

By Senator Altman

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1                   A bill to be entitled  
2           An act relating to attorney representation for  
3           children; amending s. 28.24, F.S.; requiring that the  
4           clerk of the court provide public records at no charge  
5           to an attorney appointed to represent a child;  
6           amending s. 39.001, F.S.; adding the promotion and  
7           protection of legal rights to the list of protections  
8           provided to children; amending s. 39.0016, F.S.;  
9           authorizing the court to appoint a guardian ad litem  
10          or attorney to advocate for a child in school matters;  
11          amending s. 39.01, F.S.; defining the term "attorney  
12          for the child"; redefining the term "party"; amending  
13          s. 39.0136, F.S.; conforming terms to changes made by  
14          the act; amending s. 39.0139, F.S.; substituting an  
15          attorney for an attorney ad litem to act on behalf of  
16          a child in certain proceedings; amending s. 39.302,  
17          F.S.; conforming a cross-reference; amending s.  
18          39.402, F.S.; conforming terms to changes made by the  
19          act; amending s. 39.407, F.S.; substituting an  
20          attorney for an attorney ad litem; requiring the court  
21          to appoint an attorney for the child before  
22          involuntary placement of the child; requiring that the  
23          child's attorney be provided with the child's records  
24          and reports; amending s. 39.4085, F.S.; adding the  
25          requirement of informing a child about attorney  
26          representation to the list of goals for children in  
27          shelter or foster care; substituting an attorney for  
28          an attorney ad litem in such cases; repealing s.  
29          39.4086, F.S., relating to the pilot program for

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30 attorneys ad litem for dependent children; amending s.  
31 39.502, F.S.; requiring an attorney for the child to  
32 receive all notices and subpoenas relating to the  
33 child; amending s. 39.801, F.S.; deleting the  
34 requirement that a grandparent receive notice of a  
35 hearing on the petition to terminate parental rights,  
36 but requiring that the attorney for the child receive  
37 such notice; amending ss. 39.806 and 39.828, F.S.;  
38 conforming cross-references; amending s. 39.8296,  
39 F.S.; deleting references to the attorney ad litem  
40 program and obsolete provisions; providing a directive  
41 to the Division of Statutory Revision; creating s.  
42 39.8501, F.S.; providing that a child has a right to  
43 participate in all proceedings under ch. 39, F.S., and  
44 to receive notice of his or her right to attend  
45 hearings; providing an exception; creating s. 39.8502,  
46 F.S.; providing that a child has a right to attorney  
47 representation in proceedings; requesting that the  
48 Florida Supreme Court adopt rules relating to attorney  
49 requirements; creating s. 39.8503, F.S.; requiring  
50 that the child's attorney have access to the child and  
51 all information relating to the child; creating s.  
52 39.8504, F.S.; providing for the appointment of an  
53 attorney for the child; requiring an attorney to be  
54 appointed under certain circumstances and by the court  
55 on its own motion; amending s. 43.16, F.S.; adding the  
56 administration of the Children's Legal Representation  
57 Act to the Justice Administrative Commission's list of  
58 duties; creating s. 43.50, F.S.; providing a short

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59 title; creating s. 43.51, F.S.; providing legislative  
60 intent with respect to providing legal representation  
61 to children; creating s. 43.52, F.S.; requiring the  
62 commission to contract with not-for-profit  
63 corporations for the distribution of funds and the  
64 legal representation of children; providing the  
65 requirements for such contracts; creating s. 43.53,  
66 F.S.; providing for accountability; creating s. 43.54,  
67 F.S.; providing state support to the contracted  
68 organizations; amending s. 61.401, F.S.; permitting an  
69 attorney who has been appointed as a guardian ad litem  
70 in a dissolution of marriage proceeding to represent  
71 himself or herself; amending s. 63.142, F.S.;  
72 providing for the court appointment of an attorney for  
73 the child in an adoption proceeding; amending s.  
74 63.0425, F.S.; conforming a cross-reference; amending  
75 s. 393.125, F.S.; providing for the court appointment  
76 of an attorney for a developmentally disabled child in  
77 an administrative hearing; amending s. 394.463, F.S.;  
78 providing for the court appointment of an attorney for  
79 a minor being held for an involuntary mental health  
80 examination; amending s. 397.681, F.S.; providing for  
81 the court appointment of an attorney for a minor being  
82 involuntarily examined for substance abuse; amending  
83 s. 731.303, F.S.; providing for the court appointment  
84 of an attorney for a child in probate proceedings;  
85 amending s. 741.2902, F.S.; providing for the court to  
86 consider appointing an attorney for a child in  
87 injunctive proceedings relating to domestic violence;

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88 amending s. 742.031, F.S.; providing for the court  
 89 appointment of an attorney for a child during  
 90 paternity hearings; amending s. 914.17, F.S.;  
 91 providing for the court appointment of an attorney for  
 92 a child witness or victim during criminal proceedings;  
 93 amending s. 984.17, F.S.; providing for the court  
 94 appointment of an attorney for a child in need of  
 95 services; amending s. 985.033, F.S.; providing for the  
 96 court appointment of an attorney or guardian ad litem  
 97 for a child in delinquency proceedings; amending s.  
 98 20.195, F.S.; conforming a cross-reference; providing  
 99 an effective date.

100

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

102

103 Section 1. Section 28.24, Florida Statutes, is amended to  
 104 read:

105 28.24 Service charges by clerk of the circuit court.—The  
 106 clerk of the circuit court shall charge for services rendered by  
 107 the clerk’s office in recording documents and instruments and in  
 108 performing the duties enumerated in amounts that do not ~~to~~  
 109 exceed those specified in this section. However ~~notwithstanding~~  
 110 ~~any other provision of this section,~~ the clerk of the circuit  
 111 ~~court~~ shall provide access to and a copy of a public record  
 112 without charge to the state attorney;i~~r~~ public defender;i~~r~~  
 113 guardian ad litem;i~~r~~ public guardian;i~~r~~ attorney ad litem;i~~r~~  
 114 attorney for a child appointed pursuant to ss. 43.51-43.54;  
 115 criminal conflict and civil regional counsel;i~~r~~ ~~and~~ private  
 116 court-appointed counsel paid by the state;i~~r~~ and ~~to the~~

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117 authorized staff acting on behalf of such persons ~~each, access~~  
 118 ~~to and a copy of any public record,~~ if the requesting party is  
 119 entitled by law to view the exempt or confidential record, as  
 120 maintained by and in the custody of the clerk ~~of the circuit~~  
 121 ~~court~~ as provided by ~~in general~~ law and the Florida Rules of  
 122 Judicial Administration. The clerk ~~of the circuit court~~ may  
 123 provide the requested public record in an electronic format in  
 124 lieu of a paper format if the electronic record can be ~~when~~  
 125 ~~capable of being~~ accessed by the requesting entity.

Charges

128 (1) For examining, comparing, correcting, verifying, and  
 129 certifying transcripts of record in appellate proceedings,  
 130 prepared by attorney for appellant or someone else other than  
 131 clerk, per page.....5.00

132 (2) For preparing, numbering, and indexing an original  
 133 record of appellate proceedings, per instrument.....3.50

134 (3) For certifying copies of any instrument in the public  
 135 records.....2.00

136 (4) For verifying any instrument presented for  
 137 certification prepared by someone other than clerk, per page.3.50

138 (5) ~~(a)~~ For making copies by photographic process of any  
 139 instrument in the public records:

140 (a) Consisting of pages of not more than 14 inches by 8 1/2  
 141 inches, per page.....1.00

142 (b) Consisting of pages ~~For making copies by photographic~~  
 143 ~~process of any instrument in the public records of more than 14~~  
 144 inches by 8 1/2 inches, per page.....5.00

145 (6) For making microfilm copies of any public records:

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146	(a) 16 mm 100' microfilm roll.....	42.00
147	(b) 35 mm 100' microfilm roll.....	60.00
148	(c) Microfiche, per fiche.....	3.50
149	(7) For copying any instrument in the public records by	
150	other than photographic process, per page.....	6.00
151	(8) For writing any paper other than herein specifically	
152	mentioned, same as for copying, including signing and	
153	sealing.....	7.00
154	(9) For indexing each entry not recorded.....	1.00
155	(10) For receiving money into the registry of court:	
156	(a)1. First \$500, percent.....	3
157	2. Each subsequent \$100, percent.....	1.5
158	(b) Eminent domain actions, per deposit.....	170.00
159	(11) For examining, certifying, and recording plats and for	
160	recording condominium exhibits larger than 14 inches by 8 1/2	
161	inches:	
162	(a) First page.....	30.00
163	(b) Each additional page.....	15.00
164	(12) For recording, indexing, and filing any instrument not	
165	more than 14 inches by 8 1/2 inches, including required notice	
166	to property appraiser where applicable:	
167	(a) First page or fraction thereof.....	5.00
168	(b) Each additional page or fraction thereof.....	4.00
169	(c) For indexing instruments recorded in the official	
170	records which contain more than four names, per additional	
171	name.....	1.00
172	(d) An additional service charge <del>shall be</del> paid to the clerk	
173	of the circuit court <u>and</u> <del>to be</del> deposited in the Public Records	
174	Modernization Trust Fund for each instrument listed in s.	

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175 28.222, except judgments received from the courts and notices of  
176 lis pendens, recorded in the official records:

177 1. First page.....1.00

178 2. Each additional page.....0.50

179  
180 The ~~Said~~ fund shall be held in trust by the clerk and used  
181 exclusively for equipment and maintenance of equipment,  
182 personnel training, and technical assistance in modernizing the  
183 public records system of the office. In a county where the duty  
184 of maintaining official records exists in an office other than  
185 the office of the clerk of the circuit court, the clerk ~~of the~~  
186 ~~circuit court~~ is entitled to 25 percent of the moneys deposited  
187 into the trust fund for equipment, maintenance of equipment,  
188 training, and technical assistance in modernizing the system for  
189 storing records in the clerk's office ~~of the clerk of the~~  
190 ~~circuit court~~. The fund may not be used for the payment of  
191 travel expenses, membership dues, bank charges, staff-  
192 recruitment costs, salaries or benefits of employees,  
193 construction costs, general operating expenses, or other costs  
194 not directly related to obtaining and maintaining equipment for  
195 public records systems or for the purchase of furniture or  
196 office supplies and equipment not related to the storage of  
197 records. On or before ~~December 1, 1995, and on or before~~  
198 December 1 of each year immediately preceding the ~~each~~ year  
199 ~~during which~~ the trust fund is scheduled for legislative review  
200 under s. 19(f)(2), Art. III of the State Constitution, each  
201 clerk of the circuit court shall file a report on the Public  
202 Records Modernization Trust Fund with the President of the  
203 Senate and the Speaker of the House of Representatives. The

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204 report must itemize each expenditure made from the trust fund  
205 since the last report was filed; each obligation payable from  
206 the trust fund on that date; and the percentage of funds  
207 expended for each of the following: equipment, maintenance of  
208 equipment, personnel training, and technical assistance. The  
209 report must indicate the nature of the system each clerk uses to  
210 store, maintain, and retrieve public records and the degree to  
211 which the system has been upgraded since the creation of the  
212 trust fund.

213 (e) An additional service charge of \$4 per page ~~shall be~~  
214 paid to the clerk of the circuit court for each instrument  
215 listed in s. 28.222, except judgments received from the courts  
216 and notices of lis pendens, recorded in the official records.  
217 From the additional \$4 service charge collected:

218 1. If the counties maintain legal responsibility for the  
219 costs of the court-related technology needs, as defined in s.  
220 29.008(1)(f)2. and (h), 10 cents shall be distributed to the  
221 Florida Association of Court Clerks and Comptroller, Inc., for  
222 the cost of the development, ~~implementation,~~ operation, and  
223 maintenance of the clerks' Comprehensive Case Information  
224 System, ~~in which system all clerks shall participate on or~~  
225 ~~before January 1, 2006;~~ \$1.90 shall be retained by the clerk to  
226 be deposited in the Public Records Modernization Trust Fund and  
227 used exclusively for funding the court-related technology needs  
228 of the clerk ~~as defined in s. 29.008(1)(f)2. and (h);~~ and \$2  
229 shall be distributed to the board of county commissioners to be  
230 used exclusively to fund the court-related technology, and court  
231 technology needs of ~~as defined in s. 29.008(1)(f)2. and (h) for~~  
232 the state trial courts, state attorney, public defender, and

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233 criminal conflict and civil regional counsel in that county. ~~If~~  
234 ~~the counties maintain legal responsibility for the costs of the~~  
235 ~~court-related technology needs as defined in s. 29.008(1)(f)2.~~  
236 ~~and (h),~~ Notwithstanding any other provision of law, the county  
237 is not required to provide additional funding beyond that  
238 provided herein for the court-related technology needs of the  
239 clerk ~~as defined in s. 29.008(1)(f)2. and (h).~~ All court records  
240 and official records are the property of the state ~~of Florida,~~  
241 including any records generated as part of the Comprehensive  
242 Case Information System funded pursuant to this paragraph and  
243 the clerk of court is designated as the custodian of such  
244 records, except in a county where the duty of maintaining  
245 official records exists in a county office other than the clerk  
246 of court or comptroller, such county office is designated the  
247 custodian of all official records, and the clerk of court is  
248 designated the custodian of all court records. The clerk of  
249 court or any entity acting on behalf of the clerk ~~of court,~~  
250 including an association, may ~~shall~~ not charge a fee to any  
251 agency as defined in s. 119.011, the Legislature, or the State  
252 Court System for copies of records generated by the  
253 Comprehensive Case Information System or held by the clerk of  
254 court or any entity acting on behalf of the clerk ~~of court,~~  
255 including an association.

256 2. If the state becomes legally responsible for the costs  
257 of court-related technology needs as defined in s.  
258 29.008(1)(f)2. and (h), whether by operation of ~~general~~ law or  
259 by court order, \$4 shall be remitted to the Department of  
260 Revenue for deposit into the General Revenue Fund.

261 (13) Oath, administering, attesting, and sealing, not

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262	otherwise provided for herein.....	3.50
263	(14) For validating certificates, any authorized bonds,	
264	each.....	3.50
265	(15) For preparing affidavit of domicile.....	5.00
266	(16) For exemplified certificates, including signing and	
267	sealing.....	7.00
268	(17) For authenticated certificates, including signing and	
269	sealing.....	7.00
270	(18) (a) For issuing and filing a subpoena for a witness,	
271	not otherwise provided for herein (includes writing, preparing,	
272	signing, and sealing).....	7.00
273	(b) For signing and sealing only.....	2.00
274	(19) For approving bond.....	8.50
275	(20) For searching of records, for each year's search...2.00	
276	(21) For processing an application for a tax deed sale	
277	(includes application, sale, issuance, and preparation of tax	
278	deed, and disbursement of proceeds of sale), other than excess	
279	proceeds.....	60.00
280	(22) For disbursement of excess proceeds of tax deed sale,	
281	first \$100 or fraction thereof.....	10.00
282	(23) Upon receipt of an application for a marriage license,	
283	for preparing and administering of oath; issuing, sealing, and	
284	recording of the marriage license; and providing a certified	
285	copy.....	30.00
286	(24) For solemnizing matrimony.....	30.00
287	(25) For sealing any court file or expungement of any	
288	record.....	42.00
289	(26) (a) For receiving and disbursing all restitution	
290	payments, per payment.....	3.50

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291 (b) For receiving and disbursing all partial payments,  
 292 other than restitution payments, for which an administrative  
 293 processing service charge is not imposed pursuant to s. 28.246,  
 294 per month.....5.00

295 (c) For setting up a payment plan, a one-time  
 296 administrative processing charge in lieu of a per month charge  
 297 under paragraph (b).....25.00

298 (27) Postal charges incurred by the clerk of the circuit  
 299 court in any mailing by certified or registered mail shall be  
 300 paid by the party at whose instance the mailing is made.

301 (28) For furnishing an electronic copy of information  
 302 contained in a computer database: a fee as provided ~~for~~ in  
 303 chapter 119.

304 Section 2. Paragraph (i) is added to subsection (3) of  
 305 section 39.001, Florida Statutes, to read:

306 39.001 Purposes and intent; personnel standards and  
 307 screening.-

308 (3) GENERAL PROTECTIONS FOR CHILDREN.-It is a purpose of  
 309 the Legislature that the children of this state be provided with  
 310 the following protections:

311 (i) Promotion and protection of their legal rights.

312 Section 3. Subsection (5) is added to section 39.0016,  
 313 Florida Statutes, to read:

314 39.0016 Education of abused, neglected, and abandoned  
 315 children; agency agreements; children having or suspected of  
 316 having a disability.-

317 (5) ADVOCACY.-Upon request, the court may appoint a  
 318 guardian ad litem or an attorney to advocate for a child known  
 319 to the department in school matters, including disciplinary

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320 actions and issues relating to exceptional student education.

321 Section 4. Present subsections (9) through (76) of section  
322 39.01, Florida Statutes, are renumbered as subsections (10)  
323 through (77), respectively, a new subsection (9) is added to  
324 that section, and present subsection (51) of that section is  
325 amended, to read:

326 39.01 Definitions.—When used in this chapter, unless the  
327 context otherwise requires:

328 (9) "Attorney for the child" means an attorney who provides  
329 direct legal representation to a child.

330 ~~(52)(51)~~ "Party" means the parent or parents of the child,  
331 the petitioner, the department, the guardian ad litem or the  
332 representative of the guardian ad litem program if when the  
333 program has been appointed, and the child. ~~The presence of the~~  
334 ~~child may be excused by order of the court when presence would~~  
335 ~~not be in the child's best interest. Notice to the child may be~~  
336 ~~excused by order of the court when the age, capacity, or other~~  
337 ~~condition of the child is such that the notice would be~~  
338 ~~meaningless or detrimental to the child.~~

339 Section 5. Paragraph (a) of subsection (2) of section  
340 39.0136, Florida Statutes, is amended to read:

341 39.0136 Time limitations; continuances.—

342 (2) The time limitations in this chapter do not include:

343 (a) Periods of delay resulting from a continuance granted  
344 at the request of the attorney for the child ~~child's counsel~~ or  
345 the child's guardian ad litem or, if the child is of sufficient  
346 capacity to express reasonable consent, at the request or with  
347 the consent of the child. The court must consider the best  
348 interests of the child when determining periods of delay under

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349 this section.

350 Section 6. Paragraph (a) of subsection (4) of section  
351 39.0139, Florida Statutes, is amended to read:

352 39.0139 Visitation or other contact; restrictions.—

353 (4) HEARINGS.—A person who meets any of the criteria set  
354 forth in paragraph (3) (a) may visit or have other contact with a  
355 child only after a hearing and an order by the court that allows  
356 the visitation or other contact. At such a hearing:

357 (a) The court must appoint ~~an attorney ad litem or a~~  
358 guardian ad litem or attorney for the child if one has not  
359 already been appointed. ~~The Any attorney ad litem or guardian ad~~  
360 litem or attorney must ~~appointed shall~~ have special training in  
361 the dynamics of child sexual abuse.

362 Section 7. Subsection (1) of section 39.302, Florida  
363 Statutes, is amended to read:

364 39.302 Protective investigations of institutional child  
365 abuse, abandonment, or neglect.—

366 (1) The department shall conduct a child protective  
367 investigation of each report of institutional child abuse,  
368 abandonment, or neglect. Upon receipt of a report that alleges  
369 that an employee or agent of the department listed in s.  
370 39.01(34), or any other person responsible for a child's welfare  
371 covered under s. 39.01(48) ~~entity or person covered by s.~~  
372 ~~39.01(33) or (47)~~, acting in an official capacity, has committed  
373 an act of child abuse, abandonment, or neglect, the department  
374 shall initiate a child protective investigation within the  
375 timeframe established under s. 39.201(5) and orally notify the  
376 appropriate state attorney, law enforcement agency, and  
377 licensing agency, which shall immediately conduct a joint

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378 investigation, unless independent investigations are more  
379 feasible. When conducting investigations onsite or having face-  
380 to-face interviews with the child, investigation visits shall be  
381 unannounced unless it is determined by the department or its  
382 agent that unannounced visits threaten the safety of the child.  
383 If a facility is exempt from licensing, the department shall  
384 inform the owner or operator of the facility of the report. Each  
385 agency conducting a joint investigation is entitled to full  
386 access to the information gathered by the department in the  
387 course of the investigation. A protective investigation must  
388 include an onsite visit of the child's place of residence. The  
389 department shall make a full written report to the state  
390 attorney within 3 working days after making the oral report. A  
391 criminal investigation shall be coordinated, whenever possible,  
392 with the child protective investigation of the department. Any  
393 interested person who has information regarding the offenses  
394 described in this subsection may forward a statement to the  
395 state attorney as to whether prosecution is warranted and  
396 appropriate. Within 15 days after the completion of the  
397 investigation, the state attorney shall report the findings to  
398 the department and shall include in the report a determination  
399 of whether or not prosecution is justified and appropriate in  
400 view of the circumstances of the specific case.

401 Section 8. Paragraph (a) of subsection (14) of section  
402 39.402, Florida Statutes, is amended to read:

403 39.402 Placement in a shelter.—

404 (14) The time limitations in this section do not include:

405 (a) Periods of delay resulting from a continuance granted  
406 at the request or with the consent of the attorney for the child

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407 ~~child's counsel~~ or the child's guardian ad litem, if one has  
 408 been appointed by the court, or, if the child is of sufficient  
 409 capacity to express reasonable consent, at the request or with  
 410 the consent of the child's attorney or the child's guardian ad  
 411 litem, if one has been appointed by the court, and the child.

412 Section 9. Paragraph (f) of subsection (3) and subsection  
 413 (6) of section 39.407, Florida Statutes, are amended to read:

414 39.407 Medical, psychiatric, and psychological examination  
 415 and treatment of child; physical, mental, or substance abuse  
 416 examination of person with or requesting child custody.-

417 (3)

418 (f)~~1~~. The department shall fully inform the court of the  
 419 child's medical and behavioral status as part of the social  
 420 services report prepared for each judicial review hearing held  
 421 for a child for whom psychotropic medication has been prescribed  
 422 or provided under this subsection. As a part of the information  
 423 provided to the court, the department shall furnish copies of  
 424 all pertinent medical records concerning the child which have  
 425 been generated since the previous hearing.

426 1. On its own motion or for ~~an~~ good cause shown by any  
 427 party, ~~including any guardian ad litem, attorney, or attorney ad~~  
 428 ~~litem who has been appointed to represent the child or the~~  
 429 ~~child's interests,~~ the court may review the child's status more  
 430 frequently than required under ~~in~~ this subsection.

431 2. The court may, in the best interests of the child, order  
 432 the department to obtain a medical opinion addressing whether  
 433 the continued use of the medication ~~under the circumstances~~ is  
 434 safe and medically appropriate under the circumstances.

435 (6) Children who are in the legal custody of the department

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436 may be placed by the department, without prior approval of the  
437 court, ~~in a residential treatment center licensed under s.~~  
438 ~~394.875 or a hospital licensed under chapter 395~~ for residential  
439 ~~mental health~~ treatment only pursuant to this section or may be  
440 placed by the court in accordance with an order of involuntary  
441 examination or involuntary placement entered pursuant to s.  
442 394.463 or s. 394.467. Before placement, the court must appoint  
443 an attorney for the child. A guardian ad litem must be appointed  
444 for each child ~~All children~~ placed for ~~in a~~ residential  
445 treatment program under this subsection ~~must have a guardian ad~~  
446 ~~litem appointed.~~

447 (a) As used in this subsection, the term:

448 1. "Residential treatment" means placement for observation,  
449 diagnosis, or treatment of an emotional disturbance in a  
450 residential treatment center licensed under s. 394.875 or a  
451 hospital licensed under chapter 395.

452 2. "Least restrictive alternative" means the treatment and  
453 conditions of treatment which ~~that~~, separately and in  
454 combination, are no more intrusive or restrictive of freedom  
455 than reasonably necessary to achieve a substantial therapeutic  
456 benefit or to protect the child or adolescent or others from  
457 physical injury.

458 3. "Suitable for residential treatment" or "suitability"  
459 means a determination concerning a child or adolescent who has  
460 ~~with~~ an emotional disturbance as defined in s. 394.492(5) or a  
461 serious emotional disturbance as defined in s. 394.492(6) that  
462 each of the following criteria is met:

463 a. The child requires residential treatment.

464 b. The child is in need of a residential treatment program

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465 and is expected to benefit from mental health treatment.

466 c. An appropriate, less restrictive alternative to  
467 residential treatment is unavailable.

468 (b) ~~If Whenever~~ the department believes that a child in its  
469 legal custody is emotionally disturbed and may need residential  
470 treatment, an examination and suitability assessment must be  
471 conducted by a qualified evaluator who is appointed by the  
472 Agency for Health Care Administration. The ~~This~~ suitability  
473 assessment must be completed before the placement of the child  
474 in a residential treatment center for emotionally disturbed  
475 children and adolescents or a hospital. The qualified evaluator  
476 must be a psychiatrist or a psychologist licensed in this state  
477 ~~Florida~~ who has at least 3 years of experience in the diagnosis  
478 and treatment of serious emotional disturbances in children and  
479 adolescents and who has no actual or perceived conflict of  
480 interest with any inpatient facility or residential treatment  
481 center or program.

482 (c) Before a child is admitted under this subsection, the  
483 child shall be assessed for suitability for residential  
484 treatment by a qualified evaluator who has conducted a personal  
485 examination and evaluation ~~assessment~~ of the child and has made  
486 written findings that:

487 1. The child appears to have an emotional disturbance  
488 serious enough to require residential treatment and is  
489 reasonably likely to benefit from the treatment.

490 2. The child has been provided with a clinically  
491 appropriate explanation of the nature and purpose of the  
492 treatment.

493 3. All available modalities of treatment less restrictive

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494 than residential treatment have been considered, and a less  
495 restrictive alternative that would offer comparable benefits to  
496 the child is unavailable.

497  
498 A copy of the written findings of the evaluation and suitability  
499 assessment must be provided to the department, ~~and to the~~  
500 guardian ad litem, and the attorney for the child, who shall  
501 have the opportunity to discuss the findings with the evaluator.

502 (d) Immediately upon placing a child in a residential  
503 treatment program under this section, the department must notify  
504 the guardian ad litem, the attorney for the child, and the court  
505 having jurisdiction over the child and ~~must~~ provide each the  
506 ~~guardian ad litem and the court~~ with a copy of the suitability  
507 assessment by the qualified evaluator.

508 (e) Within 10 days after the admission of a child to a  
509 residential treatment program, the director of the residential  
510 treatment program or the director's designee must ensure that an  
511 individualized plan of treatment has been prepared by the  
512 program and has been explained to the child, to the attorney for  
513 the child, to the department, and to the guardian ad litem, and  
514 submitted to the department. The child must be involved in the  
515 preparation of the plan to the maximum extent ~~extent~~  
516 consistent with his or her ability to understand and  
517 participate, and the guardian ad litem and the child's foster  
518 parents must be involved to the maximum extent consistent with  
519 the child's treatment needs. The plan must include a preliminary  
520 plan for residential treatment and aftercare upon completion of  
521 residential treatment. The plan must include specific behavioral  
522 and emotional goals against which the success of the residential

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523 treatment may be measured. A copy of the plan must be provided  
524 to the child, to the attorney for the child, to the guardian ad  
525 litem, and to the department.

526 (f) Within 30 days after admission, the residential  
527 treatment program must review the appropriateness and  
528 suitability of the child's placement in the program. The  
529 residential treatment program must determine whether the child  
530 is receiving benefit toward the treatment goals and whether the  
531 child could be treated in a less restrictive treatment program.  
532 The residential treatment program shall prepare a written report  
533 of its findings and submit the report to the guardian ad litem,  
534 to the attorney for the child, and to the department. The  
535 department must submit the report to the court. The report must  
536 include a discharge plan for the child. The residential  
537 treatment program must continue to evaluate the child's  
538 treatment progress every 30 days ~~thereafter~~ and must include its  
539 findings in a written report submitted to the department. The  
540 department may not reimburse a facility until the facility has  
541 submitted every written report that is due.

542 (g)1. ~~The department must submit,~~ At the beginning of each  
543 month, the department must submit to the court having  
544 ~~jurisdiction over the child,~~ a written report regarding the  
545 child's progress toward achieving the goals specified in the  
546 individualized plan of treatment to the court having  
547 jurisdiction over the child.

548 2. The court must conduct a hearing to review the status of  
549 the child's residential treatment plan within ~~no later than~~ 3  
550 months after the child's admission to the residential treatment  
551 program. An independent review of the child's progress toward

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552 achieving the goals and objectives of the treatment plan must be  
553 completed by a qualified evaluator and submitted to the court  
554 before its 3-month review.

555 3. For any child in residential treatment at the time a  
556 judicial review is held pursuant to s. 39.701, the child's  
557 continued placement in residential treatment must be a subject  
558 of the judicial review.

559 4. If at any time the court determines that the child is  
560 not suitable for continued residential treatment, the court  
561 shall order the department to place the child in the least  
562 restrictive setting that is best suited to meet his or her  
563 needs.

564 5.~~(h)~~ After the initial 3-month review, the court must  
565 conduct a review of the child's residential treatment plan every  
566 90 days.

567 ~~(h)~~~~(i)~~ The department shall ~~must~~ adopt rules for  
568 implementing timeframes for the completion of suitability  
569 assessments by qualified evaluators and a procedure that  
570 includes timeframes for completing the 3-month independent  
571 review by the qualified evaluators of the child's progress  
572 toward achieving the goals and objectives of the treatment plan  
573 which ~~review~~ must be submitted to the court. The Agency for  
574 Health Care Administration must adopt rules for the registration  
575 of qualified evaluators, the procedure for selecting the  
576 evaluators to conduct the reviews required under this section,  
577 and a reasonable, cost-efficient fee schedule for qualified  
578 evaluators.

579 Section 10. Subsection (20) of section 39.4085, Florida  
580 Statutes, is amended to read:

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581           39.4085 Legislative findings and declaration of intent for  
582 goals for dependent children.—The Legislature finds and declares  
583 that the design and delivery of child welfare services should be  
584 directed by the principle that the health and safety of children  
585 should be of paramount concern and, therefore, establishes the  
586 following goals for children in shelter or foster care:

587           (20) To have a guardian ad litem appointed to represent,  
588 ~~within reason,~~ their best interests and, ~~where appropriate,~~ an  
589 attorney ~~ad litem~~ appointed to represent their legal interests,  
590 and to inform them about such representation and when  
591 representation is required; the guardian ad litem and attorney  
592 ~~ad litem~~ shall have immediate and unlimited access to the  
593 children they represent.

594           (21) To have all their records available for review by  
595 their guardian ad litem and attorney ~~ad litem~~ if they deem such  
596 review necessary.

597  
598 The provisions of this section establish goals and not rights.  
599 Nothing in this section shall be interpreted as requiring the  
600 delivery of any particular service or level of service in excess  
601 of existing appropriations. No person shall have a cause of  
602 action against the state or any of its subdivisions, agencies,  
603 contractors, subcontractors, or agents, based upon the adoption  
604 of or failure to provide adequate funding for the achievement of  
605 these goals by the Legislature. Nothing herein shall require the  
606 expenditure of funds to meet the goals established herein except  
607 funds specifically appropriated for such purpose.

608           Section 11. Section 39.4086, Florida Statutes, is repealed.

609           Section 12. Subsections (12), (13), and (17) of section

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610 39.502, Florida Statutes, are amended to read:

611 39.502 Notice, process, and service.—

612 (12) All process and orders issued by the court shall be  
613 served or executed as other process and orders of the circuit  
614 court and, in addition, may be served or executed by authorized  
615 agents of the department, the attorney for the child, or the  
616 guardian ad litem.

617 (13) Subpoenas may be served within the state by any person  
618 over 18 years of age who is not a party to the proceeding and,  
619 in addition, may be served by authorized agents of the  
620 department, the attorney for the child, or the guardian ad  
621 litem.

622 (17) The parent or legal custodian of the child, the  
623 attorney for the department, the attorney for the child, the  
624 guardian ad litem, the foster or preadoptive parents, and all  
625 other parties and participants shall be given reasonable notice  
626 of all proceedings and hearings provided for under this part.  
627 All foster or preadoptive parents must be provided with at least  
628 72 hours' notice, verbally or in writing, of all proceedings or  
629 hearings relating to children in their care or children they are  
630 seeking to adopt to ensure the ability to provide input to the  
631 court.

632 Section 13. Paragraph (a) of subsection (3) of section  
633 39.801, Florida Statutes, is amended to read:

634 39.801 Procedures and jurisdiction; notice; service of  
635 process.—

636 (3) Before the court may terminate parental rights, in  
637 addition to the other requirements set forth in this part, the  
638 following requirements must be met:

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639 (a) Notice of the date, time, and place of the advisory  
640 hearing for the petition to terminate parental rights and a copy  
641 of the petition must be personally served upon the following  
642 persons, specifically notifying them that a petition has been  
643 filed:

- 644 1. The parents of the child.
- 645 2. The legal custodians of the child.
- 646 3. If the parents who would be entitled to notice are dead  
647 or unknown, a living relative of the child, unless upon diligent  
648 search and inquiry no such relative can be found.
- 649 4. Any person who has physical custody of the child.
- 650 ~~5. Any grandparent entitled to priority for adoption under~~  
651 ~~s. 63.0425.~~
- 652 5.6. Any prospective parent who has been identified under  
653 s. 39.503 or s. 39.803.
- 654 ~~6.7.~~ The guardian ad litem for the child or the  
655 representative of the guardian ad litem program, if the program  
656 has been appointed.
- 657 7. The attorney for the child.

658

659 The document containing the notice to respond or appear must  
660 contain, in type at least as large as the type in the balance of  
661 the document, the following or substantially similar language:

662 "FAILURE TO PERSONALLY APPEAR AT THIS ADVISORY HEARING  
663 CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL RIGHTS OF  
664 THIS CHILD (OR CHILDREN). IF YOU FAIL TO APPEAR ON THE DATE AND  
665 TIME SPECIFIED, YOU MAY LOSE ALL LEGAL RIGHTS AS A PARENT TO THE  
666 CHILD OR CHILDREN NAMED IN THE PETITION ATTACHED TO THIS  
667 NOTICE."

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668 Section 14. Paragraph (k) of subsection (1) of section  
669 39.806, Florida Statutes, is amended to read:

670 39.806 Grounds for termination of parental rights.—

671 (1) Grounds for the termination of parental rights may be  
672 established under any of the following circumstances:

673 (k) A test administered at birth which ~~that~~ indicated that  
674 the child's blood, urine, or meconium contained any amount of  
675 alcohol or a controlled substance or metabolites of such  
676 substances, the presence of which was not the result of medical  
677 treatment administered to the mother or the newborn infant, and  
678 the biological mother of the child is the biological mother of  
679 at least one other child who was adjudicated dependent after a  
680 finding of harm to the child's health or welfare due to exposure  
681 to a controlled substance or alcohol as defined in s.  
682 39.01(33)(g) ~~39.01(32)(g)~~, after which the biological mother had  
683 the opportunity to participate in substance abuse treatment.

684 Section 15. Subsection (1) of section 39.828, Florida  
685 Statutes, is amended to read:

686 39.828 Grounds for appointment of a guardian advocate.—

687 (1) The court shall appoint the person named in the  
688 petition as a guardian advocate with all the powers and duties  
689 specified in s. 39.829 for an initial term of 1 year upon a  
690 finding that:

691 (a) The child named in the petition is or was a drug  
692 dependent newborn as described in s. 39.01(33)(g) ~~39.01(32)(g)~~;

693 (b) The parent or parents of the child have voluntarily  
694 relinquished temporary custody of the child to a relative or  
695 other responsible adult;

696 (c) The person named in the petition to be appointed the

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697 guardian advocate is capable of carrying out the duties as  
698 provided in s. 39.829; and

699 (d) A petition to adjudicate the child dependent under this  
700 chapter has not been filed.

701 Section 16. Paragraph (b) of subsection (2) of section  
702 39.8296, Florida Statutes, is amended to read:

703 39.8296 Statewide Guardian Ad Litem Office; legislative  
704 findings and intent; creation; appointment of executive  
705 director; duties of office.—

706 (2) STATEWIDE GUARDIAN AD LITEM OFFICE.—There is created a  
707 Statewide Guardian Ad Litem Office within the Justice  
708 Administrative Commission. The Justice Administrative Commission  
709 shall provide administrative support and service to the office  
710 to the extent requested by the executive director within the  
711 available resources of the commission. The Statewide Guardian Ad  
712 Litem Office shall not be subject to control, supervision, or  
713 direction by the Justice Administrative Commission in the  
714 performance of its duties, but the employees of the office shall  
715 be governed by the classification plan and salary and benefits  
716 plan approved by the Justice Administrative Commission.

717 (b) The Statewide Guardian Ad Litem Office shall, within  
718 available resources, have oversight responsibilities for and  
719 provide technical assistance to all guardian ad litem ~~and~~  
720 ~~attorney ad litem~~ programs located within the judicial circuits.

721 The office shall:

722 1. ~~The office shall~~ Identify the resources required to  
723 implement methods of collecting, reporting, and tracking  
724 reliable and consistent case data.

725 2. ~~The office shall~~ Review the current guardian ad litem

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726 programs in Florida and other states.

727 3. ~~The office,~~ In consultation with local guardian ad litem  
728 offices, ~~shall~~ develop statewide performance measures and  
729 standards.

730 4. ~~The office shall~~ Develop a guardian ad litem training  
731 program. The office shall establish a curriculum committee to  
732 develop the training program specified in this subparagraph. The  
733 curriculum committee shall include, but not be limited to,  
734 dependency judges, directors of circuit guardian ad litem  
735 programs, active certified guardians ad litem, a mental health  
736 professional who specializes in the treatment of children, a  
737 member of a child advocacy group, a representative of the  
738 Florida Coalition Against Domestic Violence, and a social worker  
739 experienced in working with victims and perpetrators of child  
740 abuse.

741 5. ~~The office shall~~ Review the various methods of funding  
742 guardian ad litem programs, shall maximize the use of those  
743 funding sources to the extent possible, and shall review the  
744 kinds of services being provided by circuit guardian ad litem  
745 programs.

746 6. ~~The office shall~~ Determine the feasibility or  
747 desirability of new concepts of organization, administration,  
748 financing, or service delivery designed to preserve the civil  
749 and constitutional rights and fulfill other needs of dependent  
750 children.

751 7. ~~No later than October 1, 2004, the office shall submit~~  
752 ~~to the Governor, the President of the Senate, the Speaker of the~~  
753 ~~House of Representatives, and the Chief Justice of the Supreme~~  
754 ~~Court an interim report describing the progress of the office in~~

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755 ~~meeting the goals as described in this section. No later than~~  
756 ~~October 1, 2004, the office shall submit to the Governor, the~~  
757 ~~President of the Senate, the Speaker of the House of~~  
758 ~~Representatives, and the Chief Justice of the Supreme Court a~~  
759 ~~proposed plan including alternatives for meeting the state's~~  
760 ~~guardian ad litem and attorney ad litem needs. This plan may~~  
761 ~~include recommendations for less than the entire state, may~~  
762 ~~include a phase-in system, and shall include estimates of the~~  
763 ~~cost of each of the alternatives. Each year thereafter, the~~  
764 ~~office shall~~ Annually provide a status report and ~~provide~~  
765 further recommendations to address the need for guardian ad  
766 litem services and related issues to the Governor, the President  
767 of the Senate, the Speaker of the House of Representatives, and  
768 the Chief Justice of the Supreme Court.

769 Section 17. The Division of Statutory Revision is requested  
770 to redesignate present part VIII of chapter 39, Florida  
771 Statutes, consisting of ss. 39.901-39.908, as part XIV, and to  
772 create a new part VIII, consisting of ss. 39.8501-39.8504,  
773 Florida Statutes, to be entitled "Attorney for the Child."

774 Section 18. Section 39.8501, Florida Statutes, is created  
775 to read:

776 39.8501 Right to participate in proceedings.—

777 (1) Each child who is the subject of a proceeding under  
778 this chapter has the right to attend and have representation and  
779 fully participate in all court hearings related to his or her  
780 case and to be informed of these rights. Each child must receive  
781 notice from his or her caseworker, guardian ad litem, and the  
782 attorney for the child of his or her right to attend court  
783 hearings.

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784 (2) Notwithstanding subsection (1), the presence of the  
785 child may be excused by order of the court for all or part of a  
786 proceeding if the child's presence would not be in the child's  
787 best interest. If the child requests to attend a proceeding for  
788 which the court has excused the child's attendance, the court  
789 must allow the child to appear and address the court prior to  
790 being excluded from the proceedings.

791 Section 19. Section 39.8502, Florida Statutes, is created  
792 to read:

793 39.8502 Right to be represented by an attorney.-

794 (1) Recognizing that all children in the custody of the  
795 state continue to enjoy the protection of their civil and legal  
796 rights, a child who is the subject of a petition brought  
797 pursuant to this chapter and who has his or her own attorney may  
798 not be denied the right to be represented by that attorney at  
799 all stages of all proceedings.

800 (2) The Legislature requests that the Supreme Court adopt  
801 rules addressing the qualifications, training, continuing legal  
802 education, and standards of practice for attorneys representing  
803 children in proceedings under this chapter.

804 Section 20. Section 39.8503, Florida Statutes, is created  
805 to read:

806 39.8503 Access to the child.-The child's attorney shall  
807 have access to the child and to confidential information  
808 regarding the child, including the child's educational, medical,  
809 and mental health records; social services agency files relating  
810 to the child; court records, including court files involving  
811 allegations of abuse or neglect of the child; any delinquency  
812 records involving the child; any other information relevant to

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813 the issues in the proceeding; and screenings, assessments,  
814 evaluations, and reports relating to the child.

815 Section 21. Section 39.8504, Florida Statutes, is created  
816 to read:

817 39.8504 Appointment of attorney.-

818 (1) Subject to the availability of resources, it is the  
819 intent of the Legislature that, at a minimum, an attorney shall  
820 be appointed pursuant to ss. 43.51-43.54 to represent a child  
821 who:

822 (a) Has not been permanently placed pursuant to s. 39.621  
823 and has been continuously in out-of-home care as measured from  
824 initial entry into shelter care:

825 1. For more than 2 years and the department has not filed a  
826 petition for termination of parental right; or

827 2. For more than 18 months and parental rights have been  
828 terminated;

829 (b) Has, or is suspected of having, a developmental  
830 disability as defined in s. 393.063, unless an attorney for the  
831 guardian ad litem program is representing the child in a  
832 proceeding under chapter 393;

833 (c) Is subject to involuntary placement for longer than 72  
834 hours in a secure residential treatment facility, including  
835 those licensed under chapter 393, chapter 394, or chapter 397;

836 (d) Is at least 17 years of age, in out-of-home care, and  
837 is determined by the court to require legal representation under  
838 s. 39.701, or is seeking assistance from the government,  
839 including as an adult, pursuant to s. 39.013(2) or s. 409.1451.

840 (e) Has sufficient intelligence, understanding, and  
841 experience and disagrees with or conflicts with the guardian ad

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842 litem's interpretation of his or her best interests; or

843 (f) Is the subject of a proceeding in which waiver of the  
844 child's psychotherapist-patient privilege is at issue.

845 (2) The court may appoint an attorney for the child at any  
846 point in any proceeding under this chapter on its own motion or  
847 on the motion of any other party to the proceeding:

848 (a) If the court finds that the child's interests are not  
849 being protected in the proceedings;

850 (b) If the child asks for an attorney;

851 (c) If the child is the subject of proceedings in which the  
852 state is seeking to administer or continue to administer  
853 psychotropic medications and the child objects to the  
854 administration of medications or the court is otherwise  
855 concerned that the child's interests are not adequately  
856 represented; or

857 (d) In school matters, including disciplinary actions and  
858 issues relating to exceptional student education.

859 (3) The appointment of an attorney for the child must be  
860 made as soon as practicable to ensure effective representation  
861 but before the next court hearing where the child is entitled to  
862 an attorney.

863 (4) The court may appoint one attorney to represent  
864 siblings if there is no conflict of interest.

865 (5) An order appointing an attorney for the child must be  
866 in writing.

867 (6) An appointment of attorney for the child continues in  
868 effect until the attorney is discharged by the court or the case  
869 is dismissed. The appointment includes all stages, from removal  
870 from the home or initial appointment through all available

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871 appellate proceedings. With the permission of the court, the  
 872 attorney for the child may arrange for supplemental or separate  
 873 counsel to handle proceedings at an appellate stage.

874 (7) This section may not be construed to interfere with the  
 875 ability of the court to appoint an attorney for a child in any  
 876 proceeding under this chapter for any reason, limit a child's  
 877 right to an attorney, preclude an attorney from appearing on  
 878 behalf of a child, or create an entitlement to the appointment  
 879 of an attorney.

880 Section 22. Paragraph (a) of subsection (5) of section  
 881 43.16, Florida Statutes, is amended to read:

882 43.16 Justice Administrative Commission; membership, powers  
 883 and duties.—

884 (5) The duties of the commission shall include, but not be  
 885 limited to, the following:

886 (a) The maintenance of a central state office for  
 887 administrative services and assistance when possible to and on  
 888 behalf of the state attorneys and public defenders of Florida,  
 889 the capital collateral regional counsel of Florida, the criminal  
 890 conflict and civil regional counsel, the Guardian Ad Litem  
 891 Program, the Children's Legal Representation Act, and the  
 892 Florida Clerks of Court Operations Corporation.

893 Section 23. Section 43.50, Florida Statutes, is created to  
 894 read:

895 43.50 Short title.—Sections 43.51-43.54 may be cited as the  
 896 "Children's Legal Representation Act."

897 Section 24. Section 43.51, Florida Statutes, is created to  
 898 read:

899 43.51 Legislative findings and intent.—

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900       (1) The Legislature finds that adequate legal  
901 representation for children subject to proceedings under chapter  
902 39, chapter 61, chapter 63, chapter 393, chapter 394, chapter  
903 397, chapter 731, chapter 741, chapter 742, chapter 914, chapter  
904 984, or chapter 985 will improve the outcomes and expedite those  
905 proceedings where the passage of time is inherently prejudicial  
906 to a child's best interests. It is therefore the intent of the  
907 Legislature to establish an administrative framework whereby  
908 public and private funds may be used in an effective and  
909 efficient manner to enhance and ensure the availability of legal  
910 representation for children who are subject to such proceedings.

911       (2) The Legislature recognizes that established local  
912 organizations exist that are successfully providing attorney  
913 representation to children in certain jurisdictions in the  
914 state. Some of these organizations have significantly improved  
915 the outcomes for children and have been embraced and supported  
916 in their communities. The Legislature does not intend that  
917 funding provided under the Children's Legal Representation Act  
918 be used to supplant or replace already proven organizations  
919 providing legal representation for children. Instead, such  
920 funding should be used to meet the additional legal  
921 representation requirements of the act through cooperative  
922 partnership with existing local organizations or through  
923 expansion of those organizations. Further, the Legislature  
924 intends that the act continue to encourage the expansion of pro  
925 bono representation for children and not be used to discourage  
926 or otherwise limit the ability of a pro bono attorney to appear  
927 on behalf of a child.

928       Section 25. Section 43.52, Florida Statutes, is created to

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929 read:

930 43.52 Authority and duties of the commission; contracting.-931 (1) The Justice Administrative Commission shall carry out  
932 the purposes and provisions of the Children's Legal  
933 Representation Act, including:934 (a) Receiving public and private funding to be expended to  
935 cover the costs of administering the Children's Legal  
936 Representation Act.937 (b) Contracting with one or more not-for-profit  
938 organizations that qualify under s. 501(c)(3) of the Internal  
939 Revenue Code or governmental entities to:940 1. Administer, allocate, and distribute available funds for  
941 the purposes of and in a manner consistent with ss. 43.51-43.54.  
942 Funds must be apportioned as equitably as practical among  
943 contracting organizations based on the relative case load  
944 expected and taking into account the availability of other  
945 sources of legal representation for children in particular  
946 geographic areas; and947 2. Provide qualified legal representation to children  
948 subject to proceedings under chapter 39, chapter 61, chapter 63,  
949 chapter 393, chapter 394, chapter 397, chapter 731, chapter 741,  
950 chapter 742, chapter 914, chapter 984, and chapter 985 in each  
951 judicial circuit of the state.952 (2) The commission may contract with:953 (a) Legal aid organizations whose primary purpose is to  
954 provide civil legal services without charge to qualifying  
955 clients, organizations that provide child advocacy and legal  
956 services, public defender's offices, or similar organizations in  
957 order to expand the case load that such organizations can

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958 sustain if present service levels are not sufficient to meet the  
959 anticipated load of cases for children entitled to appointed  
960 counsel; or

961 (b) A single organization that provides funding statewide  
962 for civil legal assistance to the indigent, which shall  
963 subcontract with organizations described in paragraph (a).

964 (3) The contract or subcontracts must require the  
965 contractor to:

966 1. Designate one entity per judicial circuit to serve as  
967 the coordinator for the circuit; and

968 2. Actively encourage and assist funding recipients to:

969 a. Seek additional sources of revenue, including local  
970 children's services councils, foundations, local governmental  
971 entities, and private donations to supplement state funds for  
972 the provision of legal representation to children; and

973 b. Recruit, train, and maximize the use of pro bono  
974 attorneys as an additional source of legal representation for  
975 children.

976 Section 26. Section 43.53, Florida Statutes, is created to  
977 read:

978 43.53 Accountability.—

979 (1) In any contract allocating funds pursuant to s. 43.52,  
980 the Justice Administrative Commission shall ensure that funds  
981 received or allocated are expended in a manner consistent with  
982 the terms and intent of the Children's Legal Representation Act  
983 and shall provide for an annual audit of such expenditures.

984 (2) The Justice Administrative Commission shall monitor the  
985 contracts executed under s. 43.52 and evaluate the performance  
986 of the contracting organizations in a manner that does not

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987 interfere with an organization's provision of legal  
988 representation to children.

989 Section 27. Section 43.54, Florida Statutes, is created to  
990 read:

991 43.54 State support.—Organizations funded pursuant to the  
992 Children's Legal Representation Act are eligible for state  
993 support, including, but not limited to, access to the SUNCOM  
994 Network services. Accounts for SUNCOM services furnished to  
995 program eligible entities shall be billed directly to the  
996 Justice Administrative Commission as an administrative cost and  
997 paid with the funding provided.

998 Section 28. Section 61.401, Florida Statutes, is amended to  
999 read:

1000 61.401 Appointment of guardian ad litem and attorney.—

1001 (1) In an action for dissolution of marriage or for the  
1002 creation, approval, or modification of a parenting plan, if the  
1003 court finds it is in the best interest of the child, the court  
1004 may appoint a guardian ad litem to act as next friend of the  
1005 child, investigator or evaluator, not as attorney or advocate.  
1006 This does not preclude a state-licensed attorney who is  
1007 appointed as a guardian ad litem from serving as an attorney for  
1008 himself or herself as guardian ad litem in the same proceedings.  
1009 ~~The court in its discretion~~ may also appoint legal counsel for a  
1010 child to act as attorney or advocate; however, the guardian and  
1011 attorney may ~~the legal counsel shall~~ not be the same person.

1012 (2) In ~~such~~ actions for dissolution of marriage which  
1013 involve an allegation of child abuse, abandonment, or neglect as  
1014 defined in s. 39.01, which ~~allegation~~ is verified and determined  
1015 by the court to be well-founded, the court shall appoint a

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1016 guardian ad litem for the child. The guardian ad litem shall be  
 1017 a party to any judicial proceeding from the date of the  
 1018 appointment until the date of discharge.

1019 Section 29. Present subsections (2), (3), and (4) of  
 1020 section 63.142, Florida Statutes, are renumbered as subsections  
 1021 (3), (4), and (5), respectively, and a new subsection (2) is  
 1022 added to that section, to read:

1023 63.142 Hearing; judgment of adoption.—

1024 (2) APPOINTMENT OF ATTORNEY.—The court may appoint an  
 1025 attorney for the child as defined in s. 39.01 if the court finds  
 1026 that the child's interests are not being adequately protected,  
 1027 that the child requires legal advocacy, or that the case  
 1028 involves complex legal issues.

1029 Section 30. Subsection (4) of section 63.0425, Florida  
 1030 Statutes, is amended to read:

1031 63.0425 Grandparent's right to notice.—

1032 (4) This section does not contravene the provisions of s.  
 1033 63.142(5) ~~63.142(4)~~.

1034 Section 31. Subsection (1) of section 393.125, Florida  
 1035 Statutes, is amended to read:

1036 393.125 Hearing rights.—

1037 (1) REVIEW OF AGENCY DECISIONS.—

1038 (a) A ~~Any~~ developmental services applicant or client, or  
 1039 his or her parent, guardian, guardian advocate, or authorized  
 1040 representative, who has a ~~any~~ substantial interest determined by  
 1041 the agency, has the right to request an administrative hearing  
 1042 pursuant to ss. 120.569 and 120.57.

1043 (b) Notice of the right to an administrative hearing must  
 1044 ~~shall~~ be given, both verbally and in writing, to the applicant

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1045 or client, and his or her parent, guardian, attorney, guardian  
1046 advocate, or authorized representative, at the same time that  
1047 the agency gives the applicant or client notice of the agency's  
1048 action. The notice shall be given, both verbally and in writing,  
1049 in the language of the client or applicant and in English.

1050 (c) A request for a hearing under this section shall be  
1051 made to the agency, in writing, within 30 days after ~~of~~ the  
1052 applicant's or client's receipt of the notice.

1053 (d) The hearing officer shall appoint an attorney for the  
1054 child as defined in s. 39.01 if the hearing officer finds that  
1055 the child's legal interests are not being adequately protected,  
1056 that the child requires legal advocacy, or that the case  
1057 involves complex legal issues. The appointment may be made  
1058 through the governmental entity or contracting organization  
1059 providing attorneys for children pursuant to ss. 43.51-43.54.

1060 Section 32. Paragraph (i) of subsection (2) of section  
1061 394.463, Florida Statutes, is amended to read:

1062 394.463 Involuntary examination.—

1063 (2) INVOLUNTARY EXAMINATION.—

1064 (i) Within the 72-hour examination period or, if the 72  
1065 hours ends on a weekend or holiday, no later than the next  
1066 working day thereafter, one of the following actions must be  
1067 taken, based on the individual needs of the patient:

1068 1. The patient shall be released, unless he or she is  
1069 charged with a crime, in which case the patient shall be  
1070 returned to the custody of a law enforcement officer;

1071 2. The patient shall be released, subject to the provisions  
1072 of subparagraph 1., for voluntary outpatient treatment;

1073 3. The patient, unless he or she is charged with a crime,

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1074 shall be asked to give express and informed consent to placement  
1075 as a voluntary patient, and, if such consent is given, the  
1076 patient shall be admitted as a voluntary patient; or

1077 4. A petition for involuntary placement shall be filed in  
1078 the circuit court when outpatient or inpatient treatment is  
1079 deemed necessary. When inpatient treatment is deemed necessary,  
1080 the least restrictive treatment consistent with the optimum  
1081 improvement of the patient's condition shall be made available.  
1082 When a petition is to be filed for involuntary outpatient  
1083 placement, it shall be filed by one of the petitioners specified  
1084 in s. 394.4655(3)(a). A petition for involuntary inpatient  
1085 placement shall be filed by the facility administrator.

1086  
1087 If the patient is a minor child and the court finds that the  
1088 child's legal interests are not being adequately protected, that  
1089 the child requires legal advocacy, or that the case involves  
1090 complex legal issues, the court shall appoint an attorney for  
1091 the child as defined in s. 39.01. The appointment may be made  
1092 through the governmental entity or contracted organization  
1093 providing attorneys for children pursuant to ss. 43.51-43.54.

1094 Section 33. Subsection (2) of section 397.681, Florida  
1095 Statutes, is amended to read:

1096 397.681 Involuntary petitions; general provisions; court  
1097 jurisdiction and right to counsel.—

1098 (2) RIGHT TO COUNSEL.—

1099 (a) A respondent has the right to counsel at every stage of  
1100 a proceeding relating to a petition for his or her involuntary  
1101 assessment and a petition for his or her involuntary treatment  
1102 for substance abuse impairment. A respondent who desires counsel

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1103 and is unable to afford private counsel has the right to court-  
1104 appointed counsel and to the benefits of s. 57.081. If the court  
1105 believes that the respondent needs the assistance of counsel,  
1106 the court shall appoint such counsel for the respondent without  
1107 regard to the respondent's wishes. If the respondent is a minor  
1108 not otherwise represented in the proceeding, the court shall  
1109 immediately appoint a guardian ad litem to act on the minor's  
1110 behalf.

1111 (b) If the respondent is a minor and the court finds that  
1112 the child's legal interests are not being adequately protected,  
1113 that the child requires legal advocacy, or that the case  
1114 involves complex legal issues, the court shall appoint an  
1115 attorney for the child as defined in s. 39.01. The appointment  
1116 may be made through the governmental entity or contracted  
1117 organization providing attorneys for children pursuant to ss.  
1118 43.51-43.54.

1119 Section 34. Subsection (4) of section 731.303, Florida  
1120 Statutes, is amended to read:

1121 731.303 Representation.—In the administration of or in  
1122 judicial proceedings involving estates of decedents, the  
1123 following apply:

1124 (4) If the court determines that representation of the  
1125 interest would otherwise be inadequate, the court may, at any  
1126 time, appoint a guardian ad litem to represent the interests of  
1127 an incapacitated person, an unborn or unascertained person, a  
1128 minor or any other person otherwise under a legal disability, or  
1129 a person whose identity or address is unknown. If not precluded  
1130 by conflict of interest, a guardian ad litem may be appointed to  
1131 represent several persons or interests. The court shall appoint

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1132 an attorney for the child as defined in s. 39.01 if the court  
1133 finds that the child's legal interests are not being adequately  
1134 protected, that the child requires legal advocacy, or that the  
1135 case involves complex legal issues. The appointment may be made  
1136 through the governmental entity or contracted organization  
1137 providing attorneys for children pursuant to ss. 43.51-43.54.

1138 Section 35. Present paragraphs (f) and (g) of subsection  
1139 (2) of section 741.2902, Florida Statutes, are redesignated as  
1140 paragraphs (g) and (h), respectively, and a new paragraph (f) is  
1141 added to that subsection, to read:

1142 741.2902 Domestic violence; legislative intent with respect  
1143 to judiciary's role.—

1144 (2) It is the intent of the Legislature, with respect to  
1145 injunctions for protection against domestic violence, issued  
1146 pursuant to s. 741.30, that the court shall:

1147 (f) Consider the appointment of an attorney for the child  
1148 as defined in s. 39.01 if a permanent injunction is sought and  
1149 the child is an alleged victim or accused perpetrator of  
1150 domestic violence. The appointment may be made through the  
1151 governmental entity or contracted organization providing  
1152 attorneys for children pursuant to ss. 43.51-43.54.

1153 Section 36. Subsection (1) of section 742.031, Florida  
1154 Statutes, is amended to read:

1155 742.031 Hearings; court orders for support, hospital  
1156 expenses, and attorney's fee.—

1157 (1) Hearings for the purpose of establishing or refuting  
1158 the allegations of the complaint and answer shall be held in ~~the~~  
1159 chambers and may be restricted to persons, in addition to the  
1160 parties involved and their counsel, as the judge ~~in his or her~~

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1161 ~~discretion~~ may direct. The court shall determine the issues of  
1162 paternity of the child and the ability of the parents to support  
1163 the child. Each party's social security number shall be recorded  
1164 in the file containing the adjudication of paternity. If the  
1165 court finds that the alleged father is the father of the child,  
1166 it shall so order. If appropriate, the court shall order the  
1167 father to pay the complainant, her guardian, or any other person  
1168 assuming responsibility for the child moneys sufficient to pay  
1169 reasonable attorney's fees, hospital or medical expenses, cost  
1170 of confinement, and any other expenses incident to the birth of  
1171 the child and to pay all costs of the proceeding. Bills for  
1172 pregnancy, childbirth, and scientific testing are admissible as  
1173 evidence without requiring third-party foundation testimony, and  
1174 shall constitute prima facie evidence of amounts incurred for  
1175 such services or for testing on behalf of the child. The court  
1176 shall order either or both parents owing a duty of support to  
1177 the child to pay support pursuant to s. 61.30. The court shall  
1178 issue, upon motion by a party, a temporary order requiring child  
1179 support pursuant to s. 61.30 pending an administrative or  
1180 judicial determination of parentage, if there is clear and  
1181 convincing evidence of paternity on the basis of genetic tests  
1182 or other evidence. The court may also make a determination of an  
1183 appropriate parenting plan, including a time-sharing schedule,  
1184 in accordance with chapter 61. The court may appoint an attorney  
1185 for the child as defined in s. 39.01 if the court finds that the  
1186 child's legal interests are not being adequately protected, that  
1187 the child requires legal advocacy, or that the case involves  
1188 complex legal issues. The appointment may be made through the  
1189 governmental entity or contracted organization providing

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1190 attorneys for children pursuant to ss. 43.51-43.54.

1191 Section 37. Subsections (1) and (3) of section 914.17,  
1192 Florida Statutes, are amended to read:

1193 914.17 Appointment of advocate for victims or witnesses who  
1194 are minors or persons with mental retardation.—

1195 (1) A guardian ad litem or attorney for the child ~~other~~  
1196 ~~advocate~~ shall be appointed by the court to represent a minor in  
1197 any criminal proceeding if the minor is a victim of or witness  
1198 to child abuse or neglect, or if the minor is a victim of a  
1199 sexual offense or a witness to a sexual offense committed  
1200 against another minor. The court may appoint a guardian ad litem  
1201 or attorney for the child ~~other advocate~~ in any other criminal  
1202 proceeding in which a minor is involved as either a victim or a  
1203 witness. The appointment may be made through the governmental  
1204 entity or contracted organization providing attorneys for  
1205 children pursuant to ss. 43.51-43.54. The guardian ad litem or  
1206 attorney for the child ~~other advocate~~ shall have full access to  
1207 all evidence and reports introduced during the proceedings, may  
1208 interview witnesses, may make recommendations to the court,  
1209 shall be noticed and have the right to appear on behalf of the  
1210 minor at all proceedings, and may request additional  
1211 examinations by medical doctors, psychiatrists, or  
1212 psychologists. It is the duty of the guardian ad litem or  
1213 attorney for the child ~~other advocate~~ to perform the following  
1214 services:

1215 (a) To explain, in language understandable to the minor,  
1216 all legal proceedings in which the minor is ~~shall be~~ involved;

1217 (b) To act, as a friend of the court, to advise the judge,  
1218 whenever appropriate, of the minor's ability to understand and

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1219 cooperate with any court proceeding; and

1220 (c) To assist the minor and the minor's family in coping  
1221 with the emotional effects of the crime and subsequent criminal  
1222 proceedings in which the minor is involved.

1223 (3) Any person participating in a judicial proceeding as a  
1224 guardian ad litem or other advocate is ~~shall be~~ presumed prima  
1225 facie to be acting in good faith and in so doing is ~~shall be~~  
1226 immune from any liability, civil or criminal, that otherwise  
1227 might be incurred or imposed.

1228 Section 38. Subsection (1) of section 984.17, Florida  
1229 Statutes, is amended to read:

1230 984.17 Response to petition and representation of parties.—

1231 (1) At the time a petition is filed, the court may appoint  
1232 a guardian ad litem for the child. The court shall appoint an  
1233 attorney for the child as defined in s. 39.01 if the court  
1234 determines that the child's liberty interests are at stake. The  
1235 appointment may be made through the governmental entity or  
1236 contracted organization providing attorneys for children  
1237 pursuant to ss. 43.51-43.54.

1238 Section 39. Subsection (1) of section 985.033, Florida  
1239 Statutes, is amended to read:

1240 985.033 Right to counsel.—

1241 (1) A child is entitled to representation by legal counsel  
1242 at all stages of ~~any~~ delinquency court proceedings under this  
1243 chapter. If the child and the parents or other legal guardian  
1244 are indigent and unable to employ counsel for the child, the  
1245 court shall appoint counsel under s. 27.52. Determination of  
1246 indigence and costs of representation shall be as provided by  
1247 ss. 27.52 and 938.29. Legal counsel representing a child who

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1248 exercises the right to counsel or who has not waived counsel for  
1249 court proceedings shall be allowed to provide advice and counsel  
1250 to the child at any time subsequent to the child's arrest,  
1251 including before ~~prior to~~ a detention hearing while in secure  
1252 detention care.

1253 (a) A child shall be represented by legal counsel at all  
1254 stages of all court proceedings unless the right to counsel is  
1255 freely, knowingly, and intelligently waived by the child. If the  
1256 child appears without counsel, the court shall advise the child  
1257 of his or her rights with respect to representation of court-  
1258 appointed counsel. Waiver of counsel must be made in writing  
1259 after the child has had a meaningful opportunity to confer with  
1260 counsel regarding the child's right to counsel, the potential  
1261 consequences of waiving counsel, and any other factors that  
1262 would assist the child in making a decision to waive counsel.

1263 (b) The court may appoint a guardian ad litem for the child  
1264 in delinquency proceedings if the child's defense counsel  
1265 requests the appointment due to the child's inability to assist  
1266 in the preparation of his or her defense, participate in court  
1267 proceedings, express his or her wishes, direct the  
1268 representation, or communicate with defense counsel.

1269 (c) If requested, the court may appoint a guardian ad litem  
1270 and an attorney in school matters, including disciplinary  
1271 actions and issues relating to exceptional student education.

1272 (d) Appointment of an attorney or guardian ad litem under  
1273 paragraph (b) or paragraph (c) may be made through the  
1274 governmental entity or contracted organization providing  
1275 attorneys for children pursuant to ss. 43.51-43.54.

1276 Section 40. Paragraph (a) of subsection (4) of section

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1277 20.195, Florida Statutes, is amended to read:

1278       20.195 Department of Children and Family Services; trust  
1279 funds.—The following trust funds shall be administered by the  
1280 Department of Children and Family Services:

1281       (4) Domestic Violence Trust Fund.

1282       (a) Funds to be credited to and uses of the trust fund  
1283 shall be administered in accordance with the provisions of s.  
1284 28.101, part XIV ~~XIII~~ of chapter 39, and chapter 741.

1285       Section 41. This act shall take effect July 1, 2010.