

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

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BILL: SB 1920

INTRODUCER: Senator Book

SUBJECT: Child Welfare

DATE: March 15, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Moody</u>	<u>Cox</u>	<u>CF</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>ACJ</u>	_____
3.	_____	_____	<u>AP</u>	_____

**I. Summary:**

SB 1920 creates the Statewide Office of Child Representation (OCR) and makes a number of changes to various provisions related to guardians ad litem (GAL) under ch. 39, F.S., and regarding attorney representation for the child.

The bill provides that on or after July 1, 2022, a GAL must be appointed in specified circumstances including a dependency proceeding or “related adoption proceeding” as defined in s. 39.820, F.S. The guardian ad litem program (GALP) must be discharged within 60 days after a child reaches 10 years old except in limited cases.

The bill defines a “conflict of interest” with respect to GAL volunteers and requires the GALP to develop guidelines to identify when there is reasonable cause to suspect an assigned GAL has a conflict of interest. The bill also requires the court to order that a new GAL be assigned or appoint an attorney for the child when such circumstances exist. Further, the GALP must identify any GAL who is experiencing a physical or mental health issue or who appears to present a danger to any child, and remove him or her from all assigned cases and terminate his or her volunteer services.

The GAL Qualifications Committee is redesignated as the Child Well-Being Qualifications Committee. The bill provides that the executive director of the GALP may be reappointed to serve more than one term and the reappointment process must be made in accordance with the initial appointment process.

The OCR is established within the Justice Administrative Commission and is structured with requirements substantially similar to current law relating to the GALP. Regional Offices are created within the area serviced by each of the five district court of appeals. Child Representation Counsel (CRC) must comply with proscribed duties. The bill provides specified duties for the OCR and the Department of Children and Families (DCF) is required to take any necessary steps

to obtain federal funding for the OCR. The OCR may contract with a local nonprofit agency to provide direct representation for the child.

Section 39.831, F.S., is created to make provisions regarding when an “attorney for the child,” as defined in the bill, must or may be appointed. The bill sets out several other provisions regarding an attorney for the child, including when the OCR must be appointed, when the attorney for the child may withdraw or be discharged, his or her access to records, and requirement to file all appropriate motions at least 72 hours before a court hearing.

Several sections are amended to conform cross-referencing and provisions to changes made by the act.

The bill will likely result in an indeterminate positive impact on state expenditures. The GALP reports an indeterminate fiscal impact of the bill as it is unknown how many children will meet the criteria under s. 39.822(1)(b), F.S. Further, the JAC states that the bill will likely have a substantial fiscal impact on the JAC through an increased workload. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2021.

## II. Present Situation:

Current law requires any person who knows or suspects that a child has been abused, abandoned, or neglected to report such knowledge or suspicion to the Florida central abuse hotline (hotline).<sup>1</sup> A child protective investigation begins if the hotline determines the allegations meet the statutory definition of abuse,<sup>2</sup> abandonment,<sup>3</sup> or neglect.<sup>4</sup> A child protective investigator investigates the situation either immediately, or within 24 hours after the report is received, depending on the nature of the allegation.<sup>5</sup>

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<sup>1</sup> Section 39.201(a), F.S.

<sup>2</sup> Section 39.01(2), F.S. The term “abuse” means any willful act or threatened act that results in any physical, mental, or sexual abuse, injury, or harm that causes or is likely to cause the child’s physical, mental, or emotional health to be significantly impaired. Abuse of a child includes the birth of a new child into a family during the course of an open dependency case when the parent or caregiver has been determined to lack the protective capacity to safely care for the children in the home and has not substantially complied with the case plan towards successful reunification or met the conditions for return of the children into the home. Abuse of a child includes acts or omissions. Corporal discipline of a child by a parent or legal custodian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child.

<sup>3</sup> Section 39.01(1), F.S. The term “abandoned” or “abandonment” means a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the caregiver, while being able, has made no significant contribution to the child’s care and maintenance or has failed to establish or maintain a substantial and positive relationship with the child, or both.

<sup>4</sup> Sections 39.01(50) and 39.201(2)(a), F.S. “Neglect” occurs when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child’s physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired. The foregoing circumstances shall not be considered neglect if caused primarily by financial inability unless actual services for relief have been offered to and rejected by such person. A parent or legal custodian legitimately practicing religious beliefs in accordance with a recognized church or religious organization who thereby does not provide specific medical treatment for a child may not, for that reason alone, be considered a negligent parent or legal custodian; however, such an exception does not preclude a court from ordering necessary services.

<sup>5</sup> Section 39.201(5), F.S.

After conducting an investigation, if the child protective investigator determines that the child is in need of protection and supervision that necessitates removal, the investigator may initiate formal proceedings to remove the child from his or her home. When the Department of Children and Families (DCF) removes a child from the home, a series of dependency court proceedings must occur before a child may be adjudicated dependent.<sup>6</sup> The dependency court process is summarized in the table below.

**The Dependency Court Process**

<b>Dependency Proceeding</b>	<b>Description of Process</b>	<b>Controlling Statute</b>
Removal	A child protective investigation determines the child’s home is unsafe, and the child is removed.	s. 39.401, F.S.
Shelter Hearing	A shelter hearing occurs within 24 hours after removal. The judge determines whether to keep the child out-of-home.	s. 39.401, F.S.
Petition for Dependency	A petition for dependency occurs within 21 days of the shelter hearing. This petition seeks to find the child dependent.	s. 39.501, F.S.
Arraignment Hearing and Shelter Review	An arraignment and shelter review occurs within 28 days of the shelter hearing. This allows the parent to admit, deny, or consent to the allegations within the petition for dependency and allows the court to review any shelter placement.	s. 39.506, F.S.
Adjudicatory Trial	An adjudicatory trial is held within 30 days of arraignment. The judge determines whether a child is dependent during trial.	s. 39.507, F.S.
Disposition Hearing	If the child is found dependent, disposition occurs within 15 days of arraignment or 30 days of adjudication. The judge reviews the case plan and placement of the child. The judge orders the case plan for the family and the appropriate placement of the child.	s. 39.506, F.S. s. 39.521, F.S.
Postdisposition hearing	The court may change temporary placement at a postdisposition hearing any time after disposition but before the child is residing in the permanent placement approved at a permanency hearing.	s. 39.522, F.S.
Judicial Review Hearings	The court must review the case plan and placement every 6 months, or upon motion of a party.	s. 39.701, F.S.
Petition for Termination of Parental Rights	Once the child has been out-of-home for 12 months, if DCF determines that reunification is no longer a viable goal, and other requirements are met, a petition for termination of parental rights is filed.	s. 39.802, F.S. s. 39.8055, F.S. s. 39.806, F.S. s. 39.810, F.S.

<sup>6</sup> See s. 39.01(15), F.S., for the definition of “child who is found to be dependent”.

Advisory Hearing	This hearing is set as soon as possible after all parties have been served with the petition for termination of parental rights. The hearing allows the parent to admit, deny, or consent to the allegations within the petition for termination of parental rights.	s. 39.808, F.S.
Adjudicatory Hearing	An adjudicatory trial shall be set within 45 days after the advisory hearing. The judge determines whether to terminate parental rights to the child at this trial.	s. 39.809, F.S.

**Attorney Representation in Dependency Cases**

An attorney must comply with the Florida Rules of Professional Conduct promulgated by the Florida Bar. An attorney must zealously advocate for his or her client and must abide by a client’s decision on how to proceed in a matter.<sup>7</sup> This means the client has authority to decide the purpose and scope of the attorney’s representation, within the limits imposed by law and the attorney’s professional obligations, including for instance whether to settle a matter.<sup>8</sup> An attorney has an obligation to communicate with his or her client about such decisions,<sup>9</sup> and should try to reach a mutually agreeable resolution with his or her client if a disagreement arises on how to proceed.<sup>10</sup>

***Attorney Duties and Conflicts of Interest***

Attorneys are required to adhere to specified duties within the Rules of Professional Conduct. For instance, an attorney has duties of loyalty and confidentiality to his client.<sup>11</sup> An attorney must be competent to represent his or her client, and must act with reasonable diligence and promptness in representing a client.<sup>12</sup>

The Rules of Professional Conduct also contain provisions regarding how an attorney must handle circumstances in which conflict of interest exists.<sup>13</sup> This includes, in part, when an attorney has a conflict with a current<sup>14</sup> or former client<sup>15</sup> as well as prohibited transactions.<sup>16</sup> An attorney must not represent a client whose interests are directly adverse to another client, or there is a substantial risk that representation of the client would materially limit the attorney’s representation of another client, a former client or personal interest of the lawyer, except when the client waives the conflict in specified circumstances.<sup>17</sup> This means an attorney must not represent opposing parties in litigation.<sup>18</sup> Further, an attorney generally may not use information to the disadvantage of a client without informed consent, unless otherwise permitted in the rules.<sup>19</sup>

<sup>7</sup> Rules Regulating the Fla. Bar 4-1.2.

<sup>8</sup> *Id.*

<sup>9</sup> Rules Regulating the Fla. Bar 4-1.2 and 4-1.4(a)(1).

<sup>10</sup> Rules Regulating the Fla. Bar 4-1.2.

<sup>11</sup> Rules Regulating the Fla. Bar 4-1.6 and 4-1.7.

<sup>12</sup> Rules Regulating the Fla. Bar 4-1.1 and 4-1.3.

<sup>13</sup> *See* Rules Regulating the Fla. Bar 4-1.7 to 4-1.11.

<sup>14</sup> Rules Regulating the Fla. Bar 4-1.7

<sup>15</sup> Rules Regulating the Fla. Bar 4-1.9.

<sup>16</sup> Rules Regulating the Fla. Bar 4-1.8.

<sup>17</sup> Rules Regulating the Fla. Bar 4-1.7(a).

<sup>18</sup> Rules Regulating the Fla. Bar 4-1.7.

<sup>19</sup> Rules Regulating the Fla. Bar 4-1.8(b).

An attorney must not represent a client if his or her representation will result in a violation of the Rules of Professional Conduct or law, or the attorney's physical or mental condition materially impairs his or her ability to represent the client.<sup>20</sup> In such instances, the attorney must not commence representation or must withdraw as counsel if specified conditions are met.<sup>21</sup>

### ***Attorney for the DCF***

The DCF must be represented by counsel in dependency and termination of parental rights proceedings.<sup>22</sup> The DCF, through its counsel, must make recommendations to the court and may present evidence including testimony from its own employees or employees of its agents, subcontractors, or other community providers.<sup>23</sup> The DCF may enter into a contract for the provision of children legal services, and all counsel included those contracted must adopt the child welfare practice model as proscribed by the DCF.<sup>24</sup>

Except when legal representation is contracted out, the State of Florida is represented by Children Legal Services through the DCF.<sup>25</sup> The DCF is required to contract with the state attorney in the sixth judicial circuit for children legal services.<sup>26</sup> The DCF contracts with the Florida Attorney General's Office to provide children legal services in Hillsborough and Broward counties.<sup>27</sup>

### ***Attorney for the parents***

Parents have the right to be represented by counsel in dependency proceedings, and they must be informed of this right at each stage of the dependency proceedings.<sup>28</sup> The court must appoint counsel to represent parents who are indigent.<sup>29</sup> The Office of Criminal Conflict and Civil Regional Counsel (OCCCRC) has primary responsibility for representing parents in proceedings under ch. 39, F.S.<sup>30</sup> If OCCCRC has a conflict of interest in representing a parent or parents, private counsel who must be selected from a registry is appointed on a rotating basis.<sup>31</sup> The private attorneys contract with the JAC under specified terms to provide such services.<sup>32</sup>

### ***Attorney for the child (Sections 1-2 and 8)***

#### Attorney representation of children

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<sup>20</sup> Rules Regulating the Fla. Bar 4-1.16(a), F.S.

<sup>21</sup> Rules Regulating the Fla. Bar 4-1.16(a) and (b), F.S.

<sup>22</sup> Section 39.013(12), F.S.

<sup>23</sup> *Id.*

<sup>24</sup> Section 409.996(18), F.S.

<sup>25</sup> The DCF, *Children Legal Services Overview*, available at <https://www.myflfamilies.com/service-programs/childrens-legal-services/overview.shtml> (last visited March 15, 2021).

<sup>26</sup> Section 409.996(18)(a), F.S.

<sup>27</sup> The Office of Attorney General State of Florida, *Children's Legal Services Bureau*, available at <http://myfloridalegal.com/pages.nsf/Main/27E91605D4750EBF85256CCB006E66D3> (last visited March 15, 2021).

<sup>28</sup> Section 39.013(1), F.S.

<sup>29</sup> Section 39.013(9)(a), F.S.

<sup>30</sup> Section 27.511(6)(a), F.S.

<sup>31</sup> Section 27.40(2) and (3), F.S.

<sup>32</sup> Section 27.40(3) and (5), F.S.

An attorney should, as far as reasonably practical, maintain a normal attorney-client relationship when a client’s ability to make an adequately informed decision is impaired, such as in representation of a minor child.<sup>33</sup> An attorney may seek the appointment of a guardian if he or she reasonably believes the client is not able to adequately act in his or her own interest.<sup>34</sup> The Rules of Professional Conduct acknowledge that the law recognizes intermediate degrees of competence, and explicitly provides that children ages 10 or 12 are regarded as having opinions which are entitled to be considered in respect of legal proceedings concerning their custody.<sup>35</sup>

Child Representation Models

Child representation in dependency proceedings varies but in most instances is based on what is in the child’s best interest, direct representation, or a hybrid approach.<sup>36</sup> A summary of the different models and how they operate is set out in the table below.<sup>37</sup>

**Exhibit 3**  
**States’ Models of Representation for Children in Dependency Proceedings Fall Into Six Categories**

Representation Model	Number of States That Use Model	Description
Age Dependent	4	Children in these states receive different types of representation depending on their age. In these states, older children receive a client-directed attorney, and younger children receive a GAL.
Best Interest (attorney or professional)	20	Children in these states always receive a GAL who is required to be either an attorney or a professional (e.g., professional GAL or mental health counselor). These states may also allow for the appointment of a client-directed attorney at the discretion of the judge or in certain circumstances.
Best Interest (lay volunteer)	12	Children in these states always receive a GAL, who is not required to be an attorney. These states may also allow for the appointment of a client-directed attorney at the discretion of the judge or in certain circumstances.
Client-Directed Attorney	7	Children in these states always receive a client-directed attorney. These states may also allow for the appointment of a separate GAL or CASA at the discretion of the judge or in certain circumstances.
Hybrid	6	Children in these states always receive both a client-directed attorney and a GAL.
Multidisciplinary Team	2	Children in these states are represented by a GAL team, made up of a volunteer, a staff advocate, and an attorney.

Source: OPPAGA analysis of state statutes and court rules.

Office of Child Representation (Section 7)

Florida law does not currently provide for an OCR. Colorado and Travis County, Texas, however, do have offices of child representation. The Colorado Office of Child’s Representative (COCR) is a state agency that was established in 2000 to provide representation to children.<sup>38</sup> The COCR represent children in several types of cases, including:

<sup>33</sup> Rules Regulating the Fla. Bar 4-1.14.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> The Office of Program Policy Analysis and Government Accountability (OPPAGA), *OPPAGA Review of Florida’s Guardian ad Litem Program, Presentation to the Senate Committee on Children, Families, and Elder Affairs*, p. 9, January 26, 2021, available at <https://oppaga.fl.gov/Documents/Presentations/GAL%20Presentation%201-26-21.pdf> (last visited March 15, 2021) (hereinafter cited as “OPPAGA Presentation”).

<sup>37</sup> OPPAGA, *OPPAGA Review of Florida’s Guardian ad Litem Program*, p. 5 and 34, December 2020 (on file with the Committee on Children, Families, and Elder Affairs) (hereinafter cited as “The OPPAGA Memo”).

<sup>38</sup> The COCR, *What We Do*, available at <https://coloradochildrep.org/about-ocr/> (last visited March 15, 2021).

- Dependency and Neglect;
- Juvenile Delinquency;
- Domestic Relations; and
- Adoption, Truancy, Probation, Mental Health, and Paternity.<sup>39</sup>

All COCR attorneys are trained on the law, social science research, child development, mental health and education issues, and best practices in court proceedings.<sup>40</sup> A Colorado court must appoint a GAL in dependency and neglect cases to represent the child’s best interest, and must appoint an OCR attorney to act as the child’s counsel when the child faces contempt citations or the court has determined that the child holds his or her own patient-therapist privilege.<sup>41, 42</sup> The COCR is responsible for overseeing both roles as a GAL and as counsel for the children, if applicable.<sup>43</sup> When COCR is appointed as counsel for the child, the attorney has a traditional attorney-client role in which he or she represents the child’s wishes in court proceedings.<sup>44</sup>

In Colorado, a GAL is a COCR attorney who is appointed to represent the best interest of the child which means that the COCR attorney does not advocate for the child’s express wishes in a traditional attorney-client role.<sup>45</sup> Instead, the GAL must advocate for the child’s health, safety, and well-being, and his or her advocacy must align with the interests and needs of the child.<sup>46</sup> The GAL has specified requirements that must be met, including attend all court hearings and conduct an independent investigation which must continue throughout the duration of the case.<sup>47</sup>

The Travis County, Texas Office of Children Representation (TOCR), however, provides legal representation to children who are the subject of dependency cases only.<sup>48</sup> The TOCR counsel act in a traditional attorney-client role and represent children’s legal interests.<sup>49</sup>

#### Representation under current Florida law

Section 39.01305, F.S., provides that an attorney must be appointed to represent a dependent child<sup>50</sup> who has the following special needs:

- Resides in or is being considered for placement in a skilled nursing home;
- Is prescribed psychotropic medication but does not agree to take it;

<sup>39</sup> *Id.*

<sup>40</sup> The COCR, *Case Types Covered by OCR Attorneys*, available at <https://coloradochildrep.org/about-ocr/ocr-cases/> (last visited March 15, 2021).

<sup>41</sup> *L.A.N. et al. v. L.M.B.*, 11 SC 529 (Jan. 22, 2013) (finding that a GAL holds a child’s psychotherapist-patient privilege when: (1) the child is too young or incompetent to hold the privilege; (2) the child’s interests are adverse to those of his or her parent(s); and (3) section 19-3-311, C.R.S. (2012) does not abrogate the privilege).

<sup>42</sup> The COCR, *Dependency & Neglect Cases*, available at <https://coloradochildrep.org/about-ocr/ocr-cases/dependency-and-neglect/> (last visited March 15, 2021) (hereinafter cited as “D&N Cases”).

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> D&N Cases.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> Travis County, Tx Gov, *The Office of Child Representation*, available at <https://www.traviscountytexas.gov/criminal-justice/child-representation> (last visited March 15, 2021) (hereinafter cited as “TOCR website”).

<sup>49</sup> *Id.*

<sup>50</sup> Section 39.01305(2), F.S., defines “dependent child” as a child who is subject to any proceeding under ch. 39, F.S. The term does not require that a child be adjudicated dependent for purposes of this section.

- Has a diagnosis of a developmental disability;<sup>51</sup>
- Is being placed or is being considered for placement in a residential treatment center; or
- Is a victim of human trafficking.<sup>52</sup>

A court is not restricted to appointing an attorney to represent a child for the reasons listed above.<sup>53</sup>

The court must request a recommendation from the GALP for an attorney who is willing to represent a child without additional compensation before a court may appoint one under s. 39.01305(4)(a), F.S. If the GAL recommends an attorney who is available within 15 days from the date of the court's request, the court must appoint that attorney.<sup>54</sup> The court may appoint an attorney who will receive additional compensation within 15 days if the GALP notifies the court that it will not be able to make a recommendation within the specified time.<sup>55</sup>

An attorney who is appointed to represent a child continues to be appointed until the attorney is allowed to withdraw or is discharged by the court or until the case is dismissed.<sup>56</sup> An attorney who is appointed must provide a range of legal services including from removal or appointment through any appellate proceedings.<sup>57</sup> The appointment must be in writing and the attorney must be adequately compensated unless he or she was agreed to provide pro bono services.<sup>58</sup> The Justice Administrative Commission must contract with attorneys appointed by the court and their fees may not exceed \$1,000 per child per year.<sup>59</sup>

There are several local legal aid society or other nonprofit organizations that offer free legal representation to children in dependency cases.<sup>60</sup> At least some of these organizations receive government funding.<sup>61</sup> For instance, the Legal Aid Society of Palm Beach County receives public grants, such as the U.S. Department of Justice under the Violence against Women Act, and private grants, such as William and Helen Thomas Charitable Foundation.<sup>62</sup> Legal Aid

<sup>51</sup> Section 393.063(12), F.S., defines “developmental disability” as a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely. *See* s. 393.063, F.S., for other definitions related to developmental disability.

<sup>52</sup> Section 787.06(2)(d), F.S., defines “human trafficking” as transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploitation of that person.

<sup>53</sup> Section 39.01305(8), F.S.

<sup>54</sup> Section 39.01305(4)(a), F.S.

<sup>55</sup> *Id.*

<sup>56</sup> Section 39.01305(4)(b), F.S.

<sup>57</sup> *Id.*

<sup>58</sup> Section 39.01305(4)(b) and (5), F.S.

<sup>59</sup> Section 39.01305(5), F.S.

<sup>60</sup> *See* Legal Aid Service of Broward County, *What We Do, Areas of Legal Service*, available at <https://www.browardlegalaid.org/what-we-do/areas-of-legal-service/>; Dade Legal Aid, *Main, Free Legal Help*, available at <http://www.dadegalaid.org/>; Legal Aid Service of Collier County, *Services Offered*, available at <http://www.collierlegalaid.org/services-offered/>; Bay Area Legal Services, *Family & Children*, available at <https://bals.org/help/family-children/>; and Legal Aid Society of Palm Beach County, *Legal Help, Children*, available at <https://legalaidpbc.org/children/> (all sites last visited March 15, 2021).

<sup>61</sup> *See* Legal Aid Service of Broward County, *Children & Education*, available at <https://www.browardlegalaid.org/what-we-do/areas-of-legal-service/children-education/> (last visited March 15, 2021).

<sup>62</sup> Legal Aid Society of Palm Beach County, *Funding*, available at <https://legalaidpbc.org/funding/> (last visited March 15, 2021).



Service of Broward County, however, receives funding from the Children’s Services Council of Broward County (CSCBC).<sup>63</sup> In many instances, these organizations rely on donations and pro bono attorneys who donate their services to provide representation to children who are the subject of a dependency case.<sup>64</sup>

### **Guardian ad Litem (Sections 3-6)**

#### Appointment and Discharge

Federal and Florida law provide that a guardian ad litem must be appointed to represent the child in every case.<sup>65</sup> The Child Abuse Prevention and Treatment Act makes the approval of grants contingent on a eligible state plans which must include provisions and procedures to appoint a guardian ad litem in every case.<sup>66</sup> The GAL must be appointed to:

- Obtain first-hand knowledge of the child’s situation and needs; and
- Make recommendations to the court regarding the best interest of the child.<sup>67</sup>

Under Florida law, a court must appoint a GAL at the earliest possible time to represent the child in a dependency proceeding.<sup>68</sup> The GALP publishes monthly representation reports which summarize, in part, the number of reported dependent children, the GALPs appointments in those cases, and the number of certified volunteer GALs.<sup>69</sup> The December 2020 Representation Report details the following statistics:

- The Office of State Courts Administrator reports there are 31,288 children who are the subject of a dependency case.<sup>70</sup>
- The GALP reports that 22,960 children are appointed to the program, and there are 11,116 certified case volunteers including pro bono attorneys.<sup>71</sup>
- The GALP reports 98 newly certified case volunteers in its December 2020 report.<sup>72</sup>

In some cases, the GALP may discharge from a case when a child’s permanency goal has been established and the child is in a stable placement.<sup>73</sup> A summary of the reasons the GALP has

<sup>63</sup> See Legal Aid Service of Broward County, *Children & Education*, available at <https://www.browardlegalaid.org/what-we-do/areas-of-legal-service/children-education/> (last visited March 15, 2021). The CSCBC is an independent taxing authority created by voters in 2000 and reauthorized in 2014, and its purpose is to provide advocacy and resources to children of Broward County. The CSCBC, *About Us*, available at <https://www.cscbroward.org/about> (last visited March 15, 2021).

<sup>64</sup> See Legal Aid Service of Broward County, *Get Involved with Legal Aid*, available at <https://www.browardlegalaid.org/get-involved/>; Dade Legal Aid, *Pro Bono Enrollment (Attorney)*, available at <http://www.dadelegalaid.org/psb-enrollment-form-attorneys/>; Dade Legal Aid, *Donations through The Miami Foundation*, available at <http://www.dadelegalaid.org/donations-through-the-miami-foundation/>; Bay Area Legal Services, *Justice Works! The Campaign for Bay Area Legal Services*, available at <https://bals.org/support>; and Bay Area Legal Services, *Volunteer Lawyers Program*, available at <https://bals.org/volunteer> (all sites last visited March 15, 2021).

<sup>65</sup> 42 U.S.C. 67 §5106a.(b)(2)(xiii); Section 39.822(1), F.S.

<sup>66</sup> 42 U.S.C. 67 §5106a.(b)(2)(xiii).

<sup>67</sup> *Id.*

<sup>68</sup> Section 39.822(1), F.S.

<sup>69</sup> See the GAL for Children, *Florida Guardian ad Litem Program, Monthly Representation Report: December 2020*, available at <https://guardianadlitem.org/wp-content/uploads/2021/01/Representation-Report-December-2020.pdf> (last visited March 15, 2021) (hereinafter cited as “December 2020 Representation Report”).

<sup>70</sup> *Id.*

<sup>71</sup> December 2020 Representation Report.

<sup>72</sup> *Id.*

<sup>73</sup> The OPPAGA Memo at p. 15.

been discharged from dependency cases from 2016 to 2020 by Fiscal Year is summarized in the table below.<sup>74</sup>

**Exhibit 6**

**Closure Reasons Reported by GAL Program Remained Stable From Fiscal Year 2016-17 Through the First Half of Fiscal Year 2019-20<sup>1</sup>**

GAL Program Closure Reason for GAL Program Closures	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20 <sup>1</sup>	Four-Year Total
Reunification	29%	31%	29%	31%	30%
Adoption	18%	18%	20%	19%	19%
Permanency Goal Established <sup>2</sup>	18%	19%	23%	22%	21%
Permanent Guardianship	17%	15%	13%	12%	15%
Other <sup>3</sup>	9%	9%	6%	6%	8%
Insufficient Program Resources <sup>4</sup>	5%	4%	4%	4%	5%
Aged Out of Care	3%	4%	4%	4%	4%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

<sup>1</sup>To control for differences between GAL Program closures and DCF discharges, we limited the Fiscal Year 2019-20 data to the first six months (July 1, 2019–December 31, 2019).

<sup>2</sup>Closure reasons of APPLA are included here.

<sup>3</sup>Other includes children who ran away, were transferred to or placed in another circuit, and cases that were either consolidated or bifurcated by the courts.

<sup>4</sup>This includes cases to which the GAL Program was appointed where the program was either unable to staff the case at all or had to discharge from a case before it concluded. Closure reasons of APPLA are included here.

Source: OPPAGA analysis of Florida Guardian ad Litem Program data representing 80% of GAL children with a closed case.

Role of the GALP and GAL

“Guardian ad litem” is defined as the Statewide Guardian Ad Litem Office, which includes circuit guardian ad litem programs, a duly certified volunteer, a staff member, a staff attorney, a contract attorney, pro bono attorney working on behalf of a guardian ad litem; court-appointed attorney; or responsible adult who is appointed by the court to represent the best interest of a child in a proceeding as provided by law including ch. 39, F.S., until discharged by the court.<sup>75</sup>

The GALP reports that it represents the children who are alleged to be abused, abandoned, or neglected and are subject to the dependency court’s jurisdiction.<sup>76</sup> The Florida Supreme Court has recognized that a guardian ad litem is appointed to serve as the child’s representative in court to present what is in the child’s best interest.<sup>77</sup> The GALP reports that the adult representing the child’s best interest will ordinarily be represented by counsel in the judicial proceedings, and suggests such attorney owes a duty of care to both the guardian ad litem and the child with whom the guardian is appointed to represent.<sup>78</sup> The GALP acknowledges that there is no attorney-client relationship between the GALP attorney and the child, and suggests that independent legal representation is provided through the GAL.<sup>79</sup>

<sup>74</sup> *Id.* at p. 16.

<sup>75</sup> Section 39.820(1), F.S.

<sup>76</sup> The GALP, *Agency Analysis for SB 1920*, p. 15, March 14, 2021 (on file with the Senate Committee on Children, Families, and Elder Affairs) (hereinafter cited as “The GALP Analysis”).

<sup>77</sup> *D.H. v. Adept Cmty. Servs.*, 271 So. 3d 870, 879 (Fla. 2018) (citing *C.M. v Dep’t of Children & Family Servs.*, 854 So.2d 777, 779 (Fla. 4<sup>th</sup> DCA 2003)).

<sup>78</sup> The GALP Analysis at p. 3 [citing *Op. Att’y Gen. Fla. 96-94* (1996)].

<sup>79</sup> *Id.* at p. 4.

The GAL or GALP representative must review all disposition recommendations or changes in placements, and must be present at all critical stages of the proceeding or submit a written report, which must be filed and served on all parties whose whereabouts are known at least 72 hours prior to the hearing.<sup>80</sup>

Performance Advocacy Snapshot (PASS) summarizes the individual GAL circuit program performance and GAL influence on child welfare outcomes by circuit.<sup>81</sup> The December 2020 PASS report states that a GAL has been appointed to 73.4% of children who are the subject of dependency proceedings, with some exceptions.<sup>82</sup> It also reports 67.5% active certified volunteers statewide.<sup>83</sup> Children achieving permanency within 12 months of entering care totals 18% and 40.6% of adoptions occur within 24 months according to the PASS report.<sup>84</sup>

### Activities of GAL

The GALP reports that GAL are involved in a number of activities related to the child, including, in part:

- Attending school events;
- Guiding children through changes of placement;
- Creating community awareness about children who are abused, abandoned, or neglected;
- Being a safe and stable adult in the child's life; or
- Reporting quality information to judges.<sup>85</sup>

### Conflicts of Interest

Under current law, there is no statutory provision under ch. 39, F.S., which requires the GALP to identify any conflict of interest a GAL may have. The GALP Standards of Operation, however, provide that the GALP “shall not accept appointment to a case where the Program has an impermissible conflict of interest and shall seek discharge if an impermissible conflict of interest arises after appointment. An impermissible conflict of interest between the GAL Program and a child or children will be found if the GAL Program has a duty, or the appearance of a duty, to another that may prevent the GAL Program from being fully able to represent the child to whom the Program is appointed. If an individual GAL Volunteer or staff member has a conflict, this may be resolved by assigning another individual from the Program in the discretion of the Circuit Director.”<sup>86</sup> Standard 7.D. further states that GALs have an obligation to notify the GAL Program Attorney if they are aware of a possible conflict of interest, which could include prior involvement with individuals involved in the case, any personal reasons that may not allow them to provide best interests advocacy for a child, and situations when the GALP is appointed to represent multiple related children whose interests conflict with one another.

Further, Standard 7.D. states that an impermissible conflict will not be found simply because the

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<sup>80</sup> Section 39.822(4), F.S.

<sup>81</sup> See The GALP, *Statewide Guardian ad Litem Program – Performance Advocacy Snapshot (PASS)*, December 2020, available at <https://guardianadlitem.org/wp-content/uploads/2021/01/Performance-Advocacy-SnapShot-December-2020-Revised.pdf> (last visited March 15, 2021) (hereinafter cited as “December 2020 PASS”).

<sup>82</sup> *Id.*

<sup>83</sup> December 2020 PASS.

<sup>84</sup> *Id.*

<sup>85</sup> The GALP Analysis at p. 4.

<sup>86</sup> *Id.* at p. 9-10 (citing GAL's Standard 7.D.).

GAL is advocating in good faith for the child's best interests and the child conveys a position that may be opposed to the position taken by the GAL.<sup>87</sup>

The GAL's Standards of Operation 3, Code of Conduct, prohibit GALs from practicing, condoning, facilitating, or participating in any form of discrimination, including in part, discrimination based on race, color, gender, sexual orientation, sexual identity, age, religion, or ethnicity.<sup>88</sup> Finally, the GALP reports that the Standards of Operation prohibit a GAL from receiving a fee for their services as a GAL or accepting a gift for personal benefit.<sup>89</sup>

#### GAL Executive Director Appointment and Reappointment

The GALP's executive director is appointed by the Governor from a list of at least three nominees of eligible applicants selected by the Guardian Ad Litem Qualifications Committee (GALQC).<sup>90</sup> The executive director must meet minimum qualifications, serve a term of 3 years, and has specified duties.<sup>91</sup> The executive director is permitted to serve more than one term, but current law is unclear on whether any additional terms are subject to the appointment process.

### **Funding**

#### *GAL Funding*

The OPPAGA reports that state funding for the GALP has increased by 21% over the past five years from \$43.6 million in Fiscal Year 2015-16 to \$52.9 million in Fiscal Year 2019-20.<sup>92</sup> Other sources of funding have also increased over the increased over the past five years from \$4.6 million in Calendar Year (CY) 2015 to \$9.7 million in CY 2019.<sup>93</sup> With this increase, the number of staff increased, the number of volunteers remained stable, and the number of children served has decreased from 40,032 in Fiscal Year (FY) 2016-17 to 36,506 in FY 2019-20.<sup>94</sup>

#### *Family First Prevention Services Act*

The Bipartisan Budget Act of 2018 (HR 1892) was signed into law on February 9, 2018 which included the Family First Prevention Services Act (FFPSA). The legislation aims at providing financial assistance with a focus on prevention services and reducing funds to residential group care.<sup>95</sup> It also has the potential to dramatically change child welfare systems by expanding the way in which Title IV-E funding may be spent.<sup>96</sup> The FFPSA requirements include:

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<sup>87</sup> The GALP, *Standards of Operation*, Revised April 2020, p. 18, available at <https://guardianadlitem.org/wp-content/uploads/2020/05/GAL-Standards-Rev.-4.30.2020-FINAL.pdf> (last visited March 15, 2021) (hereinafter cited as "GALP SOP 2020").

<sup>88</sup> *Id.* at p. 10.

<sup>89</sup> The GALP Analysis at p. 10.

<sup>90</sup> Section 39.8296(2)(a), F.S.

<sup>91</sup> *Id.*

<sup>92</sup> OPPAGA Presentation at p. 7.

<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

<sup>95</sup> The DCF, *The Florida Center for Child Welfare FFPSA Updates*, available at <http://centerforchildwelfare.fmhi.usf.edu/FFPSA.shtml> (last visited March 15, 2021).

<sup>96</sup> National Conference of State Legislatures, *Family First Prevention Services Act Update*, available at <https://www.ncsl.org/research/human-services/family-first-prevention-services-act-ffpsa.aspx>. (last visited March 15, 2021).

- Option to use funds for up to 12 months for evidence-based services, such as substance abuse treatment;
- Eligible candidates include children who can remain safely in the home with the provision of services, children in foster care who are parents, or parents or caregivers who require services to prevent a child's entry into foster care; and
- States must prepare a prevention plan for the child to safely remain at home with services; and
- Services must be trauma-informed and pre-approved on the Health and Human Services website.<sup>97</sup>

Title IV-E funds previously were restricted to being used for the costs of eligible children's foster care maintenance; administrative expenses to manage the foster care program; training for specified persons; and kinship guardianship assistance. Title IV-E federal funding is now available for direct legal representation and advocacy for eligible children in foster care and their parents.<sup>98</sup> As the GALP attorney does not have a direct attorney-client relationship with the child<sup>99</sup> and directly represent the children in Florida dependency proceedings, it is unclear whether the GALP is eligible for Title IV-E funding under the new federal standards. However, the GALP has not begun to be reimbursed for legal representation and advocacy under the FFPSA standards.

### III. Effect of Proposed Changes:

#### *Office of Child Representation (Section 7)*

The bill establishes a new Office of Child Representation (OCR) to provide direct legal representation to specified children during dependency proceedings. Similar to the GALP, the bill creates the OCR within the JAC which provides administrative support and services but does not control, supervisor, or direct the OCR in the performance of its duties. However, employees are governed by plans, including salary and benefits, approved by the JAC.

The bill provides for an executive director to be appointed to the OCR with the same appointment process, term, and requirements as the executive of the GALP provided for in s. 39.8296(2)(a), F.S. The OCR executive director must be a member of The Florida Bar in good standing for at least 5 years and have knowledge of dependency law and social service delivery systems to meet the needs of children who are abused, abandoned and neglected. The bill requires the appointment of the initial executive director to be completed by January 1, 2022.

The OCR, within the resources of the JAC, must provide oversight and technical assistance, in part, as follows:

- Identify the resources required to implement methods of collecting, reporting, and tracking case data;

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<sup>97</sup> The DCF, *Family First Prevention Services Act*, p. 26, August 28, 2020, available at [http://centerforchildwelfare.fmhi.usf.edu/kb/prevplans/FFPSA-StatewideWebinar8\\_28\\_2020.pdf](http://centerforchildwelfare.fmhi.usf.edu/kb/prevplans/FFPSA-StatewideWebinar8_28_2020.pdf) (last visited March 15, 2021).

<sup>98</sup> U.S. Department of Health and Human Services, Administration for Children and Families, *High Quality Memo*, p. 10-11, January 14, 2021, available at [https://www.courts.ca.gov/documents/ffdrp\\_acf2021\\_high\\_quality\\_memo.pdf](https://www.courts.ca.gov/documents/ffdrp_acf2021_high_quality_memo.pdf) (last visited March 15, 2021).

<sup>99</sup> The GALP SOP 2020, p. 7.

- Review and collect information relating to current GALP for children who are 10 years of age or older in Florida and other states, and information relating to offices of child representation in other states;
- Develop statewide performance measures and standards in collaboration with the regional offices of OCR;
- Develop a training program for each attorney for the child, and create a curriculum committee composed of specified professionals<sup>100</sup> for such purpose;
- Develop protocols that must be implemented to assist children in meeting eligibility requirements to receive all federal funding;<sup>101</sup>
- Review methods of funding, maximum the use of those funds, and review the kinds of services being provided by the regional offices;
- Determine the feasibility or desirability of new concepts regarding the operation and scope of services provided by the OCR; and
- Submit a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court, including:
  - An interim report describing the progress of the statewide office in meeting the responsibilities described in this paragraph.
  - A proposed plan that includes alternatives for meeting the representation needs of children in this state. The plan may include recommendations for implementation in only a portion of this state or phased-in statewide implementation and must include an estimate of the cost of each such alternative.
  - An annual status report that includes any additional recommendations for addressing the representation needs of children in this state and related issues.

The DCF or community-based care lead agency must take any steps necessary to obtain and maintain eligible federal funding. The bill provides that OCR may contract with local nonprofit agencies to provide direct representation to a child if it is the most efficient method to satisfy its duties and if federal funding has been approved for reimbursement.

The bill provides for regional offices to be established within each of the five district court of appeals which must commence fulfilling their purpose and duties on July 1, 2022. Each regional office is also assigned to the JAC for it to provide administrative support and services within available resources. Like the statewide office, the regional offices are not subject to control, supervision, or direction by the JAC, but are governed by plans such as salary and benefits.

Finally, the child representation counsel (CRC) who is the head of the regional offices must serve on a full-time basis and may not engage in private practice. Assistant child representation counsel (ACRC) must give priority to his or her duties in that position but part-time ACRC may practice dependency law provided the representation does not result in a legal or ethical conflict of interest with a case that OCR is providing representation.

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<sup>100</sup> Members must include, but not limited to, a dependency judge, directors of circuit guardian ad litem programs, active certified guardians ad litem, a mental health professional who specializes in the treatment of children, a member of a child advocacy group, a representative of a domestic violence advocacy group, an individual with at least a Master of Social Work degree, and a social worker experienced in working with victims and perpetrators of child abuse.

<sup>101</sup> This may not be construed to mean that the protocols may interfere with zealous and effective representation of the children.

***Attorney for the Child (Sections 1-2 and 8)***

Section 39.013(13), F.S. is amended to provide that an attorney for the child must be appointed pursuant to s. 39.831, F.S. The bill defines “attorney for the child” as an attorney providing direct representation to the child, which may include the appointment of the Office of the Child Representation, an attorney provided by an entity contracted through the Office of the Child Representation to provide direct representation, any privately retained counsel or pro bono counsel, or any other attorney who represents the child under ch. 39, F.S.

The bill creates s. 39.831, F.S., which provides that an attorney for the child:

- Must be appointed when the child has special needs as provided in s. 39.01305(3), F.S.;
- Must be appointed for any child who reaches 10 years of age or older after July 1, 2022, who is subject to a dependency proceeding or related adoption proceeding; and
- May be appointed upon a finding by the court that circumstances exist which necessitate the appointment.

The appointment continues in effect until the attorney is allowed to withdraw, the attorney is discharged by the court, or the case is dismissed. The attorney for the child must provide all legal services required from the time the child is removed or the initial appointment through appellate proceedings. With court permission, the attorney for the child may arrange for supplemental or separate counsel to represent the child in appellate proceedings. An order appointing an attorney for the child must be in writing.

The court must appoint the OCR unless the child is otherwise represented. Similar to the GALP, parents who are financially able must reimburse the court for the costs of the OCR representation, but reimbursement for the attorney’s services may not be contingent upon successful collection by the court of reimbursement from the parent.

Upon presentation of a court order by an attorney for the child, an agency, person, or organization must allow the attorney to inspect and copy records related to the child who is the subject of the appointment, including records that are made confidential. An agency must also allow an attorney for the child to inspect and copy records that are exempt from s. 119.07(1), F.S., or s. 24(a), Art. I of the Florida Constitution, but he or she must maintain the confidential or exempt<sup>102</sup> status of any records shared.

The attorney for the child must review all disposition recommendations and changes in placement and file any appropriate motions at least 72 hours in advance of the hearing. The DCF must develop procedures to request that a court appoint an attorney for the child, and may adopt rules to implement the section.

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<sup>102</sup> When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” Custodians of records designated as “exempt” are not prohibited from disclosing the record; rather, the exemption means that the custodian cannot be compelled to disclose the record. *See Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991). Custodians of records designated as “confidential and exempt” may not disclose the record except under circumstances specifically defined by the Legislature. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

***Guardian ad Litem (Section 3 to 6)***

Part XI is retitled to state “GUARDIAN AD LITEM, GUARDIAN ADVOCATES, AND ATTORNEY FOR THE CHILD.”

The bill provides that a GAL will continue to be appointed as proscribed under current law before July 1, 2022. On or after that date:

- The GAL must be appointed at the earliest possible time to represent a child who is:
  - Younger than 10 years old and subject of a dependency proceeding or related adoption proceeding;
  - The subject of a dependency proceeding or related adoption proceeding and a criminal proceeding;
  - The subject of a termination of parental rights proceeding under Part X; or
  - A dependent child as described in s. 39.01305(3), F.S.<sup>103</sup>
- The court must discharge the GALP within 60 days after the child reaches 10 years old except if:
  - The child meets one of the last three criteria for appointing a GAL summarized above; or
  - The child knowingly and voluntarily expresses a wish to have the guardian remain appointed, and the court makes such findings and determines the child is of an appropriate age and maturity to make such an expression.

The bill defines “related adoption proceeding” as an adoption proceeding under ch. 63, F.S., which arises from dependency proceedings under ch. 39, F.S.<sup>104</sup>

The GALP must develop guidelines to identify any possible conflicts of interest of a GAL when he or she is being considered for assignment to a child’s case. “Conflict of interest” is defined as a GAL who:

- Has a personal relationship that could influence a recommendation regarding a child whom he or she is serving as a GAL;
- Is in a position to derive a personal benefit from his or her role as a GAL; or
- Has a personal factor or circumstance, including a bias or prejudice, which impairs the GALs ability to fully and fairly discharge his or her duties.

The bill permits the court to order that a new GAL be assigned or that the GAL be discharged and an attorney for the child be appointed upon:

- Consent of a child who is the subject of a dependency proceeding or related adoption proceeding and who is 10 years of age or older; or
- Any party presenting evidence that there is reasonable cause to suspect the assigned GAL has a conflict of interest.

<sup>103</sup> See below for further discussion on this section.

<sup>104</sup> In Florida, a parent may place their child for adoption with a private adoption agency, even if the child is under jurisdiction of the court and in out-of-home care as long as no final judgment of termination of parental rights has been entered. This means that birth parents can choose a private adoption placement if their parental rights are still be intact. This process is commonly referred to as an intervention and results in a private adoption entity intervening into the DCF case and handling the adoption according to the wishes of the biological parent. Section 63.082, F.S. *See also* Adoption Choice of Florida, *What is an adoption intervention?*, available at <https://www.adoptionchoicesofflorida.com/blog/2019/november/what-is-an-adoption-intervention/> (last visited March 15, 2021).



The bill also requires the GALP to identify any GAL who is experiencing any physical or mental health issues or who appears to present a danger to any child, remove such GAL from all assigned cases, and terminate his or her voluntary services with the GALP. This action must be disclosed to the court.

The GAL Qualifications Committee who nominates at least three eligible applicants for the executive director position of the GALP to the Governor is renamed to Child Well-Being Qualifications Committee. The bill provides that the executive director may be reappointed to serve more than one term pursuant to the appointment process. Every term is for a 3 year period.

***Conforming Sections (Sections 9-40)***

The bill amends ss. 39.00145, 39.0139, 39.402, 39.407, 39.4085, and 39.523, F.S., in part, to change the term “attorney ad litem” or other term used to refer to an attorney appointed to represent a child to the term “attorney for the child.”

The bill also amends ss. 28.345, 39.001, 39.00145, 39.0132, 39.0139, 39.202, 39.302, 39.402, 39.407, 39.502, 39.521, 39.6011, 39.6012, 39.6251, 39.701, 39.702, 39.801, 39.802, 39.808, 39.810, 39.811, 39.812, 39.815, 43.16, 63.082, 63.085, 322.09, 394.495, 627.746, 934.255, and 960.065 to update reference to the attorney for the child as counsel for a party that is applicable to these sections as contemplated in the provisions in this bill.

The bill is effective July 1, 2021.

**IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

The creation of the OCR within the JAC could create responsibilities for counties.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

The bill permits the attorney for the child to file a termination of parental rights petition would could raise constitutional issues with respect to the fundamental rights of parents.<sup>105</sup>

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

To the extend a parent is financially able, he or she would have to reimburse the cost of the attorney for the child pursuant to s. 39.831(1)(c), F.S.

**C. Government Sector Impact:**

Counties will be required to provide facilities, communications, and security to the new regional counsel. The amount of this cost is not known.

The GALP reports an indeterminate fiscal impact of the bill as it is unknown how many children will meet the criteria under s. 39.822(1)(b), F.S.<sup>106</sup> Of the 35,160 children in out-of-home care or receiving in-home services as of February 28, 2021, 23,444 children were under 10 years old and 11,714 children were 10 years of age or older.<sup>107</sup> Further, the number of GALs appointed to represent children will vary depending on how many termination of parental rights petitions are filed, how many children have special needs, and whether the children have pending delinquency proceedings.

The GALP did not offer an opinion on the potential fiscal impact of the provision for the creation of OCR.<sup>108</sup>

The JAC states that the bill will likely have a substantial fiscal impact on the JAC through an increased workload to serve the new Statewide OCR and the five Regional Offices of Child Representation.<sup>109</sup> The JAC reports that the additional support and services required will necessitate an indeterminate number of employees and additional resources to provide the necessary services in areas such as accounting, budget, financial services, human resources, operations, online support, and information technology as well as associated executive services.<sup>110</sup>

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<sup>105</sup> The GALP Analysis at p. 14.

<sup>106</sup> *Id.* at p. 15.

<sup>107</sup> *Id.*

<sup>108</sup> The GALP Analysis at p. 15.

<sup>109</sup> The JAC, *2021 Legislative Session Bill Analysis for SB 1920*, March 12, 2021, p. 6 (on file with the Committee on Children, Families, and Elder Affairs).

<sup>110</sup> *Id.*

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 28.345, 39.001, 39.00145, 39.01, 39.013, 39.0132, 39.0139, 39.202, 39.302, 39.402, 39.407, 39.4085, 39.502, 39.521, 39.523, 39.6011, 39.6012, 39.6251, 39.701, 39.702, 39.801, 39.802, 39.808, 39.810, 39.811, 39.812, 39.815, 39.820, 39.822, 39.8296, 43.16, 63.082, 63.085, 322.09, 394.495, 627.746, 934.255, and 960.065 of the Florida Statutes.

This bill creates sections 39.83 and 39.831 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.