

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>      </u>	(Y/N)
ADOPTED AS AMENDED	<u>      </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>      </u>	(Y/N)
FAILED TO ADOPT	<u>      </u>	(Y/N)
WITHDRAWN	<u>      </u>	(Y/N)
OTHER	<u>      </u>	

1 Committee/Subcommittee hearing bill: Civil Justice Subcommittee  
 2 Representative Powell offered the following:

**Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6 Section 1. Section 49.31, Florida Statutes, is created to  
 7 read:

8 49.31 Appointment of ad litem.--

9 (1) As used in this section, the term "ad litem" means an  
 10 attorney, administrator, or guardian ad litem.

11 (2) The court may appoint an ad litem for any party,  
 12 whether known or unknown, upon whom service of process by  
 13 publication under this chapter has been properly made and who  
 14 has failed to file or serve any paper in the action within the  
 15 time required by law. A court may not appoint an ad litem to  
 16 represent an interest for which a personal representative,  
 17 guardian of property, or trustee is serving.

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18 (a) If the court has appointed an ad litem and the ad  
19 litem discovers that a personal representative, guardian of  
20 property, or trustee is serving who represents the interest for  
21 which the ad litem was appointed, the ad litem must promptly  
22 report that finding to the court and must file a petition for  
23 discharge as to any interest for which the personal  
24 representative, guardian of the property, or trustee is serving.

25 (b) If the court has appointed an ad litem to represent an  
26 interest and the ad litem discovers that the person whose  
27 interest he or she represents is deceased, and there is no  
28 personal representative, guardian of the property, or trustee to  
29 represent the decedent's interest, the ad litem must make a  
30 reasonable attempt to locate any spouse, heir, devisee, or  
31 beneficiaries of the decedent, must report to the court the name  
32 and address of any such persons that the ad litem locates, and  
33 must petition for discharge as to any interest of the person  
34 located.

35 (3) The court may not require an ad litem to post a bond  
36 or designate a resident agent in order to serve as an ad litem.

37 (4) The court shall discharge the ad litem when the final  
38 judgment is entered or as otherwise ordered by the court.

39 (5) The ad litem is entitled to an award of a reasonable  
40 fee for services rendered and costs, which shall be assessed  
41 against the party requesting the appointment of the ad litem, or  
42 as otherwise ordered by the court.

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43 (6) In all cases adjudicated in which the court appointed  
44 an ad litem, a proceeding may not be declared ineffective solely  
45 due to lack of statutory authority to appoint an ad litem.

46 (7) This section does not abrogate a court's common law  
47 authority to appoint an ad litem.

48 Section 2. This act shall take effect July 1, 2015.

50 -----  
51 **T I T L E A M E N D M E N T**

52 Remove everything before the enacting clause and insert:  
53 An act relating to the appointment of an ad litem; creating s.  
54 49.31, F.S.; defining the term "ad litem"; authorizing a court  
55 to appoint an ad litem for a party upon whom service of process  
56 by publication is made; prohibiting a court from appointing an  
57 ad litem to represent an interest for which a personal  
58 representative, guardian of property, or trustee is serving;  
59 requiring an ad litem, upon discovery that the party it  
60 represents is already represented by a personal representative,  
61 guardian of property, or trustee, or is deceased, to take  
62 certain actions; prohibiting a court from requiring an ad litem  
63 to post a bond or designate a resident agent in order to serve  
64 as ad litem; requiring courts to discharge an ad litem when the  
65 final judgment is entered or as otherwise ordered by the court;  
66 providing that an ad litem is entitled to an award of a  
67 reasonable fee for services rendered and costs that must be  
68 assessed by the court against a specified party or as otherwise

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69 | ordered by the court; prohibiting a proceeding in which the  
70 | court appointed an ad litem from being declared ineffective  
71 | solely due to a lack of statutory authority to appoint an ad  
72 | litem; providing that the section does not abrogate a court's  
73 | common law authority to appoint an ad litem; providing an  
74 | effective date.