

By the Committees on Fiscal Policy; Children and Families; and  
Senator Diaz-Balart

300-2099A-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 Broward County; authorizing  
9           the office to adopt rules to administer the  
10          pilot program; authorizing the office to  
11          contract with a private or public entity to  
12          operate the pilot program; providing for the  
13          pilot program to operate independently of other  
14          state agencies responsible for the care of  
15          children in state custody; providing for  
16          administration of the program; requiring that  
17          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 program; requesting that the Supreme  
30          Court adopt rules of juvenile procedure;  
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1 providing appropriations for 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 County. The Statewide Public Guardianship Office shall adopt  
17 rules to administer the pilot program.

18 (b) The Statewide Public Guardianship Office shall  
19 establish the pilot program in Broward County by October 1,  
20 2000. The office may contract with a private or public entity  
21 in Broward County to establish the pilot program. The private  
22 or public entity must have appropriate expertise in  
23 representing the rights of children taken into custody by the  
24 Department of Children and Family Services. The Statewide  
25 Office of Public Guardianship or a private or public entity  
26 shall identify measurable outcomes, including, but not limited  
27 to, the impact of counsel on child safety, improvements in the  
28 provision of appropriate services, and any reduction in the  
29 length of stay of children in state care. The pilot program  
30 shall be established and operate independently of any other  
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1 state 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 Broward County to conduct the  
6 administrative oversight of the pilot program. The program  
7 administrator must be a member in good standing of The Florida  
8 Bar and must have 5 or more years of experience in the area of  
9 child advocacy, child welfare, or juvenile law. The  
10 administrative oversight of the pilot program is subject to  
11 supervision by the office.

12 (d) The Statewide Public Guardianship Office in  
13 conjunction with the 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 the pilot program shall design an appropriate  
20 attorney ad litem program and may establish the number of  
21 attorneys needed to serve as attorneys ad litem and may employ  
22 attorneys and other personnel. An attorney ad litem must be a  
23 member in good standing of The Florida Bar and may not serve  
24 as an attorney ad litem until he or she has completed the  
25 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 any child in Broward County under the  
29 pilot program who is continued in out-of-home care at the  
30 shelter hearing conducted under s. 39.402 if the court deems  
31 attorney ad litem representation necessary. At any time

1 following the shelter hearing, the court may appoint an  
2 attorney ad litem upon the motion of any party, or upon the  
3 court's own motion if an attorney ad litem has not yet been  
4 appointed and the court deems such representation necessary.  
5 The court must appoint a guardian ad litem pursuant to s.  
6 39.822 for all children who have been appointed an attorney ad  
7 litem. Upon this action by the court, the department shall  
8 provide to the administrator, at a minimum, the name of the  
9 child, the location and placement of the child, the name of  
10 the department's authorized agent and contact information,  
11 copies of all notices sent to the parent or legal custodian of  
12 the child, and other information or records concerning the  
13 child.

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

28 (h) The Office of the State Courts Administrator, in  
29 conjunction with the pilot program and in consultation with  
30 the Florida Interuniversity Consortium of Children, Family,  
31 and Community, shall conduct research and gather statistical

1 information to evaluate the establishment, operation, and  
2 impact of the pilot program in meeting the legal needs of  
3 dependent children. In assessing the effects of the pilot  
4 program, including achievement of outcomes identified under  
5 paragraph (2)(b), the evaluation must include a comparison of  
6 children within Broward County who are appointed an attorney  
7 ad litem with those who are not, and a comparison of children  
8 appointed an attorney ad litem within Broward County with  
9 children outside Broward County whose cases are of a similar  
10 level of complexity. The office shall submit a report to the  
11 Legislature by October 1, 2001, and by October 1, 2002,  
12 regarding its findings. The office shall submit a final report  
13 by October 1, 2003, which must include an evaluation of the  
14 pilot program; findings on the feasibility of a statewide  
15 program; and recommendations, if any, for locating,  
16 establishing, and operating a statewide program.

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

23 (4) FUNDING.--The sums of \$1,736,909 in recurring  
24 funds and \$48,674 in nonrecurring funds are appropriated from  
25 the General Revenue Fund and 2 full-time-equivalent positions  
26 are authorized for the Statewide Public Guardianship Office in  
27 the Department of Elderly Affairs to operate the pilot program  
28 in Broward County. The sum of \$75,000 in nonrecurring funds is  
29 appropriated from the General Revenue Fund to the Office of  
30 the State Courts Administrator for the evaluation of the pilot  
31 program.

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

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4                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
5                   COMMITTEE SUBSTITUTE FOR  
6                   CS/SB 1144

7 Provides for one pilot Attorney Ad Litem Program in Broward  
8 County (formerly three pilots in Broward, Escambia, and  
Sarasota Counties).

9 Allows the court to decide on a case by case basis those  
10 children who will continue in out of home care and need an  
attorney ad litem appointed to represent their expressed  
11 interests.

12 Provides an appropriation of 2 positions and \$1,736,909 in  
13 recurring General Revenue funds and \$48,674 in nonrecurring  
14 General Revenue funds to the Statewide Public Guardianship  
Office in the Department of Elderly Affairs to operate the  
15 pilot program in Broward County. Provides \$75,000 in  
16 nonrecurring general revenue funds to the State Courts  
17 Administrator for the evaluation of the pilot program.  
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