

1 A bill to be entitled

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

21  
22 Be It Enacted by the Legislature of the State of Florida:

23  
24 Section 1. Section 39.01305, Florida Statutes, is amended  
25 to read:

26 39.01305 Appointment of an attorney for a dependent child

27 | ~~with certain special needs.~~

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"  
 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  
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,  
 111 report to the Quality Counsel Program pursuant to s. 27.406 on  
 112 the 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  
 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  
 144 recommendations to enhance the quality of dependent children's  
 145 representation.

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

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