

A bill to be entitled

An act relating to attorneys for dependent children with disabilities; creating s. 39.01305, F.S.; providing legislative findings and intent; requiring appointment of an attorney to represent a dependent child with a suspected or known disability; requiring the appointment to 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; providing for financial oversight by the Justice Administrative Commission; providing for applicability; providing an effective date.

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

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.

27        2. A dependent child with a suspected or known disability  
28 has a particular need for an attorney to represent the dependent  
29 child in such proceedings, as well as in fair hearings and  
30 appellate proceedings, so that the attorney may address the  
31 medical and related needs and the services and supports  
32 necessary for the child to live successfully in the community.

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

36        (c) The Legislature recognizes that there already exist  
37 organizations that provide attorney representation to children  
38 in certain jurisdictions throughout the state. Some of these  
39 organizations have proven effective through independent rigorous  
40 evaluation in producing significantly improved outcomes for  
41 children and many have been embraced by their local  
42 jurisdictions. The Legislature therefore does not intend that  
43 funding provided for representation under this section supplant  
44 proven and existing organizations representing children.  
45 Instead, the Legislature intends that funding provided for  
46 representation under this section be an additional resource for  
47 the representation of more children in these jurisdictions to  
48 the extent necessary to meet the requirements of this chapter  
49 and with the cooperation of existing local organizations or  
50 through the expansion of such organizations. The Legislature  
51 encourages the expansion of pro bono representation for  
52 children. This section is not intended to limit the ability of a

53 pro bono attorney to appear on behalf of a child.

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

57 (a) A dependent child who is medically dependent or  
58 technologically dependent, who because of a medical condition  
59 requires continuous therapeutic interventions or skilled  
60 interventions, and who resides in a skilled nursing facility or  
61 is being considered for placement in a skilled nursing facility;

62 (b) A dependent child who is prescribed a psychotropic  
63 medication and refuses to take the psychotropic medication;

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

66 (d) A dependent child being placed in a residential  
67 treatment center or being considered for placement in a  
68 residential treatment center; or

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

72 (3) A court order appointing an attorney under this  
73 section must be in writing. The appointment continues in effect  
74 until the attorney is allowed to withdraw, the attorney is  
75 discharged by the court, or the case is dismissed. An attorney  
76 who is appointed to represent the child shall provide the  
77 complete range of legal services from removal from the home or  
78 initial appointment through all available appellate proceedings.

79 With the permission of the court, the attorney for the dependent  
80 child may arrange for supplemental or separate counsel to handle  
81 proceedings at an appellate hearing.

82 (4) Except where the attorney has agreed to provide pro  
83 bono services, an appointed attorney must be adequately  
84 compensated and provided with access to funding for expert  
85 witnesses, depositions, and other costs of litigation. Payment  
86 to an attorney is subject to appropriations and subject to  
87 review by the Justice Administrative Commission for  
88 reasonableness. The Justice Administrative Commission may  
89 contract with attorneys selected by the Guardian ad Litem  
90 program.

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

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

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