

By Senator Peaden

2-1155-03

See HB

1                                   A bill to be entitled  
2           An act relating to legal representation for  
3           dependent children; amending s. 39.4086, F.S.;  
4           requiring each circuit court in the state to  
5           establish a system of representation for  
6           children in state custody; authorizing the  
7           judicial circuits to contract with a public or  
8           private entity to provide representation;  
9           requiring the Office of the State Courts  
10          Administrator in conjunction with the circuit  
11          courts to develop a training program for  
12          attorneys to be appointed to represent  
13          dependent children; providing requirements for  
14          such attorneys; providing circumstances under  
15          which the court shall appoint an attorney to  
16          represent a child in a dependency proceeding;  
17          requiring the Department of Children and Family  
18          Services to provide specified information to a  
19          court-appointed attorney; providing  
20          requirements with respect to the attorney's  
21          representation of the dependent child;  
22          requiring the Office of the State Courts  
23          Administrator to evaluate the system;  
24          eliminating the 3-year pilot Attorney Ad Litem  
25          Program in the Ninth Judicial Circuit; creating  
26          s. 39.8225, F.S.; requiring the circuit courts  
27          of the state to establish a system to provide  
28          representation to children in child abuse,  
29          abandonment, or neglect proceedings through the  
30          appointment of a guardian ad litem; authorizing  
31          the circuit courts to contract with public or

1 private entities to provide guardian ad litem  
2 services; providing an effective date.

3

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

5

6 Section 1. Section 39.4086, Florida Statutes, is  
7 amended to read:

8 39.4086 ~~Pilot program for Attorneys ad litem for~~  
9 dependent children.--

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

14 (2) RESPONSIBILITIES.--

15 (a) Each circuit court in the state shall establish a  
16 system of representation for children in the dependency  
17 system. Each judicial circuit may contract with a private or  
18 public entity to provide this representation. The private or  
19 public entity must have appropriate expertise in representing  
20 the rights of children taken into custody by the Department of  
21 Children and Family Services.~~The Office of the State Courts~~  
22 ~~Administrator shall establish a 3-year pilot Attorney Ad Litem~~  
23 ~~Program in the Ninth Judicial Circuit.~~

24 (b) ~~The Office of the State Courts Administrator shall~~  
25 ~~establish the pilot program in the Ninth Judicial Circuit by~~  
26 ~~October 1, 2000. The Ninth Judicial Circuit may contract with~~  
27 ~~a private or public entity in the Ninth Judicial Circuit to~~  
28 ~~establish the pilot program. The private or public entity must~~  
29 ~~have appropriate expertise in representing the rights of~~  
30 ~~children taken into custody by the Department of Children and~~  
31 ~~Family Services. The Office of the State Courts Administrator~~

1 ~~shall identify measurable outcomes, including, but not limited~~  
2 ~~to, the impact of counsel on child safety, improvements in the~~  
3 ~~provision of appropriate services, and any reduction in the~~  
4 ~~length of stay of children in state care. The pilot program~~  
5 ~~shall be established and operate independently of any other~~  
6 ~~state agency responsible for the care of children taken into~~  
7 ~~custody.~~

8 ~~(c) The Ninth Judicial Circuit shall designate an~~  
9 ~~attorney within the Ninth Judicial Circuit to conduct the~~  
10 ~~administrative oversight of the pilot program. The program~~  
11 ~~administrator must be a member in good standing of The Florida~~  
12 ~~Bar and must have 5 or more years of experience in the area of~~  
13 ~~child advocacy, child welfare, or juvenile law. The~~  
14 ~~administrative oversight of the pilot program is subject to~~  
15 ~~supervision by the Ninth Judicial Circuit.~~

16 ~~(b)(d)~~ The Office of the State Courts Administrator in  
17 conjunction with the circuit courts pilot program shall  
18 develop a training program for attorneys to be appointed to  
19 represent dependent children ad litem which includes, but need  
20 not be limited to, appropriate standards of practice for  
21 attorneys who represent children. The Office of the State  
22 Courts Administrator may contract with a private or public  
23 entity to provide the training program.

24 ~~(c)(e)~~ Within funds specifically appropriated for this  
25 pilot program, the Office of the State Courts Administrator in  
26 conjunction with the pilot program shall design an appropriate  
27 attorney ad litem program and may establish the number of  
28 attorneys needed to serve as attorneys ad litem and may employ  
29 attorneys and other personnel. An attorney appointed to  
30 represent dependent children ad litem must be a member in good  
31 standing of The Florida Bar and may not serve as an attorney

1 under this section ~~ad litem~~ until he or she has completed the  
2 training program established pursuant to paragraph (b).

3 ~~(d)(f)~~ The court shall appoint an attorney to  
4 represent a child in a dependency proceeding ~~the entity~~  
5 ~~responsible for representation of children in the Ninth~~  
6 ~~Judicial Circuit under the pilot program who are continued in~~  
7 ~~out-of-home care at the shelter hearing conducted under s.~~  
8 ~~39.402~~ if the court deems attorney ~~ad litem~~ representation  
9 necessary. At any time following the shelter hearing, the  
10 court may appoint an attorney for a child ~~ad litem~~ upon the  
11 motion of any party, or upon the court's own motion if an  
12 attorney ~~ad litem~~ has not yet been appointed and the court  
13 deems such representation necessary. ~~The attorney ad litem's~~  
14 ~~representation shall be limited to proceedings initiated under~~  
15 ~~this chapter only. The court must appoint a guardian ad litem~~  
16 ~~pursuant to s. 39.822 for all children who have been appointed~~  
17 ~~an attorney ad litem.~~ Upon this action by the court, the  
18 department shall provide to the attorney administrator, at a  
19 minimum, the name of the child, the location and placement of  
20 the child, the name of the department's authorized agent and  
21 contact information, copies of all notices sent to the parent  
22 or legal custodian of the child, and other information or  
23 records concerning the child.

24 ~~(e)(g)~~ Upon the court's direction, the pilot program  
25 ~~administrator shall assign an attorney ad litem to represent~~  
26 ~~the child.~~ Once assigned, the attorney ~~ad litem~~ shall  
27 represent the child's wishes after consulting with and  
28 advising the child in a manner appropriate to the child's age  
29 ~~for purposes of proceedings under this chapter as long as the~~  
30 ~~child's wishes are consistent with the safety and well-being~~  
31 ~~of the child.~~ The child's attorney must in all circumstances

1 fulfill the same duties of advocacy, loyalty, confidentiality,  
2 and competent representation which are due an adult client.  
3 The court must approve any action by the attorney for a  
4 dependent child ~~ad litem~~ restricting access to the child by  
5 the guardian ad litem or by any other party. The attorney ~~ad~~  
6 ~~litem~~ shall represent the child until the program is  
7 discharged by order of the court because permanency has been  
8 achieved or the court believes that the attorney ~~ad litem~~ is  
9 no longer necessary.

10 (f)~~(h)~~ The Office of the State Courts Administrator  
11 shall conduct research and gather statistical information to  
12 evaluate the establishment, operation, and impact of the  
13 system in the circuit courts ~~the pilot program~~ in meeting the  
14 legal needs of dependent children. ~~In assessing the effects of~~  
15 ~~the pilot program, including achievement of outcomes~~  
16 ~~identified under paragraph (b), the evaluation must include a~~  
17 ~~comparison of children within the Ninth Judicial Circuit who~~  
18 ~~are appointed an attorney ad litem with those who are not. The~~  
19 ~~office shall submit a report to the Legislature and the~~  
20 ~~Governor by October 1, 2001, and by October 1, 2002, regarding~~  
21 ~~its findings. The office shall submit a final report by~~  
22 ~~October 1, 2003, which must include an evaluation of the pilot~~  
23 ~~program; findings on the feasibility of a statewide program;~~  
24 ~~and recommendations, if any, for locating, establishing, and~~  
25 ~~operating a statewide program.~~

26 ~~(3) STANDARDS. The Supreme Court is requested, by~~  
27 ~~October 1, 2000, to adopt rules of juvenile procedure which~~  
28 ~~include the duties, responsibilities, and conduct of an~~  
29 ~~attorney ad litem. The Office of the State Courts~~  
30 ~~Administrator, in consultation with the Dependency Court~~  
31 ~~Improvement Committee of the Supreme Court, shall develop~~

1 ~~implementation guidelines for the attorney ad litem pilot~~  
2 ~~program.~~

3 ~~(4) FUNDING.--The Office of the State Courts~~  
4 ~~Administrator shall conduct the pilot program subject to the~~  
5 ~~specific appropriation of funds.~~

6 ~~(5) The provisions in this section of the act shall~~  
7 ~~take effect October 1, 2000.~~

8 Section 2. Section 39.8225, Florida Statutes, is  
9 created to read:

10 39.8225 Statewide system of guardian ad litem  
11 representation.--

12 (1) Each circuit court in the state shall establish a  
13 system to provide representation to a child, which  
14 representation shall be in the child's best interests, in any  
15 child abuse, abandonment, or neglect judicial proceeding,  
16 whether civil or criminal, through the appointment of a  
17 guardian ad litem by the court.

18 (2) In selecting the entity responsible for providing  
19 representation under subsection (1) in each judicial circuit,  
20 the circuit courts may contract with public or private  
21 entities to provide guardian ad litem services. The public or  
22 private entity must have appropriate expertise in representing  
23 the rights of children taken into custody by the Department of  
24 Children and Family Services.

25 (3) Statewide funding standards for programs providing  
26 guardian ad litem services throughout the state shall be  
27 established in a manner that allows sufficient flexibility in  
28 each judicial circuit to provide those services and spend  
29 contracted funds using a model that best suits the needs of  
30 the communities in each judicial circuit.

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1           Section 3. This act shall take effect upon becoming a  
2 law.  
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