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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/19/2015	.	
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The Committee on Children, Families, and Elder Affairs (Detert) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (8) of section 39.6251, Florida
Statutes, is amended to read:

39.6251 Continuing care for young adults.—

(8) During the time that a young adult is in care, the
court shall maintain jurisdiction to ensure that the department
and the lead agencies are providing services and coordinate



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11 with, and maintain oversight of, other agencies involved in
12 implementing the young adult's case plan, individual education
13 plan, and transition plan. The court shall review the status of
14 the young adult at least every 6 months and hold a permanency
15 review hearing at least annually. If the young adult has been
16 appointed a guardian under chapter 744 or a guardian advocate
17 under s. 393.12, the court shall review at the permanency review
18 hearing the necessity of continuing the guardianship and whether
19 restoration of guardianship proceedings are needed when the
20 child reaches 22 years of age. The court may appoint a guardian
21 ad litem or continue the appointment of a guardian ad litem with
22 the young adult's consent. The young adult or any other party to
23 the dependency case may request an additional hearing or review.

24 Section 2. Paragraphs (b) and (c) of subsection (3) of
25 section 39.701, Florida Statutes, are amended to read:

26 39.701 Judicial review.—

27 (3) REVIEW HEARINGS FOR CHILDREN 17 YEARS OF AGE.—

28 (b) At the first judicial review hearing held subsequent to
29 the child's 17th birthday, the department shall provide the
30 court with an updated case plan that includes specific
31 information related to the independent living skills that the
32 child has acquired since the child's 13th birthday, or since the
33 date the child came into foster care, whichever came later.

34 1. For any child that may meet the requirements for
35 appointment of a guardian pursuant to chapter 744 or a guardian
36 advocate pursuant to s. 393.12, the updated case plan must be
37 developed in a face-to-face conference with the child, if
38 appropriate; the child's attorney; any court-appointed guardian
39 ad litem; the temporary custodian of the child; and the parent,



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40 if the parent's rights have not been terminated.

41 2. At the judicial review hearing, if the court determines
42 pursuant to the procedures and requirements of chapter 744 and
43 the Florida Probate Rules that there is a good faith basis to
44 believe the child qualifies for appointment of a guardian or a
45 guardian advocate and that no less restrictive decisionmaking
46 assistance will meet the child's needs:

47 a. The department shall complete a multidisciplinary report
48 that must include, but is not limited to, a psychosocial
49 evaluation and educational report if such a report has not been
50 completed within the previous 2 years.

51 b. The department shall identify one or more individuals
52 who are willing to serve as the guardian advocate pursuant to s.
53 393.12 or as the plenary guardian or limited guardian pursuant
54 to chapter 744 and the Florida Probate Rules. Any other
55 interested parties or participants may make efforts to identify
56 such a guardian advocate or plenary guardian or limited
57 guardian. A child's biological or adoptive family members,
58 including a child's parents if the parents' rights have not been
59 terminated, may not be considered for service as the plenary
60 guardian or limited guardian unless the court enters a written
61 order finding that such an appointment is in the child's best
62 interests.

63 c. Proceedings shall be initiated within 180 days after the
64 child's 17th birthday for the appointment of a guardian advocate
65 or plenary guardian or limited guardian for the child in the
66 court with proper jurisdiction over probate matters according to
67 the local rules of judicial administration and the procedures
68 and requirements of chapter 744 and the Florida Probate Rules.



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69 3. In the event another interested party or participant
70 initiates proceedings for the appointment of a guardian advocate
71 or plenary guardian or limited guardian for the child, the
72 department shall provide all necessary documentation and
73 information to the petitioner to complete a petition under
74 chapter 393 or chapter 744 within 45 days after the first
75 judicial review hearing after the child's 17th birthday.

76 4. Any proceedings for appointment of a guardian advocate
77 or a determination of incapacity and the appointment of a
78 guardian must be conducted in a separate proceeding in the court
79 with proper jurisdiction over probate matters according to local
80 rules of judicial administration and the procedures and
81 requirements of chapter 744 and the Florida Probate Rules.

82 (c) If the court finds at the judicial review hearing that
83 the department has not met its obligations to the child as
84 stated in this part, in the written case plan, or in the
85 provision of independent living services, the court may issue an
86 order directing the department to show cause as to why it has
87 not done so. If the department cannot justify its noncompliance,
88 the court may give the department 30 days within which to
89 comply. If the department fails to comply within 30 days, the
90 court may hold the department in contempt.

91 Section 3. Paragraph (c) is added to subsection (2) of
92 section 393.12, Florida Statutes, to read:

93 393.12 Capacity; appointment of guardian advocate.—

94 (2) APPOINTMENT OF A GUARDIAN ADVOCATE.—

95 (c) If a petition is filed pursuant to this section
96 requesting appointment of a guardian advocate for a minor who is
97 the subject of any proceeding under chapter 39, the court with



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98 proper jurisdiction over probate matters according to local
99 rules of judicial administration and the Florida Probate Rules
100 shall have jurisdiction over the proceedings pursuant to this
101 section when the minor reaches the age of 17 years and 6 months
102 or anytime thereafter. The minor shall be provided all the due
103 process rights conferred upon an alleged developmentally
104 disabled adult pursuant to this chapter. The order of
105 appointment of guardian advocate under this section shall be
106 issued upon the minor's 18th birthday or as soon thereafter as
107 possible.

108 Section 4. Subsection (1) of section 744.301, Florida
109 Statutes, is amended to read:

110 744.301 Natural guardians.-

111 (1) The parents jointly are the natural guardians of their
112 own children and of their adopted children, during minority,
113 unless the parent's parental rights have been terminated
114 pursuant to chapter 39. If a child is the subject of any
115 proceeding under chapter 39, the parents may act as natural
116 guardians under this section unless the dependency or probate
117 court finds that it is not in the child's best interest. If one
118 parent dies, the surviving parent remains the sole natural
119 guardian even if he or she remarries. If the marriage between
120 the parents is dissolved, the natural guardianship belongs to
121 the parent to whom sole parental responsibility has been
122 granted, or if the parents have been granted shared parental
123 responsibility, both continue as natural guardians. If the
124 marriage is dissolved and neither parent is given parental
125 responsibility for the child, neither may act as natural
126 guardian of the child. The mother of a child born out of wedlock



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127 is the natural guardian of the child and is entitled to primary
128 residential care and custody of the child unless the court
129 enters an order stating otherwise.

130 Section 5. Subsection (1) of section 744.3021, Florida
131 Statutes, is amended, and subsection (4) is added to that
132 section, to read:

133 744.3021 Guardians of minors.—

134 (1) Except as provided in subsection (4), upon petition of
135 a parent, brother, sister, next of kin, or other person
136 interested in the welfare of a minor, a guardian for a minor may
137 be appointed by the court without the necessity of adjudication
138 pursuant to s. 744.331. A guardian appointed for a minor,
139 whether of the person or property, has the authority of a
140 plenary guardian.

141 (4) If a petition is filed pursuant to this section
142 requesting appointment of a guardian for a minor that is the
143 subject of any proceeding under chapter 39 and who is 17 years
144 and 6 months of age or older, the court with proper jurisdiction
145 over probate matters according to local rules of judicial
146 administration and the procedures and requirements of this
147 chapter and the Florida Probate Rules shall have jurisdiction
148 over the proceedings under s. 744.331. The alleged incapacitated
149 minor under this subsection shall be provided all the due
150 process rights conferred upon an alleged incapacitated adult
151 pursuant to this chapter and the Florida Probate Rules. The
152 order of adjudication under s. 744.331 and the letters of
153 limited guardianship or plenary guardianship may be issued upon
154 the minor's 18th birthday or as soon thereafter as possible.

155 Section 6. This act shall take effect July 1, 2015.



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

157 And the title is amended as follows:

158 Delete everything before the enacting clause

159 and insert:

160 A bill to be entitled

161 An act relating to guardians; amending s. 39.6251,
162 F.S.; requiring the court at the permanency review
163 hearing to review the necessity of the guardianship
164 and whether restoration of guardianship proceedings
165 are needed when the child reaches a certain age under
166 certain circumstances; amending s. 39.701, F.S.;
167 requiring that, for a child meeting certain
168 requirements, the updated case plan be developed in a
169 face-to-face conference with specified persons
170 present; requiring the Department of Children and
171 Families to take specified actions at the judicial
172 review hearing if the court makes certain
173 determinations; requiring the department to provide
174 documentation and information to a petitioner under
175 certain circumstances; requiring certain proceedings
176 to be conducted separately; expanding the
177 circumstances under which a court, after making
178 certain findings, may issue an order directing the
179 department to show cause; amending s. 393.12, F.S.;
180 providing that the court with proper jurisdiction over
181 probate matters has jurisdiction if a specified
182 petition is filed; requiring the provision of due
183 process rights for a minor; requiring the issuance of
184 the order of appointment of guardian advocate upon the



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185 minor turning 18 years of age or as soon thereafter as
186 possible; amending s. 744.301, F.S.; providing that
187 parents are the joint natural guardians of their
188 children unless their parental rights have been
189 terminated; authorizing the parents to act as natural
190 guardians of their child under certain circumstances;
191 providing an exception; amending s. 744.3021, F.S.;
192 providing an exception to the appointment of guardians
193 for a minor; specifying that the court with proper
194 jurisdiction over probate matters has jurisdiction
195 over certain proceedings if a specified petition is
196 filed; requiring the provision of due process rights
197 for an alleged incapacitated minor; providing an
198 effective date.