

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
 ADOPTED AS AMENDED _____ (Y/N)
 ADOPTED W/O OBJECTION _____ (Y/N)
 FAILED TO ADOPT _____ (Y/N)
 WITHDRAWN _____ (Y/N)
 OTHER _____

1 Committee/Subcommittee hearing bill: Civil Justice Subcommittee
 2 Representative Fresen offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

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

39.01305 Appointment of an attorney for a dependent child
 with disabilities.—

(1) (a) The Legislature finds that:

1. All children in proceedings under this chapter have
 important interests at stake, such as health, safety, and well-
 being and the need to obtain permanency.

2. A dependent child with a suspected or known disability
 has a particular need for an attorney to represent the dependent
 child in such proceedings, as well as in fair hearings and
 appellate proceedings, so that the attorney may address the

Amendment No. 1

18 medical and related needs and the services and supports
19 necessary for the child to live successfully in the community.

20 (b) It is the intent of the Legislature that the court
21 appoint an attorney to represent each dependent child who has a
22 suspected or known disability.

23 (c) The Legislature recognizes that there already exist
24 organizations that provide attorney representation to children
25 in certain jurisdictions throughout the state. Some of these
26 organizations have been proven effective through independent
27 rigorous evaluation in producing significantly improved outcomes
28 for children and many have been embraced by their local
29 jurisdictions. The Legislature therefore does not intend that
30 funding provides for representation under this section supplant
31 proven and existing organizations representing children.
32 Instead, the Legislature intends that funding provided for
33 representation under this section be an additional source for
34 the representation of more children in these jurisdictions to
35 the extent necessary to meet the requirements of ch. 39 and with
36 the cooperation of existing local organizations or through the
37 expansion of such organizations. The Legislature encourages the
38 expansion of pro bono representation for children. This section
39 is in no way is intended to limit the ability of a pro bono
40 attorney to appear on behalf of a child.

41 (2) An attorney shall be appointed for a dependent child
42 with disabilities who meets one or more of the following
43 criteria:

Amendment No. 1

44 (a) A dependent child who is medically dependent or
45 technologically dependent, who because of a medical condition
46 requires continuous therapeutic interventions or skilled
47 interventions, and who resides in a skilled nursing facility or
48 is being considered for placement in a skilled nursing facility;

49 (b) A dependent child who has been prescribed a
50 psychotropic medication and who refuses to take the psychotropic
51 medication;

52 (c) A dependent child with a suspected or known diagnosis
53 of developmental disability as defined in s. 393.063;

54 (d) A dependent child being placed in a residential
55 treatment center or being considered for placement in a
56 residential treatment center; or

57 (e) A dependent child who has been a victim of sexual abuse
58 or human trafficking and who is suspected to be in need of
59 mental health treatment.

60 (3) A court order appointing an attorney under this section
61 must be in writing. The appointment continues in effect until
62 the attorney is allowed to withdraw, the attorney is discharged
63 by the court, or the case is dismissed. An attorney who is
64 appointed to represent the child shall provide the complete
65 range of legal services from removal from the home or initial
66 appointment through all available appellate proceedings. With
67 the permission of the court, the attorney for the dependent
68 child may arrange for supplemental or separate counsel to handle
69 proceedings at an appellate hearing.

Amendment No. 1

70 (4) Except where the attorney has agreed to provide pro
71 bono services, an appointed attorney must be adequately
72 compensated and provided with access to funding for expert
73 witnesses, depositions, and other costs of litigation. Payment
74 to an attorney is subject to appropriations and subject to
75 review by the Justice Administrative Commission for
76 reasonableness. The Justice Administrative Commission may
77 contract with attorneys selected by the Guardian ad Litem
78 program.

79 (5) This section does not limit the authority of the court
80 to appoint an attorney for a dependent child in a proceeding
81 under this chapter.

82 (6) Implementation of this section is subject to
83 appropriations expressly made for that purpose.

84 Section 2. This act shall take effect July 1, 2014.

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89 **T I T L E A M E N D M E N T**

90 Remove everything before the enacting clause and insert:
91 An act relating to attorneys for dependent children with
92 disabilities; creating s. 39.01305, F.S.; providing legislative
93 findings and intent; requiring appointment of an attorney to
94 represent a dependent child with a suspected or known
95 disability; requiring the appointment to be in writing;

Amendment No. 1

96 requiring that the appointment continues in effect until the
97 attorney is allowed to withdraw or is discharged by the court or
98 until the case is terminated; requiring that the attorney not
99 acting in a pro bono capacity be adequately compensated for his
100 or her services; providing for financial oversight by the
101 Justice Administrative Commission; providing for applicability;
102 providing an effective date.