

HB 949

2016

1                   A bill to be entitled  
2           An act relating to attorneys for dependent children  
3           with special needs; amending s. 39.01305, F.S.;  
4           requiring that an attorney be appointed when the court  
5           identifies a child as having a need for legal  
6           representation; requiring that the court appoint  
7           substitute counsel if an attorney withdraws or is  
8           discharged; requiring that all appointed attorneys and  
9           organizations be provided with access to funding for  
10          litigation costs; requiring the Justice Administrative  
11          Commission to contract with a nonprofit entity to  
12          establish the Quality Counsel Program; providing  
13          requirements for counsel in the program; providing  
14          program requirements; providing an effective date.

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

17  
18           Section 1. Paragraphs (d) and (e) of subsection (3) of  
19           section 39.01305, Florida Statutes, are amended, paragraph (f)  
20           is added to that subsection, and paragraph (b) of subsection (4)  
21           and subsection (5) of that section are amended, to 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           (d) Is being placed in a residential treatment center or

27 | being considered for placement in a residential treatment  
 28 | center; ~~or~~

29 | (e) Is a victim of human trafficking as defined in s.  
 30 | 787.06(2)(d); or

31 | (f) Has been identified by the court as having a need for  
 32 | legal representation.

33 | (4)

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

46 | (5) Unless ~~Except if~~ the attorney has agreed to provide  
 47 | pro bono services, an appointed attorney or organization must be  
 48 | adequately compensated. All appointed attorneys and  
 49 | organizations must be ~~and~~ provided with access to funding for  
 50 | expert witnesses, depositions, and other costs of litigation. To  
 51 | ensure that children receive quality representation, the Justice  
 52 | Administrative Commission shall contract with a nonprofit entity

53 to establish the Quality Counsel Program. Payment to an attorney  
54 is subject to appropriations and subject to review by the  
55 Justice Administrative Commission for reasonableness. The  
56 Justice Administrative Commission shall contract with attorneys  
57 appointed by the court. Attorney fees may not exceed \$1,000 per  
58 child per year. Even though counsel compensated under this  
59 subsection are paid a flat fee per child, all compensated  
60 counsel must keep contemporaneous time records and submit an  
61 itemized hourly statement that complies with Justice  
62 Administrative Commission policies and procedures with each  
63 billing submission.

64 Section 2. The Quality Counsel Program is established as  
65 provided in s. 39.01305(5), Florida Statutes, as amended by this  
66 act, on the effective date of this act and must be complete and  
67 fully operational by June 30, 2018. The Quality Counsel Program  
68 must, at a minimum:

69 (1) Effective for all counsel hired on or after June 30,  
70 2016, require all compensated counsel to keep contemporaneous  
71 time records and submit an itemized hourly statement with each  
72 billing submission.

73 (2) Issue payment for legal services promptly after the  
74 work is performed.

75 (3) Incentivize organizational legal service providers to  
76 use teams, including nonattorneys, to provide holistic, high-  
77 quality representation.

78 (4) Create a quality improvement program that includes

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79 | attorney performance evaluation with individual file review and  
80 | courtroom observation.

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