

By the Committee on Judiciary; and Senator Lee

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1 A bill to be entitled

2 An act relating to the appointment of an attorney for
3 a dependent child with disabilities; creating s.
4 39.01305, F.S.; defining terms; providing legislative
5 findings and intent; requiring an attorney to be
6 appointed in writing; requiring that the appointment
7 continues in effect until the attorney is permitted to
8 withdraw or is discharged by the court or until the
9 case is terminated; requiring that the attorney be
10 adequately compensated for his or her service;
11 providing a limitation; providing for a conditional
12 implementation; providing an effective date.

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

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16 Section 1. Section 39.01305, Florida Statutes, is created
17 to read:

18 39.01305 Appointment of an attorney for a dependent child
19 with disabilities.-

20 (1) As used in this section, the term "dependent child with
21 a disability" means a medically dependent or technologically
22 dependent child who because of a medical condition requires
23 continuous therapeutic interventions or skilled nursing
24 supervision and resides in a skilled nursing facility or is
25 being considered for placement in a skilled nursing facility.

26 (2) (a) The Legislature finds that all children in chapter
27 39 proceedings have important interests at stake, such as
28 health, safety, and well-being and the need to obtain
29 permanency.

590-02605-13

20131468c1

30 (b) The Legislature also finds that dependent children with
31 disabilities as defined in this section have a particular need
32 for an attorney to represent them in such proceedings, as well
33 as in fair hearings and appellate proceedings, so that the
34 attorney can address the medical and related needs and the
35 services and supports necessary for these children to live
36 successfully in the community.

37 (c) It is the intent of the Legislature that an attorney be
38 appointed by the court to represent each dependent child who has
39 a disability and who has been placed in a skilled nursing
40 facility, or is being considered for placement in a skilled
41 nursing facility, solely because that facility can provide
42 medical care as determined by a Children's Multi-Disciplinary
43 Assessment Team staffing.

44 (3) An order appointing an attorney for a dependent child
45 who has a disability must be in writing.

46 (4) The appointment of an attorney for the dependent child
47 continues in effect until the attorney is permitted to withdraw
48 or is discharged by the court or until the case is dismissed. An
49 attorney who is appointed to represent the child shall provide
50 the complete range of legal services from removal from the home
51 or initial appointment through all available appellate
52 proceedings. With the permission of the court, the attorney for
53 the dependent child may arrange for supplemental or separate
54 counsel to handle proceedings at an appellate hearing.

55 (5) The attorney must be adequately compensated and
56 provided with access to funding for expert witnesses,
57 depositions, and other costs of litigation.

58 (6) This section does not negate the authority of the court

590-02605-13

20131468c1

59 to appoint an attorney for a dependent child in a proceeding
60 under this chapter.

61 (7) Implementation of this section is subject to
62 appropriations expressly provided for this purpose.

63 Section 2. This act shall take effect July 1, 2013.