



HB 0569

2003

1 A bill to be entitled

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

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



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

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

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

(2) RESPONSIBILITIES.--

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

~~(b) The Office of the State Courts Administrator shall establish the pilot program in the Ninth Judicial Circuit by October 1, 2000. The Ninth Judicial Circuit may contract with a private or public entity in the Ninth Judicial Circuit to establish the pilot program. The private or public entity must have appropriate expertise in representing the rights of children taken into custody by the Department of Children and Family Services. The Office of the State Courts Administrator shall identify measurable outcomes, including, but not limited to, the impact of counsel on child safety, improvements in the~~



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59 ~~provision of appropriate services, and any reduction in the~~
60 ~~length of stay of children in state care. The pilot program~~
61 ~~shall be established and operate independently of any other~~
62 ~~state agency responsible for the care of children taken into~~
63 ~~custody.~~

64 ~~(c) The Ninth Judicial Circuit shall designate an attorney~~
65 ~~within the Ninth Judicial Circuit to conduct the administrative~~
66 ~~oversight of the pilot program. The program administrator must~~
67 ~~be a member in good standing of The Florida Bar and must have 5~~
68 ~~or more years of experience in the area of child advocacy, child~~
69 ~~welfare, or juvenile law. The administrative oversight of the~~
70 ~~pilot program is subject to supervision by the Ninth Judicial~~
71 ~~Circuit.~~

72 ~~(b)(d)~~ The Office of the State Courts Administrator in
73 conjunction with the circuit courts ~~pilot program~~ shall develop
74 a training program for attorneys to be appointed to represent
75 dependent children ad litem which includes, but need not be
76 limited to, appropriate standards of practice for attorneys who
77 represent children. The Office of the State Courts Administrator
78 may contract with a private or public entity to provide the
79 training program.

80 ~~(c)(e)~~ Within funds specifically appropriated for this
81 ~~pilot program, the Office of the State Courts Administrator in~~
82 ~~conjunction with the pilot program shall design an appropriate~~
83 ~~attorney ad litem program and may establish the number of~~
84 ~~attorneys needed to serve as attorneys ad litem and may employ~~
85 ~~attorneys and other personnel. An attorney appointed to~~
86 represent dependent children ad litem must be a member in good
87 standing of The Florida Bar and may not serve as an attorney



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

90 ~~(d)(f)~~ (d)(f) The court shall appoint an attorney to represent a
91 child in a dependency proceeding ~~the entity responsible for~~
92 ~~representation of children in the Ninth Judicial Circuit under~~
93 ~~the pilot program who are continued in out-of-home care at the~~
94 ~~shelter hearing conducted under s. 39.402~~ if the court deems
95 attorney ~~ad litem~~ representation necessary. At any time
96 following the shelter hearing, the court may appoint an attorney
97 for a child ~~ad litem~~ upon the motion of any party, or upon the
98 court's own motion if an attorney ~~ad litem~~ has not yet been
99 appointed and the court deems such representation necessary. ~~The~~
100 ~~attorney ad litem's representation shall be limited to~~
101 ~~proceedings initiated under this chapter only. The court must~~
102 ~~appoint a guardian ad litem pursuant to s. 39.822 for all~~
103 ~~children who have been appointed an attorney ad litem.~~ Upon this
104 action by the court, the department shall provide to the
105 attorney administrator, at a minimum, the name of the child, the
106 location and placement of the child, the name of the
107 department's authorized agent and contact information, copies of
108 all notices sent to the parent or legal custodian of the child,
109 and other information or records concerning the child.

110 ~~(e)(g)~~ (e)(g) Upon the court's direction, ~~the pilot program~~
111 ~~administrator shall assign an attorney ad litem to represent the~~
112 ~~child.~~ Once assigned, the attorney ~~ad litem~~ shall represent the
113 child's wishes after consulting with and advising the child in a
114 manner appropriate to the child's age ~~for purposes of~~
115 ~~proceedings under this chapter as long as the child's wishes are~~
116 ~~consistent with the safety and well-being of the child.~~ The



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117 child's attorney must in all circumstances fulfill the same
118 duties of advocacy, loyalty, confidentiality, and competent
119 representation which are due an adult client. The court must
120 approve any action by the attorney for a dependent child ~~ad~~
121 ~~litem~~ restricting access to the child by the guardian ad litem
122 or by any other party. The attorney ~~ad litem~~ shall represent the
123 child until the program is discharged by order of the court
124 because permanency has been achieved or the court believes that
125 the attorney ~~ad litem~~ is no longer necessary.

126 (f)(h) The Office of the State Courts Administrator shall
127 conduct research and gather statistical information to evaluate
128 the establishment, operation, and impact of the system in the
129 circuit courts ~~the pilot program~~ in meeting the legal needs of
130 dependent children. ~~In assessing the effects of the pilot~~
131 ~~program, including achievement of outcomes identified under~~
132 ~~paragraph (b), the evaluation must include a comparison of~~
133 ~~children within the Ninth Judicial Circuit who are appointed an~~
134 ~~attorney ad litem with those who are not. The office shall~~
135 ~~submit a report to the Legislature and the Governor by October~~
136 ~~1, 2001, and by October 1, 2002, regarding its findings. The~~
137 ~~office shall submit a final report by October 1, 2003, which~~
138 ~~must include an evaluation of the pilot program; findings on the~~
139 ~~feasibility of a statewide program; and recommendations, if any,~~
140 ~~for locating, establishing, and operating a statewide program.~~

141 ~~(3) STANDARDS. The Supreme Court is requested, by October~~
142 ~~1, 2000, to adopt rules of juvenile procedure which include the~~
143 ~~duties, responsibilities, and conduct of an attorney ad litem.~~
144 ~~The Office of the State Courts Administrator, in consultation~~
145 ~~with the Dependency Court Improvement Committee of the Supreme~~



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146 ~~Court, shall develop implementation guidelines for the attorney~~
147 ~~ad litem pilot program.~~

148 ~~(4) FUNDING. The Office of the State Courts Administrator~~
149 ~~shall conduct the pilot program subject to the specific~~
150 ~~appropriation of funds.~~

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

153 Section 2. Section 39.8225, Florida Statutes, is created
154 to read:

155 39.8225 Statewide system of guardian ad litem
156 representation.--

157 (1) Each circuit court in the state shall establish a
158 system to provide representation to a child, which
159 representation shall be in the child's best interests, in any
160 child abuse, abandonment, or neglect judicial proceeding,
161 whether civil or criminal, through the appointment of a guardian
162 ad litem by the court.

163 (2) In selecting the entity responsible for providing
164 representation under subsection (1) in each judicial circuit,
165 the circuit courts may contract with public or private entities
166 to provide guardian ad litem services. The public or private
167 entity must have appropriate expertise in representing the
168 rights of children taken into custody by the Department of
169 Children and Family Services.

170 (3) Statewide funding standards for programs providing
171 guardian ad litem services throughout the state shall be
172 established in a manner that allows sufficient flexibility in
173 each judicial circuit to provide those services and spend



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174 contracted funds using a model that best suits the needs of the
175 communities in each judicial circuit.

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