



CS/CS/HB 561, Engrossed 2

2014

1 A bill to be entitled
2 An act relating to attorneys for dependent children
3 with special needs; creating s. 39.01305, F.S.;
4 providing legislative findings and intent; defining
5 the term "dependent child"; requiring appointment of
6 an attorney to represent a dependent child who meets
7 one or more specified criteria; requiring that, if one
8 is available, an attorney who is willing to represent
9 a child without additional compensation be appointed;
10 requiring that the appointment be in writing;
11 requiring that the appointment continue in effect
12 until the attorney is allowed to withdraw or is
13 discharged by the court or until the case is
14 dismissed; requiring that an attorney not acting in a
15 pro bono capacity be adequately compensated for his or
16 her services and have access to funding for certain
17 costs; providing for financial oversight by the
18 Justice Administrative Commission; providing a limit
19 on attorney fees; requiring the Department of Children
20 and Families to develop procedures to identify
21 dependent children who qualify for an attorney;
22 providing rulemaking authority; providing
23 applicability; providing an effective date.

24

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

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CODING: Words **stricken** are deletions; words underlined are additions.

hb0561-04-e2



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26
27 Section 1. Section 39.01305, Florida Statutes, is created
28 to read:

29 39.01305 Appointment of an attorney for a dependent child
30 with certain special needs.—

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

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

35 2. A dependent child who has certain special needs has a
36 particular need for an attorney to represent the dependent child
37 in proceedings under this chapter, as well as in fair hearings
38 and appellate proceedings, so that the attorney may address the
39 child's medical and related needs and the services and supports
40 necessary for the child to live successfully in the community.

41 (b) The Legislature recognizes the existence of
42 organizations that provide attorney representation to children
43 in certain jurisdictions throughout the state. Further, the
44 statewide Guardian Ad Litem Program provides best interest
45 representation for dependent children in every jurisdiction in
46 accordance with state and federal law. The Legislature,
47 therefore, does not intend that funding provided for
48 representation under this section supplant proven and existing
49 organizations representing children. Instead, the Legislature
50 intends that funding provided for representation under this



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51 section be an additional resource for the representation of more
52 children in these jurisdictions, to the extent necessary to meet
53 the requirements of this chapter, with the cooperation of
54 existing local organizations or through the expansion of those
55 organizations. The Legislature encourages the expansion of pro
56 bono representation for children. This section is not intended
57 to limit the ability of a pro bono attorney to appear on behalf
58 of a child.

59 (2) As used in this section, the term "dependent child"
60 means a child who is subject to any proceeding under this
61 chapter. The term does not require that a child be adjudicated
62 dependent for purposes of this section.

63 (3) An attorney shall be appointed for a dependent child
64 who:

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

67 (b) Is prescribed a psychotropic medication but declines
68 assent to the psychotropic medication;

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

71 (d) Is being placed in a residential treatment center or
72 being considered for placement in a residential treatment
73 center; or

74 (e) Is a victim of human trafficking as defined in s.
75 787.06(2)(d).



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76 (4) (a) Before a court may appoint an attorney, who may be
77 compensated pursuant to this section, the court must request a
78 recommendation from the Statewide Guardian Ad Litem Office for
79 an attorney who is willing to represent a child without
80 additional compensation. If such an attorney is available within
81 15 days after the court's request, the court must appoint that
82 attorney. However, the court may appoint a compensated attorney
83 within the 15-day period if the Statewide Guardian Ad Litem
84 Office informs the court that it will not be able to recommend
85 an attorney within that time period.

86 (b) After an attorney is appointed, the appointment
87 continues in effect until the attorney is allowed to withdraw or
88 is discharged by the court or until the case is dismissed. An
89 attorney who is appointed under this section to represent the
90 child shall provide the complete range of legal services, from
91 the removal from home or from the initial appointment through
92 all available appellate proceedings. With the permission of the
93 court, the attorney for the dependent child may arrange for
94 supplemental or separate counsel to represent the child in
95 appellate proceedings. A court order appointing an attorney
96 under this section must be in writing.

97 (5) Except if the attorney has agreed to provide pro bono
98 services, an appointed attorney or organization must be
99 adequately compensated and provided with access to funding for
100 expert witnesses, depositions, and other costs of litigation.



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101 Payment to an attorney is subject to appropriations and subject
102 to review by the Justice Administrative Commission for
103 reasonableness. The Justice Administrative Commission shall
104 contract with attorneys appointed by the court. Attorney fees
105 may not exceed \$1,000 per child per year.

106 (6) The department shall develop procedures to identify a
107 dependent child who has a special need specified under
108 subsection (3) and to request that a court appoint an attorney
109 for the child.

110 (7) The department may adopt rules to administer this
111 section.

112 (8) This section does not limit the authority of the court
113 to appoint an attorney for a dependent child in a proceeding
114 under this chapter.

115 (9) Implementation of this section is subject to
116 appropriations expressly made for that purpose.

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