

RHODE ISLAND

<p>Structure, organization, and delivery of Child Representation</p> <p>State-by-state, county-by-county, etc.</p>	<p>The CASA program was initiated in 1978 by the Family Court. It was modeled after a program developed in Seattle, Washington and was the second program of its type in the United States. The program is based on a unique and innovative format involving trained volunteer advocates who work with full-time staff attorneys and social workers as a team to represent the best interests of dependent, neglected, and abused children who are under the jurisdiction of the Family Court. Since its inception, staff has been expanded several times to meet ever increasing caseloads. Staff attorneys carry an average caseload of 300 children. Staff social workers carry an average caseload of 125 children and act as a resource for CASA volunteers and staff attorneys. CASA volunteers investigate the circumstances surrounding a case to which they are assigned by conducting home visits and contacting other service providers involved in a case. The volunteers provide ongoing advocacy for the child and submit written reports to the Family Court with recommendations as to the best interests of the child.</p> <p>https://www.courts.ri.gov/Courts/FamilyCourt/Pages/default.aspx</p>
<p>Funding Child Representation</p>	<p>If the parent or other person responsible for the child's care is financially unable to engage counsel as determined by the court, the court may, at the request of that person, and in its discretion, appoint the public defender, or other council, to represent the person. The cost of other counsel in those instances shall be paid by the state... R.I. Gen. Laws § 40-11-14</p> <p>Any child who is alleged to be abused or neglected as a subject of a petition in Family Court, as provided in RIGL 40-11-14, has a Guardian Ad Litem (GAL) and/or a Court Appointed Special Advocate (CASA) assigned by the Court. If the parent or other person responsible for the child's care cannot afford legal representation, the Court may appoint the Public Defender or other counsel to represent that person. R.I. ADMIN. CODE 14-1-1100.0000, Role of Guardian ad Litem/ Court-Appointed Special Advocate.</p>
<p>1. General Duties: Timely appointment, mandatory or discretionary, attorney or lay person, represent child's interests, undertake basic obligations, address conflict situations,</p>	<p>Any child who, is alleged to be abused or neglected as a subject of a petition filed in family court under this chapter, shall have a guardian ad litem and/or a court-appointed special advocate appointed by the court to represent this child, all in the discretion of the court... R.I. Gen. Laws § 40-11-14</p> <p>A hearing on the petition [alleging abuse and neglect] shall be held within seven (7) days from the filing thereof, for the court to:</p> <p>...</p> <p>(3) Assure that a guardian ad litem and/or a court appointed special advocate has been appointed to represent the child... R.I. Gen. Laws § 40-11-7.1</p>

<p>address special needs and disabilities, and accommodate client preferences.</p>	<p>A Guardian Ad Litem (GAL) or Court Appointed Special Advocate (CASA) is assigned to represent the interests of a child who is the subject of a Dependent/Neglected/Abused Petition. A GAL is an attorney who usually is experienced in juvenile law. A GAL is appointed in situations when there may be a conflict with the CASA office, such as, the when a minor represented by CASA has a child also who has legal involvement with the Department... The Office of the Court Appointed Special Advocate, an arm of the Family Court, consists of attorneys knowledgeable in juvenile law, social workers and volunteers from the community. A volunteer, who is trained by the Office of CASA, may be appointed to assess the situation of a child. The Court allows the volunteer to contact all parties and to have access to Department and Family Court records. An attorney from the Office of CASA, in conjunction with the volunteer, is also appointed to each case. The attorney provides supervision and assistance to the volunteer in his/her efforts to make an accurate assessment and appropriate recommendations. R.I. ADMIN. CODE 14-1-1100.0000, Review and Motion Hearings.</p>
<p>2. Out of Court - Actions to be Taken: Meet with child, undertake an investigation, provide advice and counseling, file pleadings, request services, address special needs, negotiate settlements</p>	<p>The department shall forward immediately any reports of institutional child abuse and neglect to the child advocate who shall investigate the report in accordance with chapter 73 of title 42, and also to any guardian ad litem and/or attorney of record for the child. R.I. Gen. Laws § 40-11-7(d)</p> <p>Records may be disclosed when necessary: ... (4) To the family court including periodic reports regarding the care and treatment of children; provided, that if a child is represented by a guardian ad litem or attorney, a copy of the family court report will be made available to the guardian ad litem or attorney prior to its submission... R.I. Gen. Laws § 42-72-8(b)</p> <p><u>CASA Duties</u> Gather facts, including review of all records related to an assigned case. Interview the parties. Establish and maintain contact with the child, family, foster parents, social workers, attorneys, and other individuals involved in planning for the child when appropriate. Submit written reports to the court summarizing relevant information and making specific recommendations in the child's best interest. https://www.courts.ri.gov/Courts/FamilyCourt/PDFs/Family-CASA_VolPosDescr.pdf</p>
<p>3. In Court – Active Participation in</p>	<p><u>CASA Duties</u> ...</p>

<p>Hearings: Appear in court, explain proceedings to client, present evidence, ensure child is present, expand scope of representation into other needed areas, and undertake certain obligations post-disposition.</p>	<p>Appear at scheduled court hearings whenever possible. ... https://www.courts.ri.gov/Courts/FamilyCourt/PDFs/Family-CASA_VolPosDescr.pdf</p> <p>C. A Pre-trial Hearing is an informal conference in which the trial Judge can bring all parties together in an attempt to rectify differences, reach an agreement without a trial, or stipulate for purposes of trial, stipulate to documents as exhibits, provide a list of anticipated witnesses and provide the court with expectations for how long the trial will take. Prior to a Pre-trial Hearing, the worker and supervisor should discuss possible resolutions of the case and decide which elements of the case plan are deemed necessary and appropriate.</p> <ol style="list-style-type: none"> 1. A Pre-trial Hearing should usually include the attorneys for all parties, GAL or CASA, and the petitioning DCYF staff person. R.I. ADMIN. CODE 14-1-1100.0020, Involuntary Termination of Parental Rights
<p>4. Post-Hearing: Review courts order, communicate order to child, and monitor implementation of orders</p>	<p><u>CASA Duties</u> ... Monitor court orders to ensure compliance by all parties. https://www.courts.ri.gov/Courts/FamilyCourt/PDFs/Family-CASA_VolPosDescr.pdf</p> <p>A. A motion may be filed to change placement of a child, visitation, custody status, to compel parental compliance, for contempt, for review, or for other purposes. When a motion is filed, the question before the Court is "Has there been a change of circumstances which would warrant the granting of the motion?"</p> <p>B. Standard of Proof in Motion Hearings:</p> <ol style="list-style-type: none"> 1. Motions require evidentiary hearings if the parties cannot agree on a resolution. Sworn testimony is usually taken. 2. The Rules of Evidence apply in motion hearings. Hearsay is not as freely admissible as it would be in a probable cause hearing. First hand witnesses may have to testify in support of the motion. 3. The party who filed the motion must present proof by a fair preponderance of the evidence and must show a substantial change of circumstances from prior relevant court orders. <p>C. One of the following outcomes may occur at the Motion Hearing:</p> <ol style="list-style-type: none"> 1. Custody, placement or visitation modified 2. Other orders modified or amended 3. Status quo maintained

	<p>D. The question before the Court in a Review Hearing is, "What is the status of this case?" The review gives the Court insight into the current situation and to monitor the progress that the family and the Department have achieved in reaching the case plan goal.</p> <p>E. A court review is scheduled by the presiding Judge at the conclusion of the trial. The review is usually scheduled six months after this time. There may be circumstances which would warrant a hearing prior or subsequent to this interval:</p> <ol style="list-style-type: none"> 1. At each subsequent review, the presiding Judge schedules the next review. 2. The Court also schedules a hearing upon the filing of a motion by any of the parties (DCYF Legal, Guardian Ad Litem [GAL], Court Appointed Special Advocate [CASA], or parent's attorney). The Review or Motion Hearing can be used by any party to inform the Court that another party is not performing agreed upon tasks or to request changes. <p>F. Standard of Proof in Reviews:</p> <ol style="list-style-type: none"> 1. The review is usually not an evidentiary hearing, so there usually is no formal taking of sworn testimony. 2. Hearsay and opinion are admissible. The Court hears all statements which may have bearing on the disposition even if it would be inadmissible at trial. 3. If the review is an evidentiary hearing, the standard of proof is fair preponderance of the evidence. <p>R.I. ADMIN. CODE 14-1-1100.0000, Review and Motion Hearings.</p>
<p>5. Appellate Advocacy: Decision to appeal, withdrawal, participation in appeal, conclusion by appeal.</p>	<p>The appointment of a GAL lasts through a direct appeal. <i>Zinni v. Zinni</i>, 103 R.I. 417. 421 (1968)</p>
<p>6. Cessation of Representation: Contacts post representation, if any</p>	<p>Court-appointed guardians ad litem or CASA attorneys represent a minor throughout the course of the family court proceedings in which they are appointed; a family court appointment allows the guardian to represent her ward on appeal. <i>Sam M. ex rel. Elliott v. Carcieri</i>, 608 F.3d 77, 86 (1st Cir. 2010).</p>

<p>7. General Representation Rules: Administrative structure is clear for appointment, support and accountability of the CR. The child's representative is independent from the court</p>	<p>Any child who, is alleged to be abused or neglected as a subject of a petition filed in family court under this chapter, shall have a guardian ad litem and/or a court-appointed special advocate appointed by the court to represent this child, all in the discretion of the court... R.I. Gen. Laws § 40-11-14</p>
<p>8. Lawyer Training: Child representative trained, on-going training provided, new attorneys provided senior lawyer mentorship.</p>	<p>The child advocate shall perform the following duties: ... 7) Provide training and technical assistance to guardians ad litem and special advocates appointed by the family court to represent children in proceedings before that court... R.I. GEN. LAWS § 42-73-7.</p> <p>The Rhode Island court system offers a breakdown of which can be found at https://www.courts.ri.gov/Courts/FamilyCourt/PDFs/TrainingProgram.pdf.</p> <p>The Office of the Child Advocate provides training and technical assistance to guardians <i>ad litem</i> and court appointed special advocates. http://www.child-advocate.ri.gov/index.php</p>
<p>9. Lawyer Compensation: Adequate and timely compensation, reimbursement provided for expenses.</p>	<p>If the parent or other person responsible for the child's care is financially unable to engage counsel as determined by the court, the court may, at the request of that person, and in its discretion, appoint the public defender, or other council, to represent the person. The cost of other counsel in those instances shall be paid by the state... R.I. Gen. Laws § 40-11-14</p> <p>Any child who is alleged to be abused or neglected as a subject of a petition in Family Court, as provided in RIGL 40-11-14, has a Guardian Ad Litem (GAL) and/or a Court Appointed Special Advocate (CASA) assigned by the Court. If the parent or other person responsible for the child's care cannot afford legal representation, the Court may appoint the Public Defender or other counsel to represent that person. R.I. ADMIN. CODE 14-1-1100.0000</p>
<p>10. Caseload Levels:</p>	<p>The CASA program was initiated in 1978 by the Family Court. It was modeled after a program developed</p>

Caseloads are of a manageable size

in Seattle, Washington and was the second program of its type in the United States. The program is based on a unique and innovative format involving trained volunteer advocates who work with full-time staff attorneys and social workers as a team to represent the best interests of dependent, neglected, and abused children who are under the jurisdiction of the Family Court. Since its inception, staff has been expanded several times to meet ever increasing caseloads. Staff attorneys carry an average caseload of 300 children. <https://www.courts.ri.gov/Courts/FamilyCourt/PDFs/AbouttheFamilyCourt.pdf>