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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/18/2014	.	
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The Committee on Children, Families, and Elder Affairs  
(Grimsley) recommended the following:

**Senate Amendment (with title amendment)**

Delete 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



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11 important interests at stake, such as health, safety, and well-  
12 being and the need to obtain permanency.

13 2. A dependent child who has a suspected or known  
14 disability has a particular need for an attorney to represent  
15 the dependent child in proceedings under this chapter, as well  
16 as in fair hearings and appellate proceedings, so that the  
17 attorney may address the child's medical and related needs and  
18 the services and supports necessary for the child to live  
19 successfully in the community.

20 (b) The Legislature recognizes the existence of  
21 organizations that provide attorney representation to children  
22 in certain jurisdictions throughout the state. The Legislature  
23 finds that some of these organizations have proven effective,  
24 through independent rigorous evaluation, in producing  
25 significantly improved outcomes for children and that many have  
26 been embraced by their local jurisdictions. The Legislature,  
27 therefore, does not intend that funding provided for  
28 representation under this section supplant proven and existing  
29 organizations representing children. Instead, the Legislature  
30 intends that funding provided for representation under this  
31 section be an additional resource for the representation of more  
32 children in these jurisdictions, to the extent necessary to meet  
33 the requirements of this chapter, with the cooperation of  
34 existing local organizations or through the expansion of such  
35 organizations. The Legislature encourages the expansion of pro  
36 bono representation for children. This section is not intended  
37 to limit the ability of a pro bono attorney to appear on behalf  
38 of a child.

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



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40 who has a disability and meets one or more of the following  
41 criteria:

42 (a) A dependent child who resides in a skilled nursing  
43 facility or is being considered for placement in a skilled  
44 nursing home;

45 (b) A dependent child who is prescribed a psychotropic  
46 medication but does not want to take the psychotropic  
47 medication;

48 (c) A dependent child who has a suspected or known  
49 diagnosis of developmental disability as defined in s. 393.063;

50 (d) A dependent child being placed in a residential  
51 treatment center or being considered for placement in a  
52 residential treatment center; or

53 (e) A dependent child who has been a victim of human  
54 trafficking.

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

65 (4) Except if the attorney has agreed to provide pro bono  
66 services, an appointed attorney must be adequately compensated  
67 and provided with access to funding for expert witnesses,  
68 depositions, and other costs of litigation. Payment to an



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69 attorney is subject to appropriations and subject to review by  
70 the Justice Administrative Commission for reasonableness. The  
71 Justice Administrative Commission may contract with attorneys  
72 selected by the guardian ad litem program. Attorney fees may not  
73 exceed \$3,000 per child per year.

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

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

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

80

81 ===== T I T L E A M E N D M E N T =====

82 And the title is amended as follows:

83 Delete everything before the enacting clause  
84 and insert:

85 A bill to be entitled  
86 An act relating to attorneys for dependent children  
87 with disabilities; creating s. 39.01305, F.S. ;  
88 providing legislative findings and intent; requiring  
89 appointment of an attorney to represent a dependent  
90 child who meets one or more specified criteria;  
91 requiring the appointment to be in writing; requiring  
92 that the appointment continue in effect until the  
93 attorney is allowed to withdraw or is discharged by  
94 the court or until the case is dismissed; requiring  
95 that an attorney not acting in a pro bono capacity be  
96 adequately compensated for his or her services and  
97 have access to funding for certain costs; providing



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98 | for financial oversight by the Justice Administrative  
99 | Commission; providing a limit on attorney fees;  
100 | providing applicability; providing an effective date.