

**The Florida Senate**  
**PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: Children, Families, and Elder Affairs Committee

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BILL: CS/SB 1612

INTRODUCER: Senator Rich

SUBJECT: The Guardian Ad Litem Direct-Support Organization

DATE: March 14, 2007

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Ray	Jameson	CF	Fav/CS
2.			JU	
3.			CA	
4.				
5.				
6.				

**I. Summary:**

Current law requires that a guardian ad litem be appointed to represent a child involved in an abuse, abandonment, or neglect proceeding. The Statewide Guardian Ad Litem Office (SGALO) was created to provide such representation.

A direct-support organization (DSO) is a Florida corporation created to raise funds and make expenditures to benefit a governmental entity.

The bill authorizes the SGALO to create a DSO. The DSO may conduct programs and activities, raise funds, and make expenditures that directly or indirectly benefit the SGALO.

This bill creates s. 39.8298, F.S.

**II. Present Situation:**

Section 39.822(1), F.S., requires the appointment of a guardian ad litem at the earliest possible time to represent a child in any child abuse, abandonment or neglect judicial proceeding, whether civil or criminal.

The Florida Guardian Ad Litem Program is a partnership of community advocates and professional staff providing a voice on behalf of Florida's abused and neglected children.<sup>1</sup> The Legislature recognized the importance of the Guardian Ad Litem Program to the children of Florida and created the SGALO within the Justice Administrative Commission. The executive

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<sup>1</sup> [www.guardianadlitem.org](http://www.guardianadlitem.org) (2007)

director of the SGALO is selected, to serve a 3-year term, by the Governor from a list of eligible applicants submitted by a Guardian Ad Litem Qualifications Committee. This committee is composed of five people appointed by the Governor, Chief Justice of the Supreme Court and the Statewide Guardian Ad Litem Association.<sup>2</sup>

The SGALO oversees and provides assistance to all guardian ad litem and attorney ad litem programs within the judicial circuits.<sup>3</sup> The SGALO represented an estimated 32,787 children in 2006. Currently, the Office has a volunteer base of 5,413 people statewide, which is the largest number of volunteers in its 26 year history.<sup>4</sup>

A DSO is typically created to give a governmental entity the flexibility to seek an additional funding source. Numerous DSOs are provided for in law including an organization for the Department of Education (DOE).<sup>5</sup> The State Board of Education governs issues relating to use of property, facilities, and personal services between DOE and its DSO and certifies that the DSO operates in a manner consistent with the goals and in the best interest of DOE.<sup>6</sup>

### III. Effect of Proposed Changes:

This bill creates a DSO for the SGALO. A DSO is defined as a Florida, not for profit corporation, incorporated under the provisions of ch. 617, F.S., and approved by the Department of State and organized and operated:

- to conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer in its own name, securities funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the SGALO; and
- in a manner consistent with the goals and purposes of the SGALO and in the best interest of the state.

The bill provides that the DSO must operate under a written contract with the SGALO, and that the executive director of the SGALO may terminate the contract if the DSO is found to be acting in a manner inconsistent with the goals of the SGALO or the best interest of the state. The contract must, at a minimum, provide that:

- The executive director of the SGALO approve the articles of incorporation, bylaws, and an annual budget;
- If the DSO ceases to exist, all moneys and property will revert back to the SGALO and if the SGALO ceases to exist, all moneys reverted from the DSO will revert to the state;
- The fiscal year for the DSO begins July 1<sup>st</sup> of one year and ends June 30<sup>th</sup> of the next year; and

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<sup>2</sup> Section 39.8296, F.S.

<sup>3</sup> Id.

<sup>4</sup> Guardian Ad Litem 2006 Annual Report, *A Voice for Florida's Abused & Neglected Children*

<sup>5</sup> Section 1001.24, F.S.

<sup>6</sup> Section 1001.03, F.S.

- Material provisions of the contract and the distinction between the DSO and the SGALO must be provided to the donors of gifts, contributions, or bequests, as well as specified on any promotional and fundraising publications.

The bill provides for the appointment of a Board of Directors solely by the executive director of the SGALO to serve at the pleasure of the executive director. No outside input is required when choosing the Board of Directors. The Executive Director of the SGALO is also permitted to designate one individual from the SGALO to serve on the Board of Directors.

With regard to property, the executive director: may permit the use of property (excluding money), facilities, and personal services; may, determine how the DSO must comply in order to use said properties, facilities, and personal services; and may not allow use of said properties unless the DSO complies with equal employment opportunities regarding race, color, religion, sex, age, or national origin. This property provision is consistent with the property provision used by DOE.<sup>7</sup>

The bill defines the term “personal services” as including full-time and part-time personnel as well as payroll processing. In addition, the bill specifies that any moneys acquired by the DSO may be held in a separate depository account in the name of the organization and subject to the contract with the SGALO. Pursuant to s. 215.981, F.S., the DSO must also provide for an annual financial audit.

The bill prohibits the DSO from exercising power under s. 617.0302(12) or (16), F.S. dealing with corporate powers and prohibits a state employee from receiving compensation from the DSO.

Currently the SGALO does not have statutory authority to create a DSO. The SGALO plans to use the DSO as a fundraising arm to obtain grants not available to state government agencies. In addition, the SGALO plans to use the DSO to establish corporate partnerships. By creating a private sector Board of Directors, the SGALO will use the expertise of the corporate community to address special projects such as volunteer recruitment and retention.<sup>8</sup>

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

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<sup>7</sup> Section 1001.24, F.S.

<sup>8</sup> Conversation with Deborah Lacombe, Deputy General Council, Statewide Guardian Ad Litem Office, March 12, 2007.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

All moneys and property held in trust by the DSO is reverted back to the SGALO or the state if the DSO ceases to exist or if the contract is terminated.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

## **VIII. Summary of Amendments:**

None.

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This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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