



250360

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2014	.	
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The Committee on Judiciary (Lee) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. (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 who has certain special needs has a particular need for an attorney to represent the dependent child in proceedings under this chapter, as well as in fair hearings



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12 and appellate proceedings, so that the attorney may address the
13 child's medical and related needs and the services and supports
14 necessary for the child to live successfully in the community.

15 (b) The Legislature recognizes the existence of
16 organizations that provide attorney representation to children
17 in certain jurisdictions throughout the state. Further, the
18 Statewide Guardian Ad Litem Program provides best interest
19 representation for dependent children in every jurisdiction in
20 accordance with state and federal law. The Legislature,
21 therefore, does not intend that funding provided for
22 representation under this section supplant proven and existing
23 organizations representing children. Instead, the Legislature
24 intends that funding provided for representation under this
25 section be an additional resource for the representation of more
26 children in these jurisdictions, to the extent necessary to meet
27 the requirements of this chapter, with the cooperation of
28 existing local organizations or through the expansion of those
29 organizations. The Legislature encourages the expansion of pro
30 bono representation for children. This section is not intended
31 to limit the ability of a pro bono attorney to appear on behalf
32 of a child.

33 Section 2. Section 39.01305, Florida Statutes, is created
34 to read:

35 39.01305 Appointment of an attorney for a dependent child
36 with certain special needs.—

37 (1) An attorney shall be appointed for a dependent child
38 who:

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



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41 (b) Is prescribed a psychotropic medication but declines to
42 assent to the psychotropic medication;

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

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

48 (e) Is a victim of human trafficking as defined in s.
49 787.06(2)(d).

50 (2)(a) Before a court may appoint an attorney who may be
51 compensated pursuant to this section, the court must request a
52 recommendation from the Statewide Guardian Ad Litem Office for
53 an attorney who is willing to represent a child without
54 additional compensation. If such an attorney is available within
55 15 days after the court's request, the court must appoint that
56 attorney. However, the court may appoint a compensated attorney
57 within the 15-day period if the Statewide Guardian Ad Litem
58 informs the court that it will not be able to recommend an
59 attorney in that time period.

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



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70 writing.

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

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

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

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

90 Section 3. This act shall take effect July 1, 2014.

91
92 ===== T I T L E A M E N D M E N T =====

93 And the title is amended as follows:

94 Delete everything before the enacting clause
95 and insert:

96 A bill to be entitled
97 An act relating to attorneys for dependent children
98 with special needs; providing legislative findings and



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99 intent; creating s. 39.01305, F.S.; requiring
100 appointment of an attorney to represent a dependent
101 child who meets one or more specified criteria;
102 requiring that a pro bono attorney be appointed if
103 available; requiring that the appointment be in
104 writing; requiring that the appointment continue in
105 effect until the attorney is allowed to withdraw or is
106 discharged by the court or until the case is
107 dismissed; requiring that an attorney not acting in a
108 pro bono capacity be adequately compensated for his or
109 her services and have access to funding for certain
110 costs; providing for financial oversight by the
111 Justice Administrative Commission; requiring the
112 Department of Children and Family Services to develop
113 procedures to identify dependent children who qualify
114 for an attorney; authorizing the department to adopt
115 rules; providing a limit on attorney fees; providing
116 applicability; providing an effective date.