

By the Committee on Children, Families, and Elder Affairs; and  
Senators Galvano and Bradley

586-02751-14

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1 A bill to be entitled  
2 An act relating to attorneys for dependent children  
3 with disabilities; creating s. 39.01305, F.S.;  
4 providing legislative findings and intent; requiring  
5 appointment of an attorney to represent a dependent  
6 child who meets one or more specified criteria;  
7 requiring the appointment to be in writing; requiring  
8 that the appointment continue in effect until the  
9 attorney is allowed to withdraw or is discharged by  
10 the court or until the case is dismissed; requiring  
11 that an attorney not acting in a pro bono capacity be  
12 adequately compensated for his or her services and  
13 have access to funding for certain costs; providing  
14 for financial oversight by the Justice Administrative  
15 Commission; providing a limit on attorney fees;  
16 providing applicability; providing an effective date.

17  
18 Be It Enacted by the Legislature of the State of Florida:

19  
20 Section 1. Section 39.01305, Florida Statutes, is created  
21 to read:

22 39.01305 Appointment of an attorney for a dependent child  
23 with disabilities.-

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

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

28 2. A dependent child who has a suspected or known  
29 disability has a particular need for an attorney to represent

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30 the dependent child in proceedings under this chapter, as well  
31 as in fair hearings and appellate proceedings, so that the  
32 attorney may address the child's medical and related needs and  
33 the services and supports necessary for the child to live  
34 successfully in the community.

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

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

57 (a) A dependent child who resides in a skilled nursing  
58 facility or is being considered for placement in a skilled

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59 nursing home;

60 (b) A dependent child who is prescribed a psychotropic  
61 medication but does not want to take the psychotropic  
62 medication;

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

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

68 (e) A dependent child who has been a victim of human  
69 trafficking.

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

80 (4) Except if the attorney has agreed to provide pro bono  
81 services, an appointed attorney must be adequately compensated  
82 and provided with access to funding for expert witnesses,  
83 depositions, and other costs of litigation. Payment to an  
84 attorney is subject to appropriations and subject to review by  
85 the Justice Administrative Commission for reasonableness. The  
86 Justice Administrative Commission may contract with attorneys  
87 selected by the guardian ad litem program. Attorney fees may not

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88 exceed \$3,000 per child per year.

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

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

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