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LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Book) recommended the following:

Senate Amendment (with title amendment)

Delete lines 450 - 631

and insert:

representation of children with diminished capacity;

9. Shall retain responsibility for the quality of contracted services and ensure that, at a minimum, services are delivered in accordance with applicable federal and state statutes and regulations; and

10. Shall submit to the Governor, the President of the



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11 Senate, the Speaker of the House of Representatives, and the
12 Chief Justice of the Supreme Court:

13 a. An interim report describing the progress of the
14 statewide office in meeting the responsibilities described in
15 this paragraph.

16 b. A proposed plan that includes alternatives for meeting
17 the representation needs of children in this state. The plan may
18 include recommendations for implementation in only a portion of
19 this state or phased-in statewide implementation and must
20 include an estimate of the cost of each such alternative.

21 c. An annual status report that includes any additional
22 recommendations for addressing the representation needs of
23 children in this state and related issues.

24 (d) The department or community-based care lead agency
25 shall take any steps necessary to obtain all available federal
26 funding and maintain compliance with eligibility requirements.

27 (e) The statewide office may contract with a local
28 nonprofit agency to provide direct attorney representation to a
29 child, including, but not limited to, representation in the
30 dependency proceeding as provided for in s. 39.831, if the
31 office determines that the contract is the most efficient method
32 to satisfy its statutory duties and if federal funding has been
33 approved for this purpose or the local agency is required in the
34 contract to seek such approval. The office must ensure that
35 reimbursement of any Title IV-E funds is properly documented.

36 1. A local nonprofit agency under contract with the
37 statewide office shall:

38 a. Provide competent representation to all children to whom
39 the agency is appointed, including compliance with the protocols



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40 and standards developed by the statewide office with respect to
41 its representation;

42 b. Ensure that any documentation that is required for
43 reimbursement of any Title IV-E funds is provided to the
44 statewide office on a monthly basis;

45 c. Provide accurate and timely information that is
46 necessary for the statewide office to provide oversight and
47 comply with its requirements under this section;

48 d. Ensure all staff comply with mandatory training as
49 required by the statewide office; and

50 e. Comply with federal and state statutory requirements and
51 provisions as required under the contract.

52 2. A contract established between the statewide office and
53 any local nonprofit agency must be funded by a grant of general
54 revenue, other applicable state funds, or applicable federal
55 funding sources. Unless otherwise provided by law, nothing in
56 this paragraph shall preclude such an agency from raising funds
57 by other means.

58 a. The method of payment and distribution of funds must be
59 provided for in the contract between the statewide office and a
60 local nonprofit agency; and

61 b. Each contract with a local nonprofit agency shall
62 provide for the payment by the department to the agency of a
63 reasonable administrative cost in addition to funding for the
64 provision of services.

65 (2) REGIONAL OFFICES OF CHILD REPRESENTATION.—An office of
66 child representation is created within the area served by each
67 of the five district courts of appeal. The offices shall
68 commence fulfilling their statutory purpose and duties on July



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69 1, 2022.

70 (3) CHILD REPRESENTATION COUNSEL; DUTIES.—The child
71 representation counsel shall serve on a full-time basis and may
72 not engage in the private practice of law while holding office.
73 Each assistant child representation counsel shall give priority
74 and preference to his or her duties as assistant child
75 representation counsel and may not otherwise engage in the
76 practice of dependency law. However, a part-time child
77 representation counsel may practice dependency law for private
78 payment so long as the representation does not result in a legal
79 or ethical conflict of interest with a case in which the office
80 of child representation is providing representation.

81 Section 8. Section 39.831, Florida Statutes, is created to
82 read:

83 39.831 Attorney for the child.—

84 (1) APPOINTMENT.—

85 (a) An attorney for the child:

86 1. Shall be appointed by the court as provided in s.

87 39.01305(3);

88 2. Shall be appointed by the court for any child who is
89 placed in out-of-home licensed care on or after July 1, 2022,
90 and who is the subject of a dependency proceeding under this
91 chapter; or

92 3. May be appointed at the court's discretion to represent
93 a child who is the subject of a dependency proceeding upon a
94 finding that circumstances exist which require the appointment.

95 (b) The court who appoints an attorney for the child under
96 paragraph (a) shall appoint the Statewide Office of Child
97 Representation unless the child is otherwise represented by



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98 counsel.

99 (c) An attorney for the child appointed pursuant to this
100 section shall represent the child only in the dependency
101 proceeding, which may include representation in fair hearings
102 and appellate proceedings that are directly related to matters
103 needing resolution for the child to achieve permanency. The
104 Statewide Office of Child Representation or local nonprofit
105 agency appointed to represent a child in the dependency
106 proceeding shall provide representation in fair hearings within
107 the resources allotted for representation in the dependency
108 proceeding. Trained staff of the office of child representation
109 or local nonprofit agency may attend the fair hearings rather
110 than the appointed attorney when appropriate. Trained staff for
111 purposes of this paragraph may include, but is not limited to,
112 social workers, case managers, education advocates, or health
113 care advocates.

114 (d) Notwithstanding the basis on which an attorney for the
115 child is appointed under paragraph (a), the appointment of the
116 attorney for the child continues in effect until the attorney
117 for the child is allowed to withdraw or is discharged by the
118 court or until the case is dismissed. An attorney for the child
119 who is appointed under this section to represent a child shall
120 provide all required legal services in the dependency proceeding
121 or fair hearings provided for in this section from the time of
122 the child's removal from home or of the attorney for the child's
123 initial appointment through all appellate proceedings. With the
124 permission of the court, the appointed attorney for the child
125 may arrange for supplemental or separate counsel to represent
126 the child in appellate proceedings. A court order appointing an



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127 attorney for the child under this section must be in writing.

128 (e) If, at any time during the representation of two or
129 more children in a dependency proceeding, a child representation
130 counsel determines that the interests of those clients are so
131 adverse or hostile that they cannot all be counseled by child
132 representation counsel or his or her staff because of a conflict
133 of interest, the child representation counsel shall file a
134 motion to withdraw and move the court to appoint other counsel.
135 Child representation counsel may not automatically determine the
136 appointment to represent siblings is a conflict of interest. If
137 requested by the Justice Administrative Commission, the child
138 representation counsel shall submit a copy of the motion to the
139 Justice Administrative Commission at the time it is filed with
140 the court. The court shall review and may inquire or conduct a
141 hearing into the adequacy of the child representation counsel's
142 submissions regarding a conflict of interest without requiring
143 the disclosure of any confidential communications. The court
144 shall deny the motion to withdraw if the court finds the grounds
145 for withdrawal are insufficient or the asserted conflict is not
146 prejudicial to the client. If the court grants the motion to
147 withdraw, the court shall appoint one or more private attorneys
148 to represent the person in accordance with the requirements and
149 process provided for in s. 27.40. The clerk of court shall
150 inform the child representation counsel and the commission when
151 the court appoints private counsel.

152 (f) Unless the attorney has agreed to provide pro bono
153 services, an appointed attorney or organization must be
154 adequately compensated as provided in s. 27.5304. All appointed
155 attorneys and organizations, including pro bono attorneys, must



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156 be provided with access to funding for expert witnesses,
157 depositions, and other due process costs of litigation. Payments
158 of attorney fees and case-related due process costs are subject
159 to appropriations and review by the Justice Administrative
160 Commission for reasonableness. The Justice Administrative
161 Commission shall contract with attorneys appointed by the court.
162 Attorney fees may not exceed \$1,000 per child per year.

163 (g) In cases in which one or both parents are financially
164 able, the parent or parents, as applicable, of the child shall
165 reimburse the court, in whole or in part, for the cost of
166 services provided under this section; however, reimbursement for
167 services provided by the attorney for the child may not be
168 contingent upon successful collection by the court of
169 reimbursement from the parent or parents.

170 (2) ACCESS TO RECORDS.—Upon presentation of a court order
171 appointing an attorney for the child:

172 (a) An agency as defined in chapter 119 must allow the
173 attorney for the child to inspect and copy records related to
174 the child who is the subject of the appointment, including, but
175 not limited to, records made confidential or exempt from s.
176 119.07(1) or s. 24(a), Art. I of the State Constitution. The
177 attorney for the child shall maintain the confidential or exempt
178 status of any records shared by an agency under this paragraph.

179 (b) A person or an organization, other than an agency under
180 paragraph (a), must allow the attorney for the child to inspect
181 and copy any records related to the child who is the subject of
182 the appointment, including, but not limited to, confidential
183 records.

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185 For the purposes of this subsection, the term "records"
186 includes, but is not limited to, medical, mental health,
187 substance abuse, child care, education, law enforcement, court,
188 social services, and financial records.

189 (3) COURT HEARINGS.—The attorney for the child shall review
190 all disposition recommendations and changes in placements and
191 file all appropriate motions on behalf of the child at least 72
192 hours before the hearing.

193 (4) PROCEDURES.—The department shall develop procedures to
194 request that a court appoint an attorney for the child.

195 (5) RULEMAKING.—The department may adopt rules to implement
196 this section.

197 Section 9. Subsection (1) of section 28.345, Florida
198 Statutes, is amended to read:

199 28.345 State access to records; exemption from court-
200 related fees and charges.—

201 (1) Notwithstanding any other provision of law, the clerk
202 of the circuit court shall, upon request, provide access to
203 public records without charge to the state attorney, public
204 defender, guardian ad litem, public guardian, ~~attorney ad litem,~~
205 criminal conflict and civil regional counsel, court-appointed
206 attorney for the child, and private court-appointed counsel paid
207 by the state, and to authorized staff acting on their behalf.
208 The clerk of court may provide the requested public record in an
209 electronic format in lieu of a paper format if the requesting
210 entity is capable of accessing such public record
211 electronically.

212 Section 10. Section 29.007, Florida Statutes, is amended to
213 read:



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214 29.007 Court-appointed counsel.—For purposes of
215 implementing s. 14, Art. V of the State Constitution, the
216 elements of court-appointed counsel to be provided from state
217 revenues appropriated by general law are as follows:

218 (1) Private attorneys appointed by the court to handle
219 cases where the defendant is indigent and cannot be represented
220 by the public defender or the office of criminal conflict and
221 civil regional counsel.

222 (2) When the office of criminal conflict and civil regional
223 counsel has a conflict of interest, private attorneys appointed
224 by the court to represent indigents or other classes of
225 litigants in civil proceedings requiring court-appointed counsel
226 in accordance with state and federal constitutional guarantees
227 and federal and state statutes.

228 (3) When the Statewide Office of Child Representation or a
229 local nonprofit agency with which it has contracted has a
230 conflict of interest, private attorneys appointed by the court
231 to represent indigents or other classes of litigants in civil
232 proceedings requiring court-appointed counsel in accordance with
233 federal and state statutes.

234 (4)~~(3)~~ Reasonable court reporting and transcription
235 services necessary to meet constitutional or statutory
236 requirements, including the cost of transcribing and copying
237 depositions of witnesses and the cost of foreign language and
238 sign-language interpreters and translators.

239 (5)~~(4)~~ Witnesses, including expert witnesses, summoned to
240 appear for an investigation, preliminary hearing, or trial in a
241 case when the witnesses are summoned on behalf of an indigent,
242 and any other expert witnesses approved by the court.



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243 (6)~~(5)~~ Mental health professionals appointed pursuant to s.
244 394.473 and required in a court hearing involving an indigent,
245 mental health professionals appointed pursuant to s. 916.115(2)
246 and required in a court hearing involving an indigent, and any
247 other mental health professionals required by law for the full
248 adjudication of any civil case involving an indigent person.

249 (7)~~(6)~~ Reasonable pretrial consultation fees and costs.

250 (8)~~(7)~~ Travel expenses reimbursable under s. 112.061
251 reasonably necessary in the performance of constitutional and
252 statutory responsibilities.

253
254 Subsections ~~(3)~~, ~~(4)~~, (5), (6), ~~and (7)~~, and (8) apply when
255 court-appointed counsel is appointed; when the court determines
256 that the litigant is indigent for costs; or when the litigant is
257 acting pro se and the court determines that the litigant is
258 indigent for costs at the trial or appellate level. This section
259 applies in any situation in which the court appoints counsel to
260 protect a litigant's due process rights. The Justice
261 Administrative Commission shall approve uniform contract forms
262 for use in processing payments for due process services under
263 this section. In each case in which a private attorney
264 represents a person determined by the court to be indigent for
265 costs, the attorney shall execute the commission's contract for
266 private attorneys representing persons determined to be indigent
267 for costs.

268
269 ===== T I T L E A M E N D M E N T =====

270 And the title is amended as follows:

271 Delete lines 49 - 61



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272 and insert:
273 nonprofit agencies under certain conditions; providing
274 for duties of contracted local nonprofit agencies and
275 requirements related to funding; creating a regional
276 office of child representation within the boundaries
277 of each of the five district courts of appeal;
278 requiring such offices to commence fulfilling their
279 purpose and duties on a specified date; prescribing
280 qualifications for child representation counsel;
281 providing certain prohibitions; amending s. 29.007,
282 F.S., providing that private attorneys who are court-
283 appointed when the office of child representation or a
284 local nonprofit agency have a conflict of interest
285 must be funded by state revenue; creating s.