

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 WITHDRAWN \_\_\_\_\_ (Y/N)  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: Judiciary Committee  
 2 Representative Fresen offered the following:

**Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

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

8 39.01305 Appointment of an attorney for a dependent child  
 9 with certain special needs.-

10 (1)(a) The Legislature finds that:

11 1. All children in proceedings under chapter 39, Florida  
 12 Statutes, have important interests at stake, such as health,  
 13 safety, and well-being and the need to obtain permanency.

14 2. A dependent child who has certain special needs has a  
 15 particular need for an attorney to represent the dependent child  
 16 in proceedings under chapter 39, Florida Statutes, as well as in  
 17 fair hearings and appellate proceedings, so that the attorney

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18 may address the child's medical and related needs and the  
19 services and supports necessary for the child to live  
20 successfully in the community.

21 (b) The Legislature recognizes the existence of  
22 organizations that provide attorney representation to children  
23 in certain jurisdictions throughout the state. Further, the  
24 statewide guardian ad litem program provides best interest  
25 representation for dependent children in every jurisdiction in  
26 accordance with state and federal law. The Legislature,  
27 therefore, does not intend that funding provided for  
28 representation under this act supplant proven and existing  
29 organizations representing children. Instead, the Legislature  
30 intends that funding provided for representation under this act  
31 be an additional resource for the representation of more  
32 children in these jurisdictions, to the extent necessary to meet  
33 the requirements of chapter 39, Florida Statutes, with the  
34 cooperation of existing local organizations or through the  
35 expansion of those organizations. The Legislature encourages the  
36 expansion of pro bono representation for children. This act is  
37 not intended to limit the ability of a pro bono attorney to  
38 appear on behalf of a child.

39 (2) An attorney shall be appointed for a dependent child  
40 who:

41 (a) Resides in a skilled nursing facility or is being  
42 considered for placement in a skilled nursing home;

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43 (b) Is prescribed a psychotropic medication but declines  
44 to assent to the psychotropic medication;

45 (c) Has a diagnosis of developmental disability as defined  
46 in s. 393.063;

47 (d) Is being placed in a residential treatment center or  
48 being considered for placement in a residential treatment  
49 center; or

50 (e) Is a victim of human trafficking as defined in s.  
51 787.06(2)(d).

52 (3)(a) Before a court may appoint an attorney who may be  
53 compensated pursuant to this section, the court must request a  
54 recommendation from the statewide guardian ad litem office for  
55 an attorney who is willing to represent a child without  
56 additional compensation. If such an attorney is available within  
57 15 days after the court's request, the court must appoint that  
58 attorney. However, the court may appoint a compensated attorney  
59 within the 15-day period if the statewide guardian ad litem  
60 office informs the court that it will not be able to recommend  
61 an attorney in that time period.

62 (b) After an attorney is appointed, the appointment  
63 continues in effect until the attorney is allowed to withdraw or  
64 is discharged by the court or until the case is dismissed. An  
65 attorney who is appointed under this section to represent the  
66 child shall provide the complete range of legal services, from  
67 the removal from home or from the initial appointment through  
68 all available appellate proceedings. With the permission of the

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69 court, the attorney for the dependent child may arrange for  
70 supplemental or separate counsel to represent the child in  
71 appellate proceedings. A court order appointing an attorney  
72 under this section must be in writing.

73 (4) Except if the attorney has agreed to provide pro bono  
74 services, an appointed attorney or organization must be  
75 adequately compensated and provided with access to funding for  
76 expert witnesses, depositions, and other costs of litigation.  
77 Payment to an attorney is subject to appropriations and subject  
78 to review by the Justice Administrative Commission for  
79 reasonableness. The Justice Administrative Commission shall  
80 contract with attorneys appointed by the court. Attorney fees  
81 may not exceed \$3,000 per child per year.

82 (5) The department shall develop procedures to identify a  
83 dependent child who has a special need specified under  
84 subsection (1) and to request that a court appoint an attorney  
85 for the child. The department may adopt rules to administer this  
86 section.

87 (6) This section does not limit the authority of the court  
88 to appoint an attorney for a dependent child in a proceeding  
89 under this chapter.

90 (7) Implementation of this section is subject to  
91 appropriations expressly made for that purpose.

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

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

Remove everything before the enacting clause and insert:  
An act relating to attorneys for dependent children with special needs; providing legislative findings and intent; creating s. 39.01305, F.S.; requiring appointment of an attorney to represent a dependent child who meets one or more specified criteria; requiring that, if one is available, an attorney who is willing to represent a child without additional compensation be appointed; requiring that the appointment be in writing; requiring that the appointment continue in effect until the attorney is allowed to withdraw or is discharged by the court or until the case is dismissed; requiring that an attorney not acting in a pro bono capacity be adequately compensated for his or her services and have access to funding for certain costs; providing for financial oversight by the Justice Administrative Commission; providing a limit on attorney fees; requiring the Department of Children and Families to develop procedures to identify dependent children who qualify for an attorney; authorizing the department to adopt rules; providing applicability; providing an effective date.