

Nebraska State Statutes for CASA

43-272.02 Court appointed special advocate volunteer.

The court may appoint a court appointed special advocate volunteer pursuant to the Court Appointed Special Advocate Act.

43-3701 Act, how cited.

Sections 43-3701 to 43-3716 shall be known and may be cited as the Court Appointed Special Advocate Act.

43-3702 Definitions, where found.

For purposes of the Court Appointed Special Advocate Act, the definitions in sections 43-3703 to 43-3705 apply.

43-3704 Court appointed special advocate program, defined.

Court appointed special advocate program means a program established pursuant to the Court Appointed Special Advocate Act.

43-3705 Court appointed special advocate volunteer, defined.

Court appointed special advocate volunteer or volunteer means an individual appointed by a court pursuant to the Court Appointed Special Advocate Act.

43-3706 Court appointed special advocate programs; authorized; requirements.

(1) Court appointed special advocate programs may be established and shall operate pursuant to the Court Appointed Special Advocate Act.

(2) A court appointed special advocate program shall:

(a) Be an organization that screens, trains, and supervises court appointed special advocate volunteers to advocate for the best interests of children when appointed by a court as provided in section 43-3710. Each court may be served by a court appointed special advocate program. One program may serve more than one court;

(b) Hold regular case conferences with volunteers to review case progress and conduct annual performance reviews for all volunteers;

(c) Provide staff and volunteers with written program policies, practices, and procedures; and

(d) Provide the training required pursuant to section

43-3708.

43-3707 Program director; duties.

The program director of the court appointed special advocate program shall be responsible for the administration of the program, including recruitment, selection, training, supervision, and evaluation of staff and court appointed special advocate volunteers.

43-3708 Volunteers; requirements.

(1) All court appointed special advocate volunteers shall participate fully in preservice training, including, but not limited to, instruction on recognizing child abuse and neglect, cultural awareness, socioeconomic issues, child development, the juvenile court process, permanency planning, volunteer roles and responsibilities, advocacy, information gathering, and documentation. Volunteers shall be required to participate in observation of court proceedings prior to appointment.

(2) All volunteers shall receive a training manual that includes guidelines for service and duties.

(3) Each court appointed special advocate program shall provide a minimum of ten hours of inservice training per year to volunteers.

43-3709 Volunteers; minimum qualifications.

(1) The minimum qualifications for any prospective court appointed special advocate volunteer are that he or she shall:

- (a) Be at least twenty-one years of age or older and have demonstrated an interest in children and their welfare;
 - (b) Be willing to commit to the court for a minimum of one year of service to a child;
 - (c) Complete an application, including providing background information required pursuant to subsection (2) of this section;
 - (d) Participate in a screening interview; and
 - (e) Participate in the training required pursuant to section 43-3708.
- (2) As required background screening, the program director shall obtain the following information regarding a volunteer applicant:
- (a) A check of the applicant's criminal history record information maintained by the Identification Division of the Federal Bureau of Investigation through the Nebraska State Patrol;
 - (b) A check of his or her record with the state Abused or Neglected Child Registry;
 - (c) A check of his or her driving record; and
 - (d) At least three references who will attest to the applicant's character, judgment, and suitability for the position of a court appointed special advocate volunteer.
- (3) If the applicant has lived in Nebraska for less than twelve months, the program director shall obtain the records required in subdivisions (2)(a) through (2)(c) of this section from all other jurisdictions in which the applicant has lived during the preceding year.

Source:

Laws 2000, LB 1167, § 32.

43-3710 Appointment of volunteer; procedure.

(1) A judge may appoint a court appointed special advocate volunteer in any proceeding brought pursuant to section 43-247 or 43-292 when, in the opinion of the judge, a child who may be affected by such proceeding requires services that a volunteer can provide and the court finds that the appointment is in the best interests of the child.

(2) A volunteer shall be appointed pursuant to a court order. The court order shall specify the volunteer as a friend of the court acting on the authority of the judge. The volunteer acting as a friend of the court may offer as evidence a written report with recommendations consistent with the best interests of the child, subject to all pertinent objections.

(3) A memorandum of understanding between a court and a court appointed special advocate program is required in any county where a program is established and shall set forth the roles and responsibilities of the court appointed special advocate volunteer.

(4) The volunteer's appointment shall conclude:

(a) When the court's jurisdiction over the child terminates;

(b) Upon discharge by the court on its own motion;

(c) With the approval of the court, at the request of the program director of the court appointed special advocate program to which the volunteer is assigned; or

(d) Upon successful motion of a party to the action for the removal of the volunteer because the party believes the volunteer has acted inappropriately, is unqualified, or is unsuitable for the appointment.

43-3711 Volunteer; prohibited acts.

A court appointed special advocate volunteer shall not:

(1) Accept any compensation for the duties and responsibilities of his or her appointment;

(2) Have any association that creates a conflict of interest with his or her duties;

(3) Be related to any party or attorney involved in a case;

(4) Be employed in a position that could result in a conflict of interest or give rise to the appearance of a conflict; or

(5) Use the position to seek or accept gifts or special privileges.

43-3712 Volunteer; duties.

(1) Upon appointment in a proceeding, a court appointed special advocate volunteer shall:

(a) Conduct an independent examination regarding the best interests of the child that will provide factual information to the court regarding the child and the child's family. The examination may include interviews with and observations of the child, interviews with other appropriate individuals, and the review of relevant records and reports; and

(b) Determine if an appropriate permanency plan has been created for the child, whether appropriate services are being provided to the child and the child's family, and whether the treatment plan is progressing in a timely manner.

(2) The volunteer, with the support and supervision of the court appointed special advocate program staff, shall make recommendations consistent with the best interests of the child regarding placement, visitation, and appropriate services for the child and the child's family and shall prepare a written report to be distributed to the court and the parties to the proceeding.

(3) The volunteer shall monitor the case to which he or she has been appointed to assure that the child's essential needs are being met.

(4) The volunteer shall make every effort to attend all hearings, meetings, and any other proceeding concerning the case to which he or she has been appointed.

(5) The volunteer may be called as a witness in a proceeding by any party or the court.

43-3713 Cooperation; notice required.

(1) All government agencies, service providers, professionals, parents, and families shall cooperate with all reasonable requests of the court appointed special advocate volunteer. The volunteer shall cooperate with all government agencies, service providers, professionals, parents, and families.

(2) The volunteer shall be notified in a timely manner of all hearings, meetings, and any other proceeding concerning the case to which he or she has been appointed. The court in its discretion may proceed notwithstanding failure to notify the volunteer or failure of the volunteer to appear.

43-3714 Confidentiality; violation; penalty.

The contents of any document, record, or other information relating to a case to which the court appointed special advocate volunteer has access are confidential, and the volunteer shall not disclose such information to persons other than the court, the parties to the action, and other persons authorized by the court. A violation of this section is a Class III misdemeanor.

43-3715 Attorney-client privilege; applicability.

Nothing in the Court Appointed Special Advocate Act affects the attorney-client privilege.

43-3716 Volunteer; immunity.

A court appointed special advocate volunteer shall be immune from civil liability to the full extent provided in the federal Volunteer Protection Act of 1997.

28-710 Terms, defined.

For purposes of sections 28-710 to 28-727, unless the context otherwise requires:

(1) Abuse or neglect means knowingly, intentionally, or negligently causing or permitting a minor child to be:

(a) Placed in a situation that endangers his or her life or physical or mental health;

(b) Cruelly confined or cruelly punished;

(c) Deprived of necessary food, clothing, shelter, or care;

(d) Left unattended in a motor vehicle if such minor child is six years of age or younger;

(e) Sexually abused; or

(f) Sexually exploited by allowing, encouraging, or forcing such person to solicit for or engage in prostitution, debauchery, public indecency, or obscene or pornographic photography, films, or depictions;

(2) Department means the Department of Health and Human Services;

(3) Law enforcement agency means the police department or town marshal in incorporated municipalities, the office of the sheriff in unincorporated areas, and the Nebraska State Patrol; and

(4) Out-of-home abuse or neglect means abuse or neglect occurring in day care homes, foster homes, day care centers, group homes, and other child care facilities or institutions.

28-711 Child subjected to abuse or neglect; report; contents; toll-free number.

(1) When any physician, medical institution, nurse, school employee, social worker, or other person has reasonable cause to believe that a child has been subjected to abuse or neglect or observes such child being subjected to conditions or circumstances which reasonably would result in abuse or neglect, he or she shall report such incident or cause a report to be made to the proper law enforcement agency or to the department on the toll-free number established by subsection (2) of this section. Such report may be made orally by telephone with the caller giving his or her name and address, shall be followed by a written report, and to the extent available shall contain the address and age of the abused or neglected child, the address of the person or persons having custody of the abused or neglected child, the nature and extent of the abuse or neglect or the conditions and circumstances which would reasonably result in such abuse or neglect, any evidence of previous abuse or neglect including the nature and extent, and any other information which in the opinion of the person may be helpful in establishing the cause of such abuse or neglect and the identity of the perpetrator or perpetrators. Law enforcement agencies receiving any reports of abuse or neglect under this subsection shall notify the state central registry on the next working day by telephone or mail.

(2) The department shall establish a statewide toll-free number to be used by any person any hour of the day or night, any day of the week, to make reports of abuse or neglect. Reports of abuse or neglect not previously made to or by a law enforcement agency shall be made immediately to such agency by the department.

28-713 Reports of abuse or neglect; law enforcement agency; department; duties.

Upon the receipt of a call reporting abuse and neglect as required by section 28-711:

(1) It is the duty of the law enforcement agency to investigate the report, to take immediate steps to protect the child, and to institute legal proceedings if appropriate. In situations of alleged out-of-home abuse or neglect if the person or persons to be notified have not already been notified and the person to be notified is not the subject of the report, the law enforcement agency shall immediately notify the person or persons having custody of each child who has allegedly been abused or neglected that such report of alleged abuse or neglect has been made and shall provide such person or persons with information of the nature of the alleged abuse or neglect. The law enforcement agency may request assistance from the Department of Health and Human Services during the investigation and shall, by the next working day, notify either the hotline or the department of receipt of the report, including whether or not an investigation is being undertaken by the law enforcement agency. A copy of all reports, whether or not an investigation is being undertaken, shall be provided to the department;

(2) In situations of alleged out-of-home abuse or neglect if the person or persons to be notified have not already been notified and the person to be notified is not the subject of the report, the department shall immediately notify the person or persons having custody of each child who has allegedly been abused or neglected that such report of alleged abuse or neglect has been made and shall provide such person or persons with information of the nature of the alleged abuse or neglect and any other information that the department deems necessary. The department shall investigate for the purpose of assessing each report to determine the risk of harm to the child involved. The department shall also provide such social services as are necessary and appropriate under the circumstances to protect and assist the child and to preserve the family;

(3) The department may make a request for further assistance from the appropriate law enforcement agency or take such legal action as may be appropriate under the circumstances;

(4) The department shall, by the next working day after receiving a report under subdivision (1) of this section, make a written report or a summary on forms provided by the department to the proper law enforcement agency in the county and enter in the central registry all reports opened for investigation of abuse or neglect and any action taken; and

(5) The department shall, upon request, make available to the appropriate investigating law enforcement agency and the county attorney a copy of all reports relative to a case of suspected abuse or neglect.

28-714 Privileged communications; not grounds for excluding evidence.

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The privileged communication between patient and physician, between client and professional counselor, and between husband and wife shall not be a ground for excluding evidence in any judicial proceeding resulting from a report pursuant to sections 28-710 to 28-717.

28-715 Abused or Neglected Child Registry; department; duties.

The department shall file each report of suspected abuse or neglect in a special state Abused or Neglected Child Registry to be maintained in the department.

28-716 Person participating in an investigation or making report; immune from liability; civil or criminal.

Any person participating in an investigation or the making of a report pursuant to the provisions of sections 28-710 to 28-717 or participating in a judicial proceeding resulting therefrom shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed, except for maliciously false statements.