

By Representative Gottlieb

1 A bill to be entitled
 2 An act relating to dependent children; creating
 3 s. 39.4087, F.S.; providing for the
 4 establishment of a pilot program for the
 5 representation of dependent children; providing
 6 legislative intent; providing responsibilities
 7 of the Statewide Public Guardianship Office;
 8 providing for contract with a public or private
 9 entity to establish the pilot program;
 10 providing for measurable outcomes; providing
 11 for a pilot program administrator; providing
 12 for employment and training of attorneys;
 13 providing for appointment of the pilot program
 14 to represent children at shelter hearings;
 15 providing for appointment of the guardian ad
 16 litem program to represent the child's best
 17 interests, under certain circumstances;
 18 directing the Broward County sheriff's office
 19 and the Department of Children and Family
 20 Services to provide certain notices and
 21 information to the pilot program administrator;
 22 directing the Office of the State Courts
 23 Administrator to evaluate the pilot program and
 24 submit reports to the Legislature; requesting
 25 the Supreme Court to adopt rules; providing
 26 appropriations; providing an effective date.

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

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 30 Section 1. Section 39.4087, Florida Statutes, is
 31 created to read:

1 39.4087 Broward County pilot program; legal counsel
2 for dependent children.--

3 (1) LEGISLATIVE INTENT.--In furtherance of the goals
4 set forth in s. 39.4085, it is the intent of the Legislature
5 that children who are maintained in state custody by court
6 order under s. 39.402 receive competent legal representation.

7 (2) RESPONSIBILITIES.--

8 (a) The Legislature directs the Statewide Public
9 Guardianship Office within the Department of Elderly Affairs
10 to adopt rules and procedures for the establishment of a
11 3-year pilot program to provide legal counsel for children in
12 Broward County.

13 (b) The Statewide Public Guardianship Office shall
14 establish the pilot program by October 1, 2001. The office
15 shall contract with a private or public entity to establish
16 the pilot program. The private or public entity must have
17 appropriate expertise in representing the rights of children
18 who are the subject of dependency proceedings initiated under
19 this chapter. The private or public entity must also have
20 appropriate expertise in the related areas of children's
21 education, mental health, and development services. The office
22 shall identify measurable outcomes for the pilot program,
23 including, but not limited to, the impact of legal counsel for
24 children on child safety, improvements in the provision of
25 appropriate services, and the reduction of the time to
26 permanency for children in state care. The pilot program shall
27 be established and operate independently of any other state
28 agency responsible for the care of children taken into state
29 custody.

30 (c) Administrative oversight of the pilot program
31 shall be conducted by an attorney designated by the

1 contracting private or public entity to be the pilot program
2 administrator. The pilot program administrator must be a
3 member in good standing of The Florida Bar and must have at
4 least 5 years of experience in child advocacy, child welfare,
5 or juvenile law. Administrative oversight of the pilot program
6 shall be subject to the supervision of the Statewide Public
7 Guardianship Office.

8 (d) The pilot program administrator, in conjunction
9 with the Statewide Public Guardianship Office, shall develop a
10 training program for staff attorneys, which shall include, but
11 not be limited to, appropriate standards of practice for
12 attorneys representing children.

13 (e) Within funds specifically appropriated for the
14 pilot program, the public or private contracting entity, in
15 conjunction with the Statewide Public Guardianship Office, is
16 authorized to employ the number of attorneys, as well as other
17 support personnel, needed to provide competent legal
18 representation for children who are the subject of dependency
19 proceedings under this chapter. An attorney providing
20 representation for children through the pilot program must be
21 a member in good standing of The Florida Bar. An attorney may
22 not provide legal representation for children through the
23 pilot program until he or she has successfully completed the
24 training program provided for in paragraph (d).

25 (f) At the commencement of each shelter hearing
26 conducted pursuant to s. 39.402, the court shall appoint the
27 pilot program to represent the child who is the subject of the
28 proceedings. The pilot program administrator shall ensure that
29 an attorney from the program is present at each shelter
30 hearing. At the conclusion of the shelter hearing, if the
31 court orders that the child is to be continued in state

1 custody, the court shall also order that the pilot program
2 continue its representation of the child. If the child is
3 returned to the custody of the parent or placed in relative or
4 nonrelative shelter care, the court shall allow the pilot
5 program to withdraw as counsel for the child. Withdrawal by
6 the pilot program at the conclusion of the shelter hearing
7 does not preclude the court from reappointing the pilot
8 program at any subsequent time in the proceedings if the child
9 has been placed into state custody of if the court, based upon
10 specific findings of fact, finds that good cause exists to
11 reappoint the pilot program. If the court continues the
12 appointment of the pilot program at the shelter hearing or
13 reappoints the pilot program at a subsequent time in the
14 proceedings, the court must, pursuant to s. 39.822, appoint
15 the guardian ad litem program to represent the child's best
16 interests.

17 (g) Upon the court's order continuing the pilot
18 program's representation of the child or reappointing the
19 program at a subsequent time in the proceedings, the pilot
20 program administrator shall designate an attorney within the
21 pilot program to represent the child. Once appointed, the
22 pilot program shall represent the child for the sole purpose
23 of any proceeding conducted pursuant to chapter 39, until the
24 pilot program is discharged by order of the court because
25 permanency for the child has been achieved or the court, based
26 upon specific findings of fact, finds that good cause exists
27 to terminate the representation. The child's attorney must in
28 all circumstances fulfill the same duties of advocacy,
29 loyalty, confidentiality, and competent representation that
30 are due an adult client.

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1 (h) Once the court continues the appointment of the
2 pilot program at the conclusion of the shelter hearing or
3 reappoints the program at a subsequent time, the Broward
4 County sheriff's office and the Department of Children and
5 Family Services shall provide to the pilot program
6 administrator, at a minimum, the name of the child, the
7 location and placement of the child, the name of the
8 department's authorized agent, and contact information, copies
9 of all notices sent to the parents or legal custodians of the
10 child, and copies of any other information or records in their
11 possession that pertain to the child. Additionally, the
12 Broward County sheriff's office, the Department of Children
13 and Family Services, Children's Legal Services of the Office
14 of the Attorney General, or any other entity providing legal
15 services to the department and other parties to the matter
16 shall ensure that all pleadings and documents filed with the
17 court shall be served on the pilot program.

18 (i) The Office of the State Courts Administrator, in
19 conjunction with the pilot program, shall conduct research and
20 gather statistical information to evaluate the establishment,
21 operation, and impact of the pilot program in meeting the
22 legal needs of dependent children, including the achievement
23 of the measurable outcomes identified under paragraph (b). The
24 Office of the State Courts Administrator shall submit annual
25 reports to the Legislature by October 1, 2002, and by October
26 1, 2003, regarding its findings. The office shall submit a
27 final report by October 1, 2004, which shall include its
28 evaluation of the pilot program, findings on the feasibility
29 of a proposed statewide program, and recommendations, if any,
30 for the establishment, operation, and location of a statewide
31 program.

1 (3) The Supreme Court is requested, by October 1,
2 2001, to adopt rules of juvenile procedure which include the
3 duties, responsibilities, and conduct of an attorney
4 representing a child in dependency proceedings, consistent
5 with the American Bar Association standards of practice for
6 lawyers who represent children in abuse and neglect cases.

7 Section 2. (1) There is hereby appropriated from the
8 General Revenue Fund to the Statewide Public Guardianship
9 Office within the Department of Elderly Affairs an amount
10 sufficient to establish and operate the pilot program as
11 described in s. 39.4087, Florida Statutes, in Broward County.

12 (2) There is hereby appropriated from the General
13 Revenue Fund to the Office of the State Courts Administrator
14 an amount sufficient to ensure best interests representation
15 by the guardian ad litem program in Broward County and to
16 conduct the evaluation of the pilot program.

17 Section 3. This act shall take effect July 1, 2001.

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20 HOUSE SUMMARY

21 Directs the Statewide Public Guardianship Office within
22 the Department of Elderly Affairs, through contract with
23 a private or public entity, to establish a 3-year pilot
24 program, in Broward County, for the representation of
25 dependent children. Provides for a pilot program
26 administrator and for employment and training of staff
27 attorneys. Provides for appointment of the pilot program
28 to represent children who are the subject of dependency
29 hearings under ch. 39, F.S. Provides for appointment of
30 the guardian ad litem program to represent the child's
31 best interests, under certain circumstances. Directs the
Broward County sheriff's office and the Department of
Children and Family Services to provide relevant notices,
documents, records, and information to the pilot program
administrator. Directs the Office of the State Courts
Administrator to evaluate the pilot program and provide
reports to the Legislature. Requests the Supreme Court to
adopt rules of juvenile procedure relating to the
responsibilities and conduct of attorneys representing
children in dependency proceedings. Provides
appropriations.