

By Senator Flores

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1                   A bill to be entitled  
2           An act relating to appointed counsel for children;  
3           amending s. 39.01305, F.S.; revising the conditions  
4           under which an attorney must be appointed for a  
5           dependent child; requiring the court to appoint  
6           substitute counsel under certain circumstances;  
7           requiring the Justice Administrative Commission to  
8           contract with a not-for-profit organization to  
9           establish the Quality Counsel Program; requiring all  
10          compensated counsel to keep contemporaneous time  
11          records and submit an itemized hourly statement to the  
12          commission; specifying a date by which the program  
13          must be completed and operational; specifying minimum  
14          program requirements; providing an effective date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

17  
18           Section 1. Subsection (3), paragraph (b) of subsection (4),  
19           and subsection (5) of section 39.01305, Florida Statutes, are  
20           amended, and subsection (6) of that section is republished, to  
21           read:

22           39.01305 Appointment of an attorney for a dependent child  
23           with certain special needs.—

24           (3) An attorney shall be appointed for a dependent child  
25           who:

26           (a) Resides in a skilled nursing facility or is being  
27           considered for placement in a skilled nursing home;

28           (b) Is prescribed a psychotropic medication but declines  
29           assent to the psychotropic medication;

30           (c) Has a diagnosis of a developmental disability as  
31           defined in s. 393.063;

32           (d) Is being placed in a residential treatment center or

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33 being considered for placement in a residential treatment  
34 center; ~~or~~

35 (e) Is a victim of human trafficking as defined in s.  
36 787.06(2)(d); or

37 (f) Has been identified by the court as having need for  
38 legal representation.

39 (4)

40 (b) After an attorney is appointed, the appointment  
41 continues in effect until the attorney is allowed to withdraw or  
42 is discharged by the court or until the case is dismissed. If an  
43 attorney withdraws or is discharged, the court shall appoint  
44 substitute counsel. An attorney who is appointed under this  
45 section to represent the child shall provide the complete range  
46 of legal services, from the removal from home or from the  
47 initial appointment through all available appellate proceedings.  
48 With the permission of the court, the attorney for the dependent  
49 child may arrange for supplemental or separate counsel to  
50 represent the child in appellate proceedings. A court order  
51 appointing an attorney under this section must be in writing.

52 (5) Except if the attorney has agreed to provide pro bono  
53 services, an appointed attorney or organization must be  
54 adequately compensated. All appointed attorneys or organizations  
55 must be ~~and~~ provided with access to funding for expert  
56 witnesses, depositions, and other costs of litigation. In order  
57 to ensure that children receive quality representation, the  
58 Justice Administrative Commission shall contract with a not-for-  
59 profit organization to establish the Quality Counsel Program.  
60 Payment to an attorney is subject to appropriations and subject  
61 to review by the Justice Administrative Commission for

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62 reasonable. The commission ~~Justice Administrative Commission~~  
63 shall contract with attorneys appointed by the court. Attorney  
64 fees may not exceed \$1,000 per child per year. All compensated  
65 counsel must keep contemporaneous time records and must submit  
66 an itemized hourly statement that complies with the commission  
67 policies and provisions with each billing submission.

68 (6) The department shall develop procedures to identify a  
69 dependent child who has a special need specified under  
70 subsection (3) and to request that a court appoint an attorney  
71 for the child.

72 Section 2. The establishment of the Quality Counsel Program  
73 in s. 39.01305(5), Florida Statutes, may begin upon the  
74 effective date of this act and must be completed and operational  
75 by June 30, 2018. The Quality Counsel Program must, at a  
76 minimum:

77 (1) Require all compensated counsel to keep contemporaneous  
78 time records and submit an itemized hourly statement with each  
79 billing submission. This requirement applies to all new  
80 appointments made after June 30, 2016.

81 (2) Issue payment for services for the legal work  
82 performed.

83 (3) Incentivize organizational legal service providers to  
84 use teams that include individuals who are not attorneys to  
85 provide holistic high-quality representation.

86 (4) Create a Quality Counsel Improvement Program that  
87 includes attorney performance evaluation with individual file  
88 review and courtroom observation.

89 Section 3. This act shall take effect upon becoming a law.