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576-03710-16

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Criminal and Civil Justice)

A bill to be entitled

An act relating to attorneys for dependent children;
amending s. 39.01305, F.S.; revising requirements for
a dependent child to be appointed an attorney;
requiring that a court appoint an attorney for certain
dependent children; requiring that the court appoint
substitute counsel if an attorney withdraws or is
discharged by the court; providing that all appointed
attorneys and organizations are entitled to funding
for litigation costs; requiring appointed attorneys to
quarterly report certain information to the Quality
Counsel Program; requiring the Justice Administrative
Commission to prescribe the form of the report;
creating s. 27.406, F.S.; requiring the Justice
Administrative Commission to contract with a nonprofit
entity to establish the Quality Counsel Program;
requiring a quality improvement program; requiring an
annual report; requiring the Quality Counsel Program
to be established and fully operational by a specified
date; providing an effective date.

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

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.-~~



723066

576-03710-16

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

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

32 2. A dependent child who has certain special needs has a
33 particular need for an attorney to represent the dependent child
34 in proceedings under this chapter, as well as in fair hearings
35 and appellate proceedings, so that the attorney may address the
36 child's medical and related needs and the services and supports
37 necessary for the child to live successfully in the community.

38 (b) The Legislature recognizes the existence of
39 organizations that provide attorney representation to children
40 in certain jurisdictions throughout the state. Further, the
41 statewide Guardian Ad Litem Program provides best interest
42 representation for dependent children in every jurisdiction in
43 accordance with state and federal law. The Legislature,
44 therefore, does not intend that funding provided for
45 representation under this section supplant proven and existing
46 organizations representing children. Instead, the Legislature
47 intends that funding provided for representation under this
48 section be an additional resource for the representation of more
49 children in these jurisdictions, to the extent necessary to meet
50 the requirements of this chapter, with the cooperation of
51 existing local organizations or through the expansion of those
52 organizations. The Legislature encourages the expansion of pro
53 bono representation for children. This section is not intended
54 to limit the ability of a pro bono attorney to appear on behalf
55 of a child.

56 (2) As used in this section, the term "dependent child"



723066

576-03710-16

57 means a child who is subject to any proceeding under this
58 chapter. The term does not require that a child be adjudicated
59 dependent for purposes of this section.

60 (3) An attorney shall be appointed for a dependent child
61 ~~who~~:

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

64 (b) Who is prescribed a psychotropic medication and is
65 under the age of 8 or who ~~but~~ declines assent to the
66 psychotropic medication;

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

69 (d) Who is being placed in a residential treatment center
70 or is being considered for placement in a residential treatment
71 center; ~~or~~

72 (e) Who is a victim of human trafficking as defined in s.
73 787.06(2)(d); or

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

77 (4) ~~(a)~~ Before a court may appoint an attorney, who may be
78 compensated pursuant to this section, the court must request a
79 recommendation from the Statewide Guardian Ad Litem Office for
80 an attorney who is willing to represent a child without
81 additional compensation. If such an attorney is available within
82 15 days after the court's request, the court must appoint that
83 attorney. However, the court may appoint a compensated attorney
84 within the 15-day period if the Statewide Guardian Ad Litem
85 Office informs the court that it will not be able to recommend



723066

576-03710-16

86 an attorney within that time period.

87 (5) ~~(5)~~ After an attorney is appointed, the appointment
88 continues in effect until the attorney is allowed to withdraw,
89 the attorney ~~or~~ is discharged by the court, or until the case is
90 dismissed. If an attorney withdraws or is discharged, substitute
91 counsel shall be appointed by the court. An attorney who is
92 appointed under this section to represent the child shall
93 provide the complete range of legal services, from the removal
94 from home or from the initial appointment through all available
95 appellate proceedings. With the permission of the court, the
96 attorney for the dependent child may arrange for supplemental or
97 separate counsel to represent the child in appellate
98 proceedings. A court order appointing an attorney under this
99 section must be in writing.

100 (6) ~~(5)~~ Unless ~~Except~~ if the attorney has agreed to provide
101 pro bono services, an appointed attorney or organization must be
102 adequately compensated. All appointed attorneys and
103 organizations must be ~~and~~ provided with access to funding for
104 expert witnesses, depositions, and other costs of litigation.
105 Payment to an attorney is subject to appropriations and subject
106 to review by the Justice Administrative Commission for
107 reasonableness. The Justice Administrative Commission shall
108 contract with attorneys appointed by the court. Attorney fees
109 may not exceed \$1,000 per child per year.

110 (7) Appointed attorneys shall, on a quarterly basis, report
111 to the Quality Counsel Program pursuant to s. 27.406 on the
112 activities performed and results obtained on behalf of each
113 dependent child to the extent that such information does not
114 violate any applicable privilege. The form of the report shall



723066

576-03710-16

115 be prescribed by the Justice Administrative Commission.

116 (8)-(6) The department shall develop procedures to identify
117 a dependent child who has a special need specified under
118 subsection (3) and to request that a court appoint an attorney
119 for the child.

120 (9)-(7) The department may adopt rules to administer this
121 section.

122 (10)-(8) This section does not limit the authority of the
123 court to appoint an attorney for a dependent child in a
124 proceeding under this chapter.

125 (11)-(9) Implementation of this section is subject to
126 appropriations expressly made for that purpose.

127 Section 2. Section 27.406, Florida Statutes, is created to
128 read:

129 27.406 Quality Counsel Program.-

130 (1) To ensure that dependent children receive quality
131 representation under chapter 39, the Justice Administrative
132 Commission shall contract with a nonprofit entity to establish
133 the Quality Counsel Program.

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

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

138 (b) Annually report to the Governor, the President of the
139 Senate, the Speaker of the House of Representatives, the Justice
140 Administrative Commission, the statewide Guardian Ad Litem
141 Program, and the Office of the State Courts Administrator on the
142 information provided by appointed attorneys under s. 39.01305,
143 the results obtained on behalf of each dependent child, and



723066

576-03710-16

144 recommendations to enhance the quality of dependent children's
145 representation.

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

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