

By the Committee on Children and Families; and Senator  
Diaz-Balart

300-1748B-00

1                                   A bill to be entitled  
2           An act relating to the representation of  
3           dependent children; providing legislative  
4           intent with respect to providing competent  
5           legal representation for children in state  
6           custody; requiring that the Statewide Public  
7           Guardianship Office create a pilot Attorney Ad  
8           Litem Program in specified counties;  
9           authorizing the office to adopt rules to  
10          administer the pilot program; authorizing the  
11          office to contract with a private or public  
12          entity to operate the pilot program; providing  
13          for the pilot program to operate independently  
14          of other state agencies responsible for the  
15          care of children in state custody; providing  
16          for administration of the program; requiring  
17          that the Statewide Public Guardianship Office  
18          develop a training program for attorneys ad  
19          litem; requiring that the court direct the  
20          pilot program to assign an attorney ad litem;  
21          requiring that the Department of Children and  
22          Family Services provide information to the  
23          pilot-program administrator; providing for  
24          assigning an attorney ad litem to represent the  
25          child's wishes; requiring the Statewide Public  
26          Guardianship Office to make annual reports to  
27          the Legislature; requiring that the Office of  
28          the State Court Administrator evaluate the  
29          pilot programs; requesting that the Supreme  
30          Court adopt rules of juvenile procedure;  
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1 providing for funding the pilot program;  
2 providing an effective date.

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4 Be It Enacted by the Legislature of the State of Florida:

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6 Section 1. Pilot program for attorneys ad litem for  
7 dependent children.--

8 (1) LEGISLATIVE INTENT.--In furtherance of the goals  
9 set forth in section 39.4085, Florida Statutes, it is the  
10 intent of the Legislature that children who are maintained in  
11 out-of-home care by court order under s. 39.402 receive  
12 competent legal representation.

13 (2) RESPONSIBILITIES.--

14 (a) The Statewide Public Guardianship Office shall  
15 establish a 3-year pilot Attorney Ad Litem Program in Broward,  
16 Escambia, and Sarasota Counties. The Statewide Public  
17 Guardianship Office shall adopt rules to administer the pilot  
18 program.

19 (b) The Statewide Public Guardianship Office shall  
20 establish the three pilot programs by October 1, 2000. The  
21 office may contract with a private or public entity in each  
22 county to establish a pilot program. The private or public  
23 entity must have appropriate expertise in representing the  
24 rights of children taken into custody by the Department of  
25 Children and Family Services. The Statewide Office of Public  
26 Guardianship or a private or public entity shall identify  
27 measurable outcomes, including, but not limited to, the impact  
28 of counsel on child safety, improvements in the provision of  
29 appropriate services, and any reduction in the length of stay  
30 of children in state care. The pilot programs shall be  
31 established and operate independently of any other state

1 agency responsible for the care of children taken into  
2 custody.

3 (c) The Statewide Public Guardianship Office or the  
4 private or public entity under contract with the office shall  
5 designate an attorney within each of the three counties to  
6 conduct the administrative oversight of the pilot program  
7 within that county. The program administrator must be a member  
8 in good standing of The Florida Bar and must have 5 or more  
9 years of experience in the area of child advocacy, child  
10 welfare, or juvenile law. The administrative oversight of each  
11 pilot program is subject to supervision by the office.

12 (d) The Statewide Public Guardianship Office in  
13 conjunction with each pilot program shall develop a training  
14 program for attorneys ad litem which includes, but need not be  
15 limited to, appropriate standards of practice for attorneys  
16 who represent children.

17 (e) Within funds specifically appropriated for this  
18 pilot program, the Statewide Public Guardianship Office in  
19 conjunction with each pilot program shall design an  
20 appropriate attorney ad litem program in each county and may  
21 establish the number of attorneys needed to serve as attorneys  
22 ad litem and may employ attorneys and other personnel. An  
23 attorney ad litem must be a member in good standing of The  
24 Florida Bar and may not serve as an attorney ad litem until he  
25 or she has completed the training program.

26 (f) The court shall appoint the Statewide Public  
27 Guardianship Office or the entity under contract with the  
28 office to represent all children in the counties under the  
29 pilot program who are continued in out-of-home care at the  
30 shelter hearing conducted under s. 39.402. Upon this action by  
31 the court, the department shall provide to the administrator,

1 at a minimum, the name of the child, the location and  
2 placement of the child, the name of the department's  
3 authorized agent and contact information, copies of all  
4 notices sent to the parent or legal custodian of the child,  
5 and other information or records concerning the child. The  
6 court must appoint a guardian ad litem pursuant to s. 39.822  
7 for all children who have been appointed an attorney ad litem.

8 (g) Upon the court's direction, the pilot program  
9 administrator shall assign an attorney ad litem to represent  
10 the child. Once assigned, the attorney ad litem shall  
11 represent the child's wishes for purposes of proceedings under  
12 chapter 39, Florida Statutes. The child's attorney must in all  
13 circumstances fulfill the same duties of advocacy, loyalty,  
14 confidentiality, and competent representation which are due an  
15 adult client. The court must approve any action by the  
16 attorney ad litem restricting access to the child by the  
17 guardian ad litem or by any other party. The attorney ad litem  
18 shall represent the child until the program is discharged by  
19 order of the court because permanency has been achieved or the  
20 court believes that the attorney ad litem is no longer  
21 necessary.

22 (h) The Office of the State Courts Administrator, in  
23 conjunction with the three pilot programs, shall conduct  
24 research and gather statistical information to evaluate the  
25 establishment, operation, and impact of the pilot programs in  
26 meeting the legal needs of dependent children. The office  
27 shall submit a report to the Legislature by October 1, 2001,  
28 and by October 1, 2002, regarding its findings. The office  
29 shall submit a final report by October 1, 2003, which must  
30 include an evaluation of the pilot programs; findings on the  
31 feasibility of a statewide program; and recommendations, if

1 any, for locating, establishing, and operating a statewide  
2 program.

3 (3) STANDARDS.--The Supreme Court is requested, by  
4 October 1, 2000, to adopt rules of juvenile procedure which  
5 include the duties, responsibilities, and conduct of an  
6 attorney ad litem, and which are consistent with the Standards  
7 of Practice for Lawyers Who Represent Children in Abuse and  
8 Neglect Cases of the American Bar Association.

9 (4) FUNDING.--Each respective pilot program in Broward  
10 County, Escambia County, and Sarasota County shall receive an  
11 appropriation to be used solely to establish and operate the  
12 pilot program. Each appointed attorney ad litem shall be paid  
13 from funds appropriated for the pilot programs to the  
14 Statewide Public Guardianship Office.

15 Section 2. This act shall take effect upon becoming a  
16 law.

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1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                   COMMITTEE SUBSTITUTE FOR  
3                   Senate Bill 1144  
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5 - Requires that the court appoint the Statewide Public  
6 Guardianship Office or the entity under contract with  
7 the office to represent all children in the counties  
8 under the pilot program who are continued in out of home  
9 care at the shelter hearing conducted under s. 39.402.  
10 - Clarifies that the attorney ad litem represents the  
11 child's wishes and in all circumstances fulfills the  
12 same duties of advocacy, loyalty, confidentiality, and  
13 competent representation which are due an adult client.  
14 - Requires that the court approve any action by the  
15 attorney ad litem restricting access to the child by the  
16 guardian ad litem or by any other party.  
17 - Provides that the court must appoint a guardian ad litem  
18 pursuant to s. 39.822, for all children who have been  
19 appointed an attorney ad litem.  
20 - Directs the Office of the State Courts Administrator  
21 rather than the Statewide Public Guardianship Office to  
22 conduct the evaluation of the pilot programs.  
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