose of reviewing
9 applications for a permit to purchase a handgun or firearms
10 purchaser identification card;

11 (9) Any potential party in a subsequent civil action for damages
12 related to an act of delinquency committed by a juvenile, including
13 the victim or a member of the victim's immediate family, regardless
14 of whether the action has been filed against the juvenile; provided,
15 however, that records available under this paragraph shall be
16 limited to official court documents, such as complaints, pleadings
17 and orders, and that such records may be disclosed by the recipient
18 only in connection with asserting legal claims or obtaining
19 indemnification on behalf of the victim or the victim's family and
20 otherwise shall be safeguarded from disclosure to other members of
21 the public. Any potential party in a civil action related to the
22 juvenile offense may file a motion with the civil trial judge seeking
23 to have the juvenile's social, medical or psychological records
24 admitted into evidence in a civil proceeding for damages;

25 (10) Any potential party in a subsequent civil action for damages
26 related to an act of delinquency committed by a juvenile, including
27 the victim or a member of the victim's immediate family, regardless
28 of whether the action has been filed against the juvenile; provided,
29 however, that records available under this paragraph shall be
30 limited to police or investigation reports concerning acts of
31 delinquency, which shall be disclosed by a law enforcement agency
32 only with the approval of the County Prosecutor's Office or the
33 Division of Criminal Justice. Prior to disclosure, all personal
34 information regarding all individuals, other than the requesting
35 party and the arresting or investigating officer, shall be redacted.
36 Such records may be disclosed by the recipient only in connection
37 with asserting legal claims or obtaining indemnification on behalf
38 of the victim or the victim's family, and otherwise shall be
39 safeguarded from disclosure to other members of the public;

40 (11) The Office of the Child Advocate established pursuant to
41 P.L.2005, c.155 (C.52:27EE-1 et al.). Disclosure of juvenile
42 information received by the child advocate pursuant to this
43 paragraph shall be in accordance with the provisions of section 76
44 of P.L.2005, c.155 (C.52:27EE-76); **[and]**

45 (12) Law enforcement agencies with respect to information
46 available on the juvenile central registry maintained by the courts
47 pursuant to subsection g. of this section, including, but not limited

1 to: records of official court documents, such as complaints,
2 pleadings and orders for the purpose of obtaining juvenile arrest
3 information; juvenile disposition information; juvenile pretrial
4 information; and information concerning the probation status of a
5 juvenile ;and

6 (13) A Court Appointed Special Advocate as defined in section 1
7 of P.L. c. (C.)(pending before the Legislature as section 1
8 of this bill.

9 b. Records of law enforcement agencies may be disclosed for
10 law enforcement purposes, or for the purpose of reviewing
11 applications for a permit to purchase a handgun or a firearms
12 purchaser identification card to any law enforcement agency of this
13 State, another state or the United States, and the identity of a
14 juvenile under warrant for arrest for commission of an act that
15 would constitute a crime if committed by an adult may be disclosed
16 to the public when necessary to execution of the warrant.

17 c. At the time of charge, adjudication or disposition,
18 information as to the identity of a juvenile charged with an offense,
19 the offense charged, the adjudication and disposition shall, upon
20 request, be disclosed to:

21 (1) The victim or a member of the victim's immediate family;

22 (2) (Deleted by amendment P.L.2005, c.165).

23 (3) On a confidential basis, the principal of the school where the
24 juvenile is enrolled for use by the principal and such members of
25 the staff and faculty of the school as the principal deems
26 appropriate for maintaining order, safety or discipline in the school
27 or to planning programs relevant to the juvenile's educational and
28 social development, provided that no record of such information
29 shall be maintained except as authorized by regulation of the
30 Department of Education; or

31 (4) A party in a subsequent legal proceeding involving the
32 juvenile, upon approval by the court.

33 d. A law enforcement or prosecuting agency shall, at the time
34 of a charge, adjudication or disposition, advise the principal of the
35 school where the juvenile is enrolled of the identity of the juvenile
36 charged, the offense charged, the adjudication and the disposition
37 if:

38 (1) The offense occurred on school property or a school bus,
39 occurred at a school-sponsored function or was committed against
40 an employee or official of the school; or

41 (2) The juvenile was taken into custody as a result of
42 information or evidence provided by school officials; or

43 (3) The offense, if committed by an adult, would constitute a
44 crime, and the offense:

45 (a) resulted in death or serious bodily injury or involved an
46 attempt or conspiracy to cause death or serious bodily injury; or

1 (b) involved the unlawful use or possession of a firearm or other
2 weapon; or

3 (c) involved the unlawful manufacture, distribution or
4 possession with intent to distribute a controlled dangerous
5 substance or controlled substance analog; or

6 (d) was committed by a juvenile who acted with a purpose to
7 intimidate an individual or group of individuals because of race,
8 color, religion, sexual orientation or ethnicity; or

9 (e) would be a crime of the first or second degree.

10 Information provided to the principal pursuant to this subsection
11 shall be treated as confidential but may be made available to such
12 members of the staff and faculty of the school as the principal
13 deems appropriate for maintaining order, safety or discipline in the
14 school or for planning programs relevant to a juvenile's educational
15 and social development, and no record of such information shall be
16 maintained except as authorized by regulation of the Department of
17 Education.

18 e. Nothing in this section prohibits a law enforcement or
19 prosecuting agency from providing the principal of a school with
20 information identifying one or more juveniles who are under
21 investigation or have been taken into custody for commission of any
22 act that would constitute an offense if committed by an adult when
23 the law enforcement or prosecuting agency determines that the
24 information may be useful to the principal in maintaining order,
25 safety or discipline in the school or in planning programs relevant
26 to the juvenile's educational and social development. Information
27 provided to the principal pursuant to this subsection shall be treated
28 as confidential but may be made available to such members of the
29 staff and faculty of the school as the principal deems appropriate for
30 maintaining order, safety or discipline in the school or for planning
31 programs relevant to the juvenile's educational and social
32 development. No information provided pursuant to this section
33 shall be maintained.

34 f. Information as to the identity of a juvenile adjudicated
35 delinquent, the offense, the adjudication and the disposition shall be
36 disclosed to the public where the offense for which the juvenile has
37 been adjudicated delinquent if committed by an adult, would
38 constitute a crime of the first, second or third degree, or aggravated
39 assault, destruction or damage to property to an extent of more than
40 \$500.00, unless upon application at the time of disposition the
41 juvenile demonstrates a substantial likelihood that specific and
42 extraordinary harm would result from such disclosure in the specific
43 case. Where the court finds that disclosure would be harmful to the
44 juvenile, the reasons therefor shall be stated on the record.

45 g. (1) Nothing in this section shall prohibit the establishment and
46 maintaining of a central registry of the records of law enforcement
47 agencies relating to juveniles for the purpose of exchange between

1 State and local law enforcement agencies and prosecutors of this
2 State, another state, or the United States. These records of law
3 enforcement agencies shall be available on a 24-hour basis.

4 (2) Certain information and records relating to juveniles in the
5 central registry maintained by the courts, as prescribed in paragraph
6 (12) of subsection a. of this section, shall be available to State and
7 local law enforcement agencies and prosecutors on a 24-hour basis.

8 h. Whoever, except as provided by law, knowingly discloses,
9 publishes, receives, or makes use of or knowingly permits the
10 unauthorized use of information concerning a particular juvenile
11 derived from records listed in subsection a. or acquired in the
12 course of court proceedings, probation, or police duties, shall, upon
13 conviction thereof, be guilty of a disorderly persons offense.

14 i. Juvenile delinquency proceedings.

15 (1) Except as provided in paragraph (2) of this subsection, the
16 court may, upon application by the juvenile or his parent or
17 guardian, the prosecutor or any other interested party, including the
18 victim or complainant or members of the news media, permit public
19 attendance during any court proceeding at a delinquency case,
20 where it determines that a substantial likelihood that specific harm
21 to the juvenile would not result. The court shall have the authority
22 to limit and control attendance in any manner and to the extent it
23 deems appropriate;

24 (2) The court or, in cases where the county prosecutor has
25 entered an appearance, the county prosecutor shall notify the victim
26 or a member of the victim's immediate family of any court
27 proceeding involving the juvenile and the court shall permit the
28 attendance of the victim or family member at the proceeding except
29 when, prior to completing testimony as a witness, the victim or
30 family member is properly sequestered in accordance with the law
31 or the Rules Governing the Courts of the State of New Jersey or
32 when the juvenile or the juvenile's family member shows, by clear
33 and convincing evidence, that such attendance would result in a
34 substantial likelihood that specific harm to the juvenile would result
35 from the attendance of the victim or a family member at a
36 proceeding or any portion of a proceeding and that such harm
37 substantially outweighs the interest of the victim or family member
38 to attend that portion of the proceeding;

39 (3) The court shall permit a victim, or a family member of a
40 victim to make a statement prior to ordering a disposition in any
41 delinquency proceeding involving an offense that would constitute a
42 crime if committed by an adult.

43 j. The Department of Education, in consultation with the
44 Attorney General, shall adopt, pursuant to the "Administrative
45 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
46 regulations concerning the creation, maintenance and disclosure of

1 pupil records including information acquired pursuant to this
2 section.

3 (cf: P.L.2006, c.47, s.19)

4

5 3. This act shall take effect on the first day of the tenth month
6 following enactment.

SENATE, No. 2276

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED OCTOBER 20, 2008

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Senator DANA L. REDD

District 5 (Camden and Gloucester)

Co-Sponsored by:

Senator Beck

SYNOPSIS

Establishes statutory court appointed special advocate program.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/27/2009)

1 AN ACT concerning court appointed special advocates and
2 supplementing Title 30 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. a. The Supreme Court shall have the authority to provide for
8 the appointment of a volunteer special advocate for any minor who
9 has been removed from his or her home due to child abuse or
10 neglect and is the subject of a child in court proceeding. Any such
11 court appointed special advocate shall be a volunteer associated
12 with a court-authorized court appointed special advocate program.

13 b. The volunteer court appointed special advocate shall be a
14 sworn officer of the court for the purpose of advocating for and
15 helping to define and safeguard the best interests of a child or
16 children involved in that proceeding. The volunteer court appointed
17 special advocate is not a party to the case to which he is assigned
18 and shall not call or examine witnesses. The volunteer court
19 appointed special advocate shall adhere to all requirements of the
20 Administrative Office of the Courts concerning court volunteers,
21 including but not limited to codes of conduct and criminal history
22 record background checks through both State and federal criminal
23 databases.

24 c. The court before which a proceeding is held shall sign an
25 order appointing the volunteer court appointed special advocate at
26 the earliest possible stage of the proceedings, subject to the Rules of
27 Court. If there are an insufficient number of volunteer court
28 appointed special advocates for every child, then volunteer court
29 appointed special advocates shall be provided to the children with
30 the most complex cases as determined jointly with the court before
31 which the proceeding is held. As used in this subsection, "complex
32 cases" means those cases with complicated factual circumstances or
33 where siblings are separated, the child has special needs, or the
34 child has experienced multiple or repeated placements.

35 d. Upon presentation of an order of appointment, the volunteer
36 court appointed special advocate shall be provided access to all
37 information and records relevant to the child and the child's case,
38 including but not limited to: school records, child care records,
39 medical records, mental health records, family court and juvenile
40 court records, and records of the Division of Youth and Family
41 Services in the Department of Children and Families.

42 e. The volunteer court appointed special advocate shall be a
43 community volunteer who has been recruited, screened, and trained,
44 and will be supervised by, a court appointed special advocate
45 program affiliated with Court Appointed Special Advocates of New
46 Jersey. The duties and activities of an affiliate court appointed
47 special advocate program and all of its volunteers shall be in
48 accordance with guidelines and standards established by the

1 Administrative Director of the Courts. An affiliate court appointed
2 special advocate program shall meet all State Court Appointed
3 Special Advocate and National Court Appointed Special Advocate
4 standards, and shall be affiliated with Court Appointed Special
5 Advocates of New Jersey and the National Court Appointed Special
6 Advocates Association.

7 f. Any volunteer court appointed special advocate or affiliate
8 court appointed special advocate program staff member acting in
9 good faith within the scope of his or her appointment or
10 employment shall have immunity from any civil or criminal liability
11 that otherwise might result by reason of his or her actions or failure
12 to act, except in cases of willful or wanton misconduct. For the
13 purpose of any civil or criminal proceedings, the good faith of any
14 volunteer court appointed special advocate shall be presumed.

15 g. The Administrative Office of the Courts shall retain the
16 authority to promulgate Best Practices Standards for and to oversee
17 the performance of the court appointed special advocate program
18 Statewide.

19

20 2. This act shall take effect on the first day of the tenth month
21 following enactment.

22

23

24

STATEMENT

25

26 This bill would establish in statute a Statewide court appointed
27 special advocate (CASA) program. Under current law, CASAs
28 operate under Court Rule 5:8C.

29 Under the provisions of the bill, the Supreme Court would have
30 the authority to provide for the appointment of a CASA, who would
31 be a volunteer associated with a court-authorized CASA program,
32 for any minor who has been removed from his or her home due to
33 child abuse or neglect and is the subject of a proceeding. The
34 CASA would be a sworn officer of the court for the purpose of
35 advocating for and helping to define and safeguard the best interests
36 of a child or children involved in that proceeding. The CASA,
37 however, would not be a party to the case and may not call or
38 examine witnesses.

39 Under the provisions of the bill, the CASA is required to adhere
40 to all requirements of the Administrative Office of the Courts
41 (AOC) concerning court volunteers, including but not limited to:
42 volunteer codes of conduct for and criminal history record
43 background checks through both State and federal criminal
44 databases. The AOC would retain the authority to promulgate Best
45 Practices Standards for, and oversee the performance of, the CASA
46 program Statewide.

47 The bill states that the court before which a proceeding is held
48 shall sign an order appointing the CASA at the earliest possible

1 stage of the proceedings, subject to the Rules of Court. If there are
2 an insufficient number of CASAs for every child, then CASAs shall
3 be provided to the children with the most complex cases as
4 determined jointly with the court before which the proceeding is
5 held. "Complex cases," as used in the bill, means those cases with
6 complicated factual circumstances or where siblings are separated,
7 the child has special needs, or the child has experienced multiple or
8 repeated placements.

9 The bill also provides that upon presentation of an order of
10 appointment, the CASA shall be provided access to all information
11 and records relevant to the child and the child's case, including but
12 not limited to: school records, child care records, medical records,
13 mental health records, family court and juvenile court records, and
14 records of the Division of Youth and Family Services in the
15 Department of Children and Families.

16 The bill requires affiliation with a recognized CASA program.
17 Every CASA would be a community volunteer who has been
18 recruited, screened, and trained, and will be supervised by, a CASA
19 program affiliated with CASA of New Jersey. The duties and
20 activities of an affiliate CASA program and all of its volunteers
21 would be in accordance with guidelines and standards established
22 by the Administrative Director of the Courts. An affiliate CASA
23 program is required to meet all State CASA and National CASA
24 standards, and must affiliate with CASA of New Jersey and the
25 National CASA Association.

26 The bill provides civil and criminal immunity to all CASAs
27 acting in good faith within the scope of their appointment or
28 employment, except in cases of willful or wanton misconduct. The
29 bill also provides that in any civil or criminal proceeding, the good
30 faith of a CASA shall be presumed.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 2276**

STATE OF NEW JERSEY

DATED: JANUARY 26, 2009

The Senate Judiciary Committee reports favorably a Senate Committee Substitute for Senate Bill No. 2276.

This substitute establishes a Court Appointed Special Advocate (CASA) program as a resource to the courts when determining the best interests of any person less than 18 years of age who has been removed from his home due to abuse and neglect. Currently the courts provide for this program by court rule, R.5:8C. This substitute establishes the program in statute and expands upon the current court rule by providing for certain background checks before a person is accepted as a special advocate and by amending the statute pertaining to disclosure of certain juvenile records to include special advocates.

Definition A “court appointed special advocate (CASA)” means a community volunteer who has been recruited, screened, trained, and supervised, by a CASA program affiliated with Court Appointed Special Advocates of New Jersey. An affiliate CASA program shall meet all State and national standards of, and shall be affiliated with, the Court Appointed Special Advocates of New Jersey and the National Court Appointed Special Advocates Association. Following discussion, the committee included a reference in the definition to “a similar organization as determined by the Administrative Office of the Courts” to avoid a possible interpretation that in the future other volunteer organizations not affiliated with CASA would be precluded from participation.

Role of the Special Advocate The substitute provides that, pursuant to the Rules of the Court, the court may appoint a special advocate from the Court Appointed Special Advocate (CASA) program, who shall act on behalf of the court to undertake certain activities in furtherance of a child's interests. The special advocate shall not supplant or interfere with the role of either counsel for that child or guardian ad litem for that child. A Court Appointed Special Advocate may continue to undertake activities in furtherance of the child's best interests, in appropriate cases, until the child who is the subject of the court appointment reaches 21 years of age.

The duties and activities of a CASA program and all of its volunteers shall be in accordance with guidelines and standards established by the Administrative Director of the Courts.

Background Checks A person seeking to volunteer as a court appointed special advocate must be subject to two different background checks. One is a criminal history record background check to determine whether criminal history record information exists on file with the Federal Bureau of Investigation, or with the Division of State Police, which would disqualify that person from serving as a special advocate. Second, an affiliate CASA program must request that the Department of Children and Families conduct a child abuse record information check of its records to determine if an incident of child abuse or neglect has been substantiated, pursuant to section 4 of P.L.1971, c.437 (C.9:6-8.11), against any prospective CASA volunteer. If a person refuses to consent to, or cooperate in, the securing of either of these checks, the person shall not be authorized to serve as a court appointed special advocate.

Access to Records Upon presentation of an order of appointment, the special advocate shall be provided access to all information and records relevant to the person and the person's case, including but not limited to: school records, child care records, medical records, mental health records, family court and juvenile court records, and records of the Division of Youth and Family Services in the Department of Children and Families. The substitute in section 2 amends N.J.S.A. 2A:4A-60 concerning disclosure of juvenile information to add court appointed special advocates to the persons who may see certain juvenile records which generally are safeguarded from public inspection.

Immunity The substitute provides that any court appointed special advocate or affiliate CASA program staff member acting in good faith within the scope of his appointment or employment shall have immunity from any civil or criminal liability that otherwise might result by reason of his actions or failure to act, except in cases of willful or wanton misconduct.

FISCAL NOTE
SENATE, No. 2276
STATE OF NEW JERSEY
213th LEGISLATURE

DATED: JANUARY 26, 2009

SUMMARY

Synopsis: Establishes statutory court appointed special advocate program.

Type of Impact: No expenditure

Agencies Affected: Judiciary

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	\$0	\$0	\$0

- The Office of Legislative Services **concurs** with the Executive estimate.
- The bill would establish in statute a Statewide court appointed special advocate (CASA) program.
- The Administrative Office of the Courts (AOC) states that as this legislation codifies an existing program under court rule, the legislation will not generate any expenditure for the Judiciary.

BILL DESCRIPTION

Senate Bill No. 2276 of 2008 would establish in statute a Statewide court appointed special advocate (CASA) program. Under current law, CASAs operate under Court Rule 5:8C.

Under the provisions of the bill, the Supreme Court would have the authority to provide for the appointment of a CASA, who would be a volunteer associated with a court-authorized CASA program, for any minor who has been removed from his or her home due to child abuse or neglect and is the subject of a proceeding. The CASA would be a sworn officer of the court for the purpose of advocating for and helping to define and safeguard the best interests of a child or children involved in that proceeding. The CASA, however, would not be a party to the case and may not call or examine witnesses.

Under the provisions of the bill, the CASA is required to adhere to all requirements of the AOC concerning court volunteers, including but not limited to: volunteer codes of conduct for and criminal history record background checks through both State and federal criminal

databases. The AOC would retain the authority to promulgate Best Practices Standards for, and oversee the performance of, the CASA program Statewide.

The bill states that the court before which a proceeding is held shall sign an order appointing the CASA at the earliest possible stage of the proceedings, subject to the Rules of Court. If there are an insufficient number of CASAs for every child, then CASAs shall be provided to the children with the most complex cases as determined jointly with the court before which the proceeding is held. "Complex cases," as used in the bill, means those cases with complicated factual circumstances or where siblings are separated, the child has special needs, or the child has experienced multiple or repeated placements.

The bill also provides that upon presentation of an order of appointment, the CASA shall be provided access to all information and records relevant to the child and the child's case, including but not limited to: school records, child care records, medical records, mental health records, family court and juvenile court records, and records of the Division of Youth and Family Services in the Department of Children and Families.

The bill requires affiliation with a recognized CASA program. Every CASA would be a community volunteer who has been recruited, screened, and trained, and will be supervised by a CASA program affiliated with CASA of New Jersey. The duties and activities of an affiliate CASA program and all of its volunteers would be in accordance with guidelines and standards established by the Administrative Director of the Courts. An affiliate CASA program is required to meet all State CASA and National CASA standards, and must affiliate with CASA of New Jersey and the National CASA Association.

The bill provides civil and criminal immunity to all CASAs acting in good faith within the scope of their appointment or employment, except in cases of willful or wanton misconduct. The bill also provides that in any civil or criminal proceeding, the good faith of a CASA shall be presumed.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The AOC states that as this legislation merely codifies an existing program under court rule, the legislation will not generate any expenditure for the Judiciary.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services concurs with the Executive estimate.

Section: Judiciary
Analyst: Anne Raughley
Principal Fiscal Analyst
Approved: David J. Rosen
Legislative Budget and Finance Officer

This fiscal note has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-1 et seq.).

FISCAL NOTE
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2276
STATE OF NEW JERSEY
213th LEGISLATURE

DATED: MARCH 11, 2009

SUMMARY

Synopsis: Establishes Court Appointed Special Advocate (CASA) program.

Type of Impact: General Fund expenditure.

Agencies Affected: Judiciary, Department of Children and Families

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	\$86,500	\$86,500	\$86,500

- The Office of Legislative Services **concurs** with the Executive estimate.
- The committee substitute establishes a Court Appointed Special Advocate (CASA) program as a resource to the courts when determining the best interests of any child less than 18 years of age who has been removed from his home due to abuse and neglect and, in appropriate cases, until the child who is the subject of the court appointment reaches 21 years of age.
- The Administrative Office of the Courts (AOC) states that as this legislation merely codifies an existing program under court rule, the legislation will not generate any expenditure for the Judiciary.
- The Department of Children and Families (DCF) states that in order for the division to implement the new Child Abuse Record Information (CARI) checks, the DCF would incur additional costs totaling approximately \$86,500 per year.

BILL DESCRIPTION

Senate Committee Substitute for Senate Bill No. 2276 of 2008 establishes a CASA program as a resource to the courts when determining the best interests of any child less than 18 years of

age who has been removed from his home due to abuse and neglect and, in appropriate cases, until the child who is the subject of the court appointment reaches 21 years of age.

Currently the courts provide for this program by court rule, R.5:8C. This substitute establishes the program in the statutes and expands upon the current court rule by providing for certain background checks before a person is accepted as a special advocate and by amending the statute pertaining to disclosure of certain juvenile records to include special advocates.

Definition. A CASA means a community volunteer who has been recruited, screened, trained, and supervised, by a CASA program affiliated with Court Appointed Special Advocates of New Jersey. An affiliate CASA program shall meet all State and national standards of, and shall be affiliated with, Court Appointed Special Advocates of New Jersey and the National Court Appointed Special Advocates Association.

Role of the Special Advocate. The substitute provides that, pursuant to the Rules of Court, the court may appoint a special advocate from the Court Appointed Special Advocate program, who shall act on behalf of the court to undertake certain activities in furtherance of a child's interests. The special advocate shall not supplant or interfere with the role of either counsel for that child or guardian ad litem for that child. A Court Appointed Special Advocate may continue to undertake activities in furtherance of the child's best interests, in appropriate cases, until the child who is the subject of the court appointment reaches 21 years of age.

Background Checks A person seeking to volunteer as a court appointed special advocate must be subject to two different background checks. One is a criminal history record background check to determine whether criminal history record information exists on file with the Federal Bureau of Investigation, or with the Division of State Police, which would disqualify that person from serving as a special advocate. Second, an affiliate CASA program must request that the DCF conduct a child abuse record information check of its records to determine if an incident of child abuse or neglect has been substantiated, pursuant to section 4 of P.L.1971, c.437 (C.9:6-8.11), against any prospective CASA volunteer. If a person refuses to consent to, or cooperate in, the securing of either of these checks, the person shall not be authorized to serve as a court appointed special advocate.

Access to Records Upon presentation of an order of appointment, the special advocate shall be provided access to all information and records relevant to the person and the person's case, including but not limited to: school records, child care records, medical records, mental health records, family court and juvenile court records, and records of the Division of Youth and Family Services in the DCF. The substitute in section 2 amends N.J.S.A. 2A:4A-60 concerning disclosure of juvenile information to add court appointed special advocates to the persons who may see certain juvenile records which generally are safeguarded from public inspection.

Immunity The substitute provides that any court appointed special advocate or affiliate CASA program staff member acting in good faith within the scope of his appointment or employment shall have immunity from any civil or criminal liability that otherwise might result by reason of his actions or failure to act, except in cases of willful or wanton misconduct.

The duties and activities of a CASA program and all of its volunteers shall be in accordance with guidelines and standards established by the Administrative Director of the Courts.

FISCAL ANALYSIS

EXECUTIVE BRANCH

Judiciary

The AOC states that as this legislation merely codifies an existing program under court rule, the legislation will not generate any expenditure for the Judiciary.

Department of Children and Families

The DCF states that in order for the division to implement the new CARI checks, the DCF would incur additional costs totaling approximately \$86,500 per year.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services concurs with the Executive estimate.

Section: Judiciary

*Analyst: Anne Raughley
 Principal Fiscal Analyst*

*Approved: David J. Rosen
 Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L.1980, c.67 (C. 52:13B-1 et seq.).

ASSEMBLY, No. 3365

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED OCTOBER 23, 2008

Sponsored by:

Assemblywoman SHEILA Y. OLIVER

District 34 (Essex and Passaic)

Assemblywoman NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

Assemblyman SAMUEL D. THOMPSON

District 13 (Middlesex and Monmouth)

Co-Sponsored by:

Assemblyman McKeon

SYNOPSIS

Establishes statutory court appointed special advocate program.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/16/2008)

1 AN ACT concerning court appointed special advocates and
2 supplementing Title 30 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. a. The Supreme Court shall have the authority to provide for
8 the appointment of a volunteer special advocate for any minor who
9 has been removed from his or her home due to child abuse or
10 neglect and is the subject of a child in court proceeding. Any such
11 court appointed special advocate shall be a volunteer associated
12 with a court-authorized court appointed special advocate program.

13 b. The volunteer court appointed special advocate shall be a
14 sworn officer of the court for the purpose of advocating for and
15 helping to define and safeguard the best interests of a child or
16 children involved in that proceeding. The volunteer court appointed
17 special advocate is not a party to the case to which he is assigned
18 and shall not call or examine witnesses. The volunteer court
19 appointed special advocate shall adhere to all requirements of the
20 Administrative Office of the Courts concerning court volunteers,
21 including but not limited to codes of conduct and criminal history
22 record background checks through both State and federal criminal
23 databases.

24 c. The court before which a proceeding is held shall sign an
25 order appointing the volunteer court appointed special advocate at
26 the earliest possible stage of the proceedings, subject to the Rules of
27 Court. If there are an insufficient number of volunteer court
28 appointed special advocates for every child, then volunteer court
29 appointed special advocates shall be provided to the children with
30 the most complex cases as determined jointly with the court before
31 which the proceeding is held. As used in this subsection, "complex
32 cases" means those cases with complicated factual circumstances or
33 where siblings are separated, the child has special needs, or the
34 child has experienced multiple or repeated placements.

35 d. Upon presentation of an order of appointment, the volunteer
36 court appointed special advocate shall be provided access to all
37 information and records relevant to the child and the child's case,
38 including but not limited to: school records, child care records,
39 medical records, mental health records, family court and juvenile
40 court records, and records of the Division of Youth and Family
41 Services in the Department of Children and Families.

42 e. The volunteer court appointed special advocate shall be a
43 community volunteer who has been recruited, screened, and trained,
44 and will be supervised by, a court appointed special advocate
45 program affiliated with Court Appointed Special Advocates of New
46 Jersey. The duties and activities of an affiliate court appointed
47 special advocate program and all of its volunteers shall be in
48 accordance with guidelines and standards established by the

1 Administrative Director of the Courts. An affiliate court appointed
2 special advocate program shall meet all State Court Appointed
3 Special Advocate and National Court Appointed Special Advocate
4 standards, and shall be affiliated with Court Appointed Special
5 Advocates of New Jersey and the National Court Appointed Special
6 Advocates Association.

7 f. Any volunteer court appointed special advocate or affiliate
8 court appointed special advocate program staff member acting in
9 good faith within the scope of his or her appointment or
10 employment shall have immunity from any civil or criminal liability
11 that otherwise might result by reason of his or her actions or failure
12 to act, except in cases of willful or wanton misconduct. For the
13 purpose of any civil or criminal proceedings, the good faith of any
14 volunteer court appointed special advocate shall be presumed.

15 g. The Administrative Office of the Courts shall retain the
16 authority to promulgate Best Practices Standards for and to oversee
17 the performance of the court appointed special advocate program
18 Statewide.

19

20 2. This act shall take effect on the first day of the tenth month
21 following enactment.

22

23

24

STATEMENT

25

26 This bill would establish in statute a Statewide court appointed
27 special advocate (CASA) program. Under current law, CASAs
28 operate under Court Rule 5:8C.

29 Under the provisions of the bill, the Supreme Court would have
30 the authority to provide for the appointment of a CASA, who would
31 be a volunteer associated with a court-authorized CASA program,
32 for any minor who has been removed from his or her home due to
33 child abuse or neglect and is the subject of a proceeding. The
34 CASA would be a sworn officer of the court for the purpose of
35 advocating for and helping to define and safeguard the best interest
36 of a child or children involved in that proceeding. The CASA,
37 however, would not be a party to the case and may not call or
38 examine witnesses.

39 Under the provisions of the bill, the CASA is required to adhere
40 to all requirements of the Administrative Office of the Courts
41 (AOC) concerning court volunteers, including but not limited to:
42 volunteer codes of conduct for the Judicial Branch and criminal
43 history record background checks through both State and federal
44 criminal databases. The AOC would retain the authority to
45 promulgate Best Practices Standards for, and oversee the
46 performance of, the CASA program Statewide.

47 The bill states that the court before which a proceeding is held
48 shall sign an order appointing the CASA at the earliest possible

1 stage of the proceedings, subject to the Rules of Court. If there are
2 an insufficient number of CASAs for every child, then CASAs shall
3 be provided to the children with the most complex cases as
4 determined jointly with the court before which the proceeding is
5 held. "Complex cases," as used in the bill, means those cases with
6 complicated factual circumstances or where siblings are separated,
7 the child has special needs, or the child has experienced multiple or
8 repeated placements.

9 The bill also provides that upon presentation of an order of
10 appointment, the CASA shall be provided access to all information
11 and records relevant to the child and the child's case, including but
12 not limited to: school records, child care records, medical records,
13 mental health records, family court and juvenile court records, and
14 records of the Division of Youth and Family Services in the
15 Department of Children and Families.

16 The bill requires affiliation with a recognized CASA program.
17 Every CASA would be a community volunteer who has been
18 recruited, screened, and trained, and will be supervised by, a CASA
19 program affiliated with CASA of New Jersey. The duties and
20 activities of an affiliate CASA program and all of its volunteers
21 would be in accordance with guidelines and standards established
22 by the Administrative Director of the Courts. An affiliate CASA
23 program is required to meet all State CASA and National CASA
24 standards, and must affiliate with CASA of New Jersey and the
25 National CASA Association.

26 The bill provides civil and criminal immunity to all CASAs
27 acting in good faith within the scope of their appointment or
28 employment, except in cases of willful or wanton misconduct. The
29 bill also provides that in any civil or criminal proceeding, the good
30 faith of a CASA shall be presumed.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 3365

STATE OF NEW JERSEY

DATED: JANUARY 26, 2009

The Assembly Judiciary Committee reports favorably a committee substitute for Assembly Bill No. 3365.

This substitute establishes a Court Appointed Special Advocate (CASA) program as a resource to the courts when determining the best interests of any child less than 18 years of age who has been removed from his home due to abuse and neglect and, in appropriate cases, until the child who is the subject of the court appointment reaches 21 years of age.

Currently the courts provide for this program by court rule, R.5:8C. This substitute establishes the program in the statutes and expands upon the current court rule by providing for certain background checks before a person is accepted as a special advocate and by amending the statute pertaining to disclosure of certain juvenile records to include special advocates.

Definition. A “Court Appointed Special Advocate (CASA)” means a community volunteer who has been recruited, screened, trained, and supervised, by a CASA program affiliated with Court Appointed Special Advocates of New Jersey. An affiliate CASA program shall meet all State and national standards of, and shall be affiliated with, Court Appointed Special Advocates of New Jersey and the National Court Appointed Special Advocates Association.

Role of the Special Advocate. The substitute provides that, pursuant to the Rules of Court, the court may appoint a special advocate from the Court Appointed Special Advocate program, who shall act on behalf of the court to undertake certain activities in furtherance of a child's interests. The special advocate shall not supplant or interfere with the role of either counsel for that child or guardian ad litem for that child. A Court Appointed Special Advocate may continue to undertake activities in furtherance of the child's best interests, in appropriate cases, until the child who is the subject of the court appointment reaches 21 years of age.

The duties and activities of a CASA program and all of its volunteers shall be in accordance with guidelines and standards established by the Administrative Director of the Courts.

Background Checks A person seeking to volunteer as a court appointed special advocate must be subject to two different background checks. One is a criminal history record background check to determine whether criminal history record information exists on file with the Federal Bureau of Investigation, or with the Division of State Police, which would disqualify that person from serving as a special advocate. Second, an affiliate CASA program must request that the Department of Children and Families conduct a child abuse record information check of its records to determine if an incident of child abuse or neglect has been substantiated, pursuant to section 4 of P.L.1971, c.437 (C.9:6-8.11), against any prospective CASA volunteer. If a person refuses to consent to, or cooperate in, the securing of either of these checks, the person shall not be authorized to serve as a court appointed special advocate.

Access to Records Upon presentation of an order of appointment, the special advocate shall be provided access to all information and records relevant to the person and the person's case, including but not limited to: school records, child care records, medical records, mental health records, family court and juvenile court records, and records of the Division of Youth and Family Services in the Department of Children and Families. The substitute in section 2 amends N.J.S.A. 2A:4A-60 concerning disclosure of juvenile information to add court appointed special advocates to the persons who may see certain juvenile records which generally are safeguarded from public inspection.

Immunity The substitute provides that any court appointed special advocate or affiliate CASA program staff member acting in good faith within the scope of his appointment or employment shall have immunity from any civil or criminal liability that otherwise might result by reason of his actions or failure to act, except in cases of willful or wanton misconduct.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 3365

STATE OF NEW JERSEY

DATED: MARCH 9, 2009

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3365 (ACS).

The bill establishes a Court Appointed Special Advocate (CASA) program as a resource to the courts when determining the best interests of any child less than 18 years of age who has been removed from his home due to abuse and neglect and, in appropriate cases, until the child who is the subject of the court appointment reaches 21 years of age.

Currently the courts provide for this program by court rule, R.5:8C. This substitute establishes the program in the statutes and expands upon the current court rule by providing for certain background checks before a person is accepted as a special advocate and by amending the statute pertaining to disclosure of certain juvenile records to include special advocates.

Definition. A “Court Appointed Special Advocate (CASA)” means a community volunteer who has been recruited, screened, trained, and supervised, by a CASA program affiliated with Court Appointed Special Advocates of New Jersey. An affiliate CASA program shall meet all State and national standards of, and shall be affiliated with, Court Appointed Special Advocates of New Jersey and the National Court Appointed Special Advocates Association.

Role of the Special Advocate. The substitute provides that, pursuant to the Rules of Court, the court may appoint a special advocate from the Court Appointed Special Advocate program, who shall act on behalf of the court to undertake certain activities in furtherance of a child's interests. The special advocate shall not supplant or interfere with the role of either counsel for that child or guardian ad litem for that child. A Court Appointed Special Advocate may continue to undertake activities in furtherance of the child's best interests, in appropriate cases, until the child who is the subject of the court appointment reaches 21 years of age.

The duties and activities of a CASA program and all of its volunteers shall be in accordance with guidelines and standards established by the Administrative Director of the Courts.

Background Checks A person seeking to volunteer as a court appointed special advocate must be subject to two different

background checks. One is a criminal history record background check to determine whether criminal history record information exists on file with the Federal Bureau of Investigation, or with the Division of State Police, which would disqualify that person from serving as a special advocate. Second, an affiliate CASA program must request that the Department of Children and Families conduct a child abuse record information check of its records to determine if an incident of child abuse or neglect has been substantiated, pursuant to section 4 of P.L.1971, c.437 (C.9:6-8.11), against any prospective CASA volunteer. If a person refuses to consent to, or cooperate in, the securing of either of these checks, the person shall not be authorized to serve as a court appointed special advocate.

Access to Records Upon presentation of an order of appointment, the special advocate shall be provided access to all information and records relevant to the person and the person's case, including but not limited to: school records, child care records, medical records, mental health records, family court and juvenile court records, and records of the Division of Youth and Family Services in the Department of Children and Families. The substitute in section 2 amends N.J.S.A. 2A:4A-60 concerning disclosure of juvenile information to add court appointed special advocates to the persons who may see certain juvenile records which generally are safeguarded from public inspection.

Immunity The substitute provides that any court appointed special advocate or affiliate CASA program staff member acting in good faith within the scope of his appointment or employment shall have immunity from any civil or criminal liability that otherwise might result by reason of his actions or failure to act, except in cases of willful or wanton misconduct.

FISCAL IMPACT:

In the Legislative Fiscal Estimate prepared by the Office of Legislative Services (OLS) on the substitute, the OLS concurred with the Executive that according to the Administrative Office of the Courts, that the bill merely codifies an existing program that exists under court rule, and will not require that the Judiciary incur any additional costs. The Department of Children and Families noted that in order to implement new Child Abuse Record Information checks for CASA volunteers, the DCF would incur additional costs totaling approximately \$86,500 per year.

STATEMENT TO

**ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3365**

with Assembly Floor Amendments
(Proposed by Assemblywomen OLIVER and CRUZ-PEREZ, and
Assemblymen THOMPSON and GUSCIORA)

ADOPTED: MARCH 16, 2009

This substitute would establish a statutory Court Appointed Special Advocate Program (“CASA”). As introduced, A3365 had defined “Court Appointed Special Advocate” as “a community volunteer who has been recruited, screened, trained, and supervised by a CASA program affiliated with Court Appointed Special Advocates of New Jersey.” These amendments add a reference in the definition to “a similar organization as determined by the Administrative Office of the Courts.”

These amendments make this bill identical to SCS for S2276, which was released from the Senate Judiciary Committee on January 26, 2009, the same day that this substitute was released from the Assembly Judiciary Committee. The statement to the Senate Committee Substitute provides that, following discussion, the committee included the reference to “a similar organization” to avoid a possible interpretation that in the future other volunteer organizations not affiliated with CASA would be precluded from participation.

FISCAL NOTE
ASSEMBLY, No. 3365
STATE OF NEW JERSEY
213th LEGISLATURE

DATED: JANUARY 29, 2009

SUMMARY

Synopsis: Establishes statutory court appointed special advocate program.

Type of Impact: No expenditure

Agencies Affected: Judiciary

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	\$0	\$0	\$0

- The Office of Legislative Services **concurs** with the Executive estimate.
- The bill would establish in statute a Statewide court appointed special advocate (CASA) program.
- The Administrative Office of the Courts (AOC) states that as this legislation codifies an existing program under court rule, the legislation will not generate any expenditure for the Judiciary.

BILL DESCRIPTION

Assembly Bill No. 3365 of 2008 would establish in statute a Statewide court appointed special advocate (CASA) program. Under current law, CASAs operate under Court Rule 5:8C.

Under the provisions of the bill, the Supreme Court would have the authority to provide for the appointment of a CASA, who would be a volunteer associated with a court-authorized CASA program, for any minor who has been removed from his or her home due to child abuse or neglect and is the subject of a proceeding. The CASA would be a sworn officer of the court for the purpose of advocating for and helping to define and safeguard the best interests of a child or children involved in that proceeding. The CASA, however, would not be a party to the case and may not call or examine witnesses.

Under the provisions of the bill, the CASA is required to adhere to all requirements of the Administrative Office of the Courts (AOC) concerning court volunteers, including but not

limited to: volunteer codes of conduct for and criminal history record background checks through both State and federal criminal databases. The AOC would retain the authority to promulgate Best Practices Standards for, and oversee the performance of, the CASA program Statewide.

The bill states that the court before which a proceeding is held shall sign an order appointing the CASA at the earliest possible stage of the proceedings, subject to the Rules of Court. If there are an insufficient number of CASAs for every child, then CASAs shall be provided to the children with the most complex cases as determined jointly with the court before which the proceeding is held. "Complex cases," as used in the bill, means those cases with complicated factual circumstances or where siblings are separated, the child has special needs, or the child has experienced multiple or repeated placements.

The bill also provides that upon presentation of an order of appointment, the CASA shall be provided access to all information and records relevant to the child and the child's case, including but not limited to: school records, child care records, medical records, mental health records, family court and juvenile court records, and records of the Division of Youth and Family Services in the Department of Children and Families.

The bill requires affiliation with a recognized CASA program. Every CASA would be a community volunteer who has been recruited, screened, and trained, and will be supervised by a CASA program affiliated with CASA of New Jersey. The duties and activities of an affiliate CASA program and all of its volunteers would be in accordance with guidelines and standards established by the Administrative Director of the Courts. An affiliate CASA program is required to meet all State CASA and National CASA standards, and must affiliate with CASA of New Jersey and the National CASA Association.

The bill provides civil and criminal immunity to all CASAs acting in good faith within the scope of their appointment or employment, except in cases of willful or wanton misconduct. The bill also provides that in any civil or criminal proceeding, the good faith of a CASA shall be presumed.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The AOC states that as this legislation merely codifies an existing program under court rule, the legislation will not generate any expenditure for the Judiciary.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services concurs with the Executive estimate.

Section: Judiciary

*Analyst: Anne Raughley
Principal Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L.1980, c.67 (C.52:13B-1 et seq.).

FISCAL NOTE
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3365
STATE OF NEW JERSEY
213th LEGISLATURE

DATED: MARCH 11, 2009

SUMMARY

Synopsis: Establishes Court Appointed Special Advocate (CASA) program.

Type of Impact: General Fund expenditure.

Agencies Affected: Judiciary, Department of Children and Families

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	\$86,500	\$86,500	\$86,500

- The Office of Legislative Services **concurs** with the Executive estimate.
- The committee substitute establishes a Court Appointed Special Advocate (CASA) program as a resource to the courts when determining the best interests of any child less than 18 years of age who has been removed from his home due to abuse and neglect and, in appropriate cases, until the child who is the subject of the court appointment reaches 21 years of age.
- The Administrative Office of the Courts (AOC) states that as this legislation merely codifies an existing program under court rule, the legislation will not generate any expenditure for the Judiciary.
- The Department of Children and Families (DCF) states that in order for the division to implement the new Child Abuse Record Information (CARI) checks, the DCF would incur additional costs totaling approximately \$86,500 per year.

BILL DESCRIPTION

Assembly Committee Substitute for Assembly Bill No. 3365 of 2008 establishes a CASA program as a resource to the courts when determining the best interests of any child less than 18 years of age who has been removed from his home due to abuse and neglect and, in appropriate cases, until the child who is the subject of the court appointment reaches 21 years of age.

Currently the courts provide for this program by court rule, R.5:8C. This substitute establishes the program in the statutes and expands upon the current court rule by providing for certain background checks before a person is accepted as a special advocate and by amending the statute pertaining to disclosure of certain juvenile records to include special advocates.

Definition. A CASA means a community volunteer who has been recruited, screened, trained, and supervised, by a CASA program affiliated with Court Appointed Special Advocates of New Jersey. An affiliate CASA program shall meet all State and national standards of, and shall be affiliated with, Court Appointed Special Advocates of New Jersey and the National Court Appointed Special Advocates Association.

Role of the Special Advocate. The substitute provides that, pursuant to the Rules of Court, the court may appoint a special advocate from the Court Appointed Special Advocate program, who shall act on behalf of the court to undertake certain activities in furtherance of a child's interests. The special advocate shall not supplant or interfere with the role of either counsel for that child or guardian ad litem for that child. A Court Appointed Special Advocate may continue to undertake activities in furtherance of the child's best interests, in appropriate cases, until the child who is the subject of the court appointment reaches 21 years of age.

Background Checks A person seeking to volunteer as a court appointed special advocate must be subject to two different background checks. One is a criminal history record background check to determine whether criminal history record information exists on file with the Federal Bureau of Investigation, or with the Division of State Police, which would disqualify that person from serving as a special advocate. Second, an affiliate CASA program must request that the DCF conduct a child abuse record information check of its records to determine if an incident of child abuse or neglect has been substantiated, pursuant to section 4 of P.L.1971, c.437 (C.9:6-8.11), against any prospective CASA volunteer. If a person refuses to consent to, or cooperate in, the securing of either of these checks, the person shall not be authorized to serve as a court appointed special advocate.

Access to Records Upon presentation of an order of appointment, the special advocate shall be provided access to all information and records relevant to the person and the person's case, including but not limited to: school records, child care records, medical records, mental health records, family court and juvenile court records, and records of the Division of Youth and Family Services in the DCF. The substitute in section 2 amends N.J.S.A. 2A:4A-60 concerning disclosure of juvenile information to add court appointed special advocates to the persons who may see certain juvenile records which generally are safeguarded from public inspection.

Immunity The substitute provides that any court appointed special advocate or affiliate CASA program staff member acting in good faith within the scope of his appointment or employment shall have immunity from any civil or criminal liability that otherwise might result by reason of his actions or failure to act, except in cases of willful or wanton misconduct.

The duties and activities of a CASA program and all of its volunteers shall be in accordance with guidelines and standards established by the Administrative Director of the Courts.

FISCAL ANALYSIS

EXECUTIVE BRANCH

Judiciary

The AOC states that as this legislation merely codifies an existing program under court rule, the legislation will not generate any expenditure for the Judiciary.

Department of Children and Families

The DCF states that in order for the division to implement the new CARI checks, the DCF would incur additional costs totaling approximately \$86,500 per year.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services concurs with the Executive estimate.

Section: Judiciary

*Analyst: Anne Raughley
Principal Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L.1980, c.67 (C. 52:13B-1 et seq.).

FISCAL NOTE

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 3365 STATE OF NEW JERSEY 213th LEGISLATURE

DATED: JANUARY 19, 2010

SUMMARY

- Synopsis:** Establishes Court Appointed Special Advocate (CASA) program.
- Type of Impact:** General Fund expenditure.
- Agencies Affected:** Judiciary, Administrative Office of the Courts (AOC), Department of Children and Families (DCF)

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost			
DCF	\$86,500	\$86,500	\$86,500
AOC	\$0	\$0	\$0

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>
State Cost			
DCF	\$35,750	\$9,800-\$17,000	\$9,800-\$17,000
AOC	\$0	\$0	\$0

- The Administrative Office of the Courts (AOC) states that as this legislation merely codifies an existing program under court rule, the legislation will not generate any expenditure for the Judiciary.
- The Department of Children and Families (DCF) states that in order for the division to implement the new annual Child Abuse Record Information Checks (CARI) checks, the DCF would incur additional costs totaling approximately \$86,500 per year.
- The Office of Legislative Services (OLS) **concurs** with the Executive estimate from the AOC. The OLS does **not disagree** with the DCF pertaining to its estimate for needed

personnel to conduct Child Abuse Record Information Checks, however, OLS approximates the cost commensurate with implementation of this bill at \$35,750 in FY 2011, \$9,800-\$17,000 in FY 2012 and \$9,800-\$17,000 in FY 2013.

- The bill establishes a Court Appointed Special Advocate (CASA) program as a resource to the courts when determining the best interests of any child less than 18 years of age who has been removed from the family home due to abuse and neglect and, in appropriate cases, until the child who is the subject of the court appointment reaches 21 years of age.

BILL DESCRIPTION

The First Reprint of the Assembly Committee Substitute for Assembly Bill No. 3365 of 2008 establishes a CASA program as a resource to the courts when determining the best interests of any child less than 18 years of age who has been removed from the home due to abuse and neglect and, in appropriate cases, until the child who is the subject of the court appointment reaches 21 years of age.

Currently the courts provide for this program by court rule, R.5:8C. This bill establishes the program in the statutes and expands upon the current court rule by providing for certain background checks before a person is accepted as a special advocate and by amending the statute pertaining to access to disclosure of certain juvenile records. Also, in addition to the organization Court Appointed Advocates of New Jersey, the bill allows other entities or organizations to participate in the recruiting, screening, training and supervising of special advocates, as determined by the AOC. The bill also provides immunity from civil and criminal liability, pertaining to good faith acts within the scope of employment or appointment.

FISCAL ANALYSIS

EXECUTIVE BRANCH

Judiciary

The AOC states that as this legislation merely codifies an existing program under court rule, the legislation will not generate any expenditure for the Judiciary.

Department of Children and Families

The DCF states that in order for the division to implement the new annual CARI checks, the DCF would incur additional costs totaling approximately \$86,500 per year.

OFFICE OF LEGISLATIVE SERVICES

The OLS concurs with the Executive estimate from the AOC, but while the office does not disagree with the DCF pertaining to its estimate for needed personnel to conduct CARI checks, OLS approximates the cost of the background checks commensurate with implementation of this bill at \$35,750 in FY 2011, \$9,800-\$17,000 in FY 2012 and \$9,800-\$17,000 in FY 2013. The amount for Fiscal year 2011 reflects the effective date 10 months after enactment.

The CASA program operates in fifteen vicinages covering nineteen counties with potentially 1900 plus volunteers in a system that monitors approximately 9,000 children. Currently there are

in excess of 1200 established volunteers with an additional 700 new volunteers waiting to come on board. In year one after enactment the program costs would approximate \$35,750 to check the backgrounds of the established and new volunteers. In years two and three, the estimated number of new volunteers may range from 400 to 700 annually and the system could require such increases until the total number maxes out at 4,000 in order to match the needs for child monitoring in the State. The costs to process those annual increases would approximate \$9,800 to \$17,000.

Section: Judiciary

*Analyst: Anne Raughley
Principal Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-1 et seq.).