

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 6021 Guardian Ad Litem Direct-Support Organization

SPONSOR(S): Stevenson

TIED BILLS: None **IDEN./SIM. BILLS:** SB 222

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice & Claims Subcommittee	13 Y, 0 N	Tuszynski	Bond
2) Judiciary Committee	18 Y, 0 N	Tuszynski	Poche

SUMMARY ANALYSIS

A direct-support organization (DSO) is a non-profit organization authorized by statute to carry out specific tasks in support of a public entity or public cause. In 2014, the Legislature established transparency and reporting requirements for DSOs, including the requirement that DSO authorization is repealed on October 1 of the 5th year after enactment, unless reviewed and reenacted by the Legislature. A number of existing DSOs were scheduled for future repeal.

The Guardian ad Litem (GAL) Program established its DSO, the Florida Guardian ad Litem Foundation, in 2007, with a mission to provide additional resources for the GAL Program, its volunteers, and its affiliated circuit nonprofit organizations to promote GAL representation for abused, neglected and abandoned children in Florida's dependency system. The GAL Foundation achieves this by soliciting grants, enhancing volunteer recruitment and retention opportunities, and offering supplemental training to staff and volunteers. The Guardian ad Litem Foundation's authorization is set to repeal on October 1, 2018.

HB 6021 removes the scheduled repeal date for the Guardian ad Litem Foundation, the DSO for the Statewide Guardian ad Litem Office.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Direct-Support Organizations

A direct-support organization (DSO) is a non-profit organization authorized by statute to carry out specific tasks in support of a public entity or public cause. The function and purpose of a DSO is detailed in its enacting statute and the contract with the agency the DSO was created to support.¹

DSO Transparency and Reporting Requirements

In 2014, the Legislature created s. 20.058, F.S., establishing transparency and reporting requirements for DSOs.² Specifically, the law requires each DSO submit annually the following information to the agency it was created to support by August 1:³

- The name, mailing address, telephone number, and website address of the organization;
- The statutory authority or executive order that created the organization;
- A brief description of the mission of, and results obtained by, the organization;
- A brief description of the organization's plans for the next three fiscal years;
- A copy of the organization's code of ethics; and
- A copy of the organization's most recent Internal Revenue Service (IRS) Form 990.⁴

Additionally, the information submitted annually by a DSO must be available on the agency's website and include a link to the DSO's website, if one exists.⁵ A contract between an agency and a DSO must be contingent upon the DSO submitting the required information to the agency and posting the information on the agency's website.⁶ The contract must include a provision for ending operations and returning state-issued funds if the authorizing statute is repealed, the contract is terminated, or the organization is dissolved.⁷ If a DSO fails to submit the required information to the agency for two consecutive years, the agency head must terminate its contract with the DSO.⁸

By August 15 of each year, the agency must report to the Governor, President of the Senate, Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability the information submitted by each DSO, along with the agency's recommendation and supporting rationale to continue, terminate, or modify the agency's association with the DSO.⁹

Any law creating or authorizing a DSO must provide that the authorization is repealed on October 1 of the 5th year after enactment, unless reviewed and reenacted by the Legislature. A list of DSOs in existence prior to July 1, 2014 and scheduled for repeal in 2018 and 2019 is below:

¹ SS. 14.29(9)(a), 16.616(1), and 258.015(1), F.S. See also Rules of the Florida Auditor General, *Audits of Certain Nonprofit Organizations* (effective June 30, 2017), Rule 10.720(1)(b) and (d), available at: https://flauditor.gov/pages/pdf_files/10_700.pdf (last accessed January 6, 2018).

² S. 3, Ch. 2014-96, L.O.F.

³ S. 20.058(1), F.S.

⁴ The IRS Form 990 is an annual information return required to be filed with the IRS by most organizations exempt from federal income tax under 26 U.S.C. 501. 26 C.F.R. 1.6033-2.

⁵ S. 20.058(2), F.S.

⁶ S. 20.058(4), F.S.

⁷ Ch. 2017-75, L.O.F.

⁸ *Supra*, FN 6.

⁹ S. 20.058(3), F.S.

DSOs Scheduled for Repeal ¹⁰	
October 1, 2018	October 1, 2019
<ul style="list-style-type: none"> • Guardian ad Litem Program Foundation (s. 39.8298(8), F.S.) • Florida Department of Law Enforcement for Florida Missing Children’s Day (s. 683.231(8), F.S.) • Department of Corrections (s. 944.802(4), F.S.) • Executive Office of the Governor to assist victims of adult and juvenile crime. (s. 960.002(6), F.S.) • Department of Juvenile Justice (s. 985.672(7), F.S.) 	<ul style="list-style-type: none"> • Department of Environmental Protection (s. 20.2551(6), F.S.) • Division of Library and Information Services (s. 257.43(4), F.S.) • Division of Recreation and Parks (s. 258.015(4), F.S.) • Babcock Ranch Preserve (s. 259.10521(4), F.S.) • Division of Cultural Affairs (s. 265.703(4), F.S.) • Division of Historical Resources (s. 267.17(4), F.S.) • Florida Tourism Industry Marketing Corporation (ss. 288.1226(9) and 288.923(6), F.S.) • Florida Intergovernmental Relations Foundation (s. 288.809(5), F.S.) • Fish and Wildlife Conservation Commission (s. 379.223(4), F.S.) • Department of Agriculture and Consumer Services (s. 570.691(10), F.S.) • Florida Beef Council (s. 570.83(14), F.S.)

Current law requires all DSOs in existence prior to July 1, 2014 to be reviewed by the Legislature by July 1, 2019.¹¹

DSO Audit Requirements

Section 215.981, F.S., requires each DSO with annual expenditures in excess of \$100,000 to conduct an annual financial audit of its accounts and records.¹² The audit must be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General and the state agency that created, approved, or administers the DSO. The audit report must be submitted within nine months after the end of the fiscal year to the Auditor General and to the state agency the DSO supports. Additionally, the Auditor General may, pursuant to his or her own authority, or at the direction

¹⁰ Supra, FN 2.

¹¹ S. 20.058(5), F.S.

¹² The independent audit requirement does not apply to a DSO for a university, district board of trustees of a community college, or district school board. Additionally, the expenditure threshold for an independent audit is \$300,000 for a DSO for the Department of Environmental Protection and the Department of Agriculture and Consumer Services.

of the Legislative Auditing Committee, conduct audits or other engagements of DSO accounts and records.¹³

The Guardian ad Litem Program

Florida's Guardian ad Litem Program (GAL Program) advocates for the best interests of children alleged to be abused, neglected, or abandoned and who are involved in dependency proceedings.¹⁴ The GAL Program uses a collaborative approach to represent children in the dependency system involving GAL volunteers, Child Advocacy Managers and GAL Program attorneys.¹⁵ Currently the GAL Program advocates for more than 10,000 children in the dependency system. Over the last 35 years the GAL Program has had over 30,000 volunteers who have represented more than 250,000 children.¹⁶

Current law requires that a guardian ad litem (GAL) be appointed at the earliest possible time in an abuse or neglect proceeding.¹⁷ The GAL is required to review all disposition recommendations and changes in placement, and must be present at all critical stages of the dependency proceeding or submit a written report of recommendations to the court.¹⁸

The Guardian ad Litem Foundation

The GAL Program established the Florida Guardian ad Litem Foundation (Foundation) as its DSO in 2007. The executive director of the Statewide GAL Office appoints the members of the board of directors. The board of directors serves at the pleasure of the executive director in carrying out the mission of the DSO, which is to provide additional resources for the GAL Program, its volunteers, and its affiliated circuit nonprofit organizations¹⁹ in order to promote GAL representation for abused, neglected and abandoned children in Florida's dependency system.²⁰ The DSO is scheduled for repeal on October 1, 2018, unless reviewed and saved from repeal by the Legislature.²¹

According to the Statewide GAL Program, the Foundation continues to provide support to the GAL Program and serves the critical function of soliciting and receiving grants and resources from private and philanthropic organizations. In addition, the Foundation conducts the following activities that further the GAL Program's mission:²²

- Developing statewide partnerships;
- Publicizing the GAL Program's mission to represent the best interests of children;
- Coordinating with and serving as a resource to the twenty non-profit organizations affiliated with local GAL Programs;
- Enhancing opportunities for recruitment and retention of volunteers; and
- Offering supplemental training opportunities for volunteers.

For the tax period beginning July 1, 2016 and ending June 30, 2017, the Foundation reported total revenue of \$178,092 and total expenditures of \$153,467.²³

¹³ S. 11.45(3), F.S.

¹⁴ S. 39.8201(1), F.S.

¹⁵ Florida Guardian ad Litem Program, Annual Report, 2016, *A Voice Heard: Visualizing a Hopeful Future*, available at: <http://guardianadlitem.org/wp-content/uploads/2014/08/GAL-Annual-Report-for-Print4.pdf>. (last accessed January 6, 2018).

¹⁶ Id.

¹⁷ S. 39.822(1), F.S.

¹⁸ S. 39.822(4), F.S.

¹⁹ Many of Florida's judicial circuits have non-profit organizations that raise money and sponsor activities for the local Guardian ad Litem program. Those include, Northwest Guardian ad Litem Foundation, Guardian ad Litem Foundation of Florida's First Coast, Child Advocates II of Tallahassee, and Voices for Children.

²⁰ Guardian ad Litem Foundation, *Bylaws 2016*, available at: <http://flgal.org/about/> (last accessed January 6, 2018).

²¹ S. 39.8298, F.S.

²² Florida Statewide Guardian ad Litem Program, *Annual Report of the Florida Guardian ad Litem Foundation*, August 10, 2017, available at: <http://flgal.org/wp-content/uploads/2017/07/GAL-Program-Report-to-Governor-re-Foundation-FINAL.pdf>. (last accessed January 6, 2018).

²³ Internal Revenue Service, Form 990, Return of Organization Exempt From Income Tax, 2016 (on file with Judiciary Committee staff).

Effect of the Bill

HB 6021 removes the scheduled repeal date for the Guardian ad Litem Foundation, the direct-support organization for the Statewide Guardian ad Litem Office. As a result, the DSO will remain in existence until the executive director of the GAL program terminates the contract with the DSO or the DSO is dissolved by the legislature.²⁴

The bill is effective upon becoming law.

B. SECTION DIRECTORY:

Section 1: Amends s. 39.8298, F.S., relating to Guardian ad Litem direct-support organization.

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

²⁴ SS. 39.8298(1)(c) and (2)(c), F.S.; Supra, FN 1
STORAGE NAME: h6021c.JDC
DATE: 1/11/2018

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The GAL Program has stated that without the Foundation, it would have fewer opportunities to educate, advocate, and support the needs of dependent children.

The Program recommends the continuation of the Foundation as its DSO.²⁵

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

²⁵ Id.