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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/19/2016	.	
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Appropriations Subcommittee on Criminal and Civil Justice
(Flores) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 39.01305, Florida Statutes, is amended
to read:

39.01305 Appointment of an attorney for a dependent child
~~with certain special needs.~~

(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 certain special needs has a
14 particular need for an attorney to represent the dependent child
15 in proceedings under this chapter, as well as in fair hearings
16 and appellate proceedings, so that the attorney may address the
17 child's medical and related needs and the services and supports
18 necessary for the child to live successfully in the community.

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

37 (2) As used in this section, the term "dependent child"
38 means a child who is subject to any proceeding under this
39 chapter. The term does not require that a child be adjudicated



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40 dependent for purposes of this section.

41 (3) An attorney shall be appointed for a dependent child
42 ~~who~~:

43 (a) Who resides in a skilled nursing facility or is being
44 considered for placement in a skilled nursing home;

45 (b) Who is prescribed a psychotropic medication and is
46 under the age of 8 or who ~~but~~ declines assent to the
47 psychotropic medication;

48 (c) Who has a diagnosis of a developmental disability as
49 defined in s. 393.063;

50 (d) Who is being placed in a residential treatment center
51 or is being considered for placement in a residential treatment
52 center; ~~or~~

53 (e) Who is a victim of human trafficking as defined in s.
54 787.06(2) (d); or

55 (f) If the statewide Guardian Ad Litem Program certifies
56 that it has a conflict of interest that precludes the program
57 from providing the child with a guardian ad litem.

58 (4) ~~(a)~~ Before a court may appoint an attorney, who may be
59 compensated pursuant to this section, the court must request a
60 recommendation from the Statewide Guardian Ad Litem Office for
61 an attorney who is willing to represent a child without
62 additional compensation. If such an attorney is available within
63 15 days after the court's request, the court must appoint that
64 attorney. However, the court may appoint a compensated attorney
65 within the 15-day period if the Statewide Guardian Ad Litem
66 Office informs the court that it will not be able to recommend
67 an attorney within that time period.

68 (5) ~~(b)~~ After an attorney is appointed, the appointment



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

81 (6) ~~(5)~~ Unless ~~Except~~ if the attorney has agreed to provide
82 pro bono services, an appointed attorney or organization must be
83 adequately compensated. All appointed attorneys and
84 organizations must be ~~and~~ provided with access to funding for
85 expert witnesses, depositions, and other costs of litigation.
86 Payment to an attorney is subject to appropriations and subject
87 to review by the Justice Administrative Commission for
88 reasonableness. The Justice Administrative Commission shall
89 contract with attorneys appointed by the court. Attorney fees
90 may not exceed \$1,000 per child per year.

91 (7) Appointed attorneys shall, on a quarterly basis, report
92 to the Quality Counsel Program pursuant to s. 27.406 on the
93 activities performed and results obtained on behalf of each
94 dependent child to the extent that such information does not
95 violate any applicable privilege. The form of the report shall
96 be prescribed by the Justice Administrative Commission.

97 (8) ~~(6)~~ The department shall develop procedures to identify



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98 a dependent child who has a special need specified under
99 subsection (3) and to request that a court appoint an attorney
100 for the child.

101 (9)~~(7)~~ The department may adopt rules to administer this
102 section.

103 (10)~~(8)~~ This section does not limit the authority of the
104 court to appoint an attorney for a dependent child in a
105 proceeding under this chapter.

106 (11)~~(9)~~ Implementation of this section is subject to
107 appropriations expressly made for that purpose.

108 Section 2. Section 27.406, Florida Statutes, is created to
109 read:

110 27.406 Quality Counsel Program.—

111 (1) To ensure that dependent children receive quality
112 representation under chapter 39, the Justice Administrative
113 Commission shall contract with a nonprofit entity to establish
114 the Quality Counsel Program.

115 (2) The Quality Counsel Program must, at a minimum:

116 (a) Create a quality improvement program using the
117 information provided by appointed attorneys under s. 39.01305,
118 including a review and analysis of the attorney's advocacy.

119 (b) Annually report to the Governor, the President of the
120 Senate, the Speaker of the House of Representatives, the Justice
121 Administrative Commission, the statewide Guardian Ad Litem
122 Program, and the Office of the State Courts Administrator on the
123 information provided by appointed attorneys under s. 39.01305,
124 the results obtained on behalf of each dependent child, and
125 recommendations to enhance the quality of dependent children's
126 representation.



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127 Section 3. The establishment of the Quality Counsel Program
128 pursuant to s. 27.406, Florida Statutes, as created by this act,
129 must be complete and the program must be fully operational by
130 June 30, 2018.

131 Section 4. This act shall take effect July 1, 2016.

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

134 And the title is amended as follows:

135 Delete everything before the enacting clause
136 and insert:

137 A bill to be entitled
138 An act relating to attorneys for dependent children;
139 amending s. 39.01305, F.S.; revising requirements for
140 a dependent child to be appointed an attorney;
141 requiring that a court appoint an attorney for certain
142 dependent children; requiring that the court appoint
143 substitute counsel if an attorney withdraws or is
144 discharged by the court; providing that all appointed
145 attorneys and organizations are entitled to funding
146 for litigation costs; requiring appointed attorneys to
147 quarterly report certain information to the Quality
148 Counsel Program; requiring the Justice Administrative
149 Commission to prescribe the form of the report;
150 creating s. 27.406, F.S.; requiring the Justice
151 Administrative Commission to contract with a nonprofit
152 entity to establish the Quality Counsel Program;
153 requiring a quality improvement program; requiring an
154 annual report; requiring the Quality Counsel Program
155 to be established and fully operational by a specified



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date; providing an effective date.