

1 A bill to be entitled

2 An act relating to attorneys for dependent children
3 with special needs; providing legislative findings and
4 intent; creating s. 39.01305, F.S.; requiring
5 appointment of an attorney to represent a dependent
6 child who meets one or more specified criteria;
7 requiring that, if one is available, an attorney who
8 is willing to represent a child without additional
9 compensation be appointed; requiring that the
10 appointment be in writing; requiring that the
11 appointment continue in effect until the attorney is
12 allowed to withdraw or is discharged by the court or
13 until the case is dismissed; requiring that an
14 attorney not acting in a pro bono capacity be
15 adequately compensated for his or her services and
16 have access to funding for certain costs; providing
17 for financial oversight by the Justice Administrative
18 Commission; providing a limit on attorney fees;
19 requiring the Department of Children and Families to
20 develop procedures to identify dependent children who
21 qualify for an attorney; providing rulemaking
22 authority; providing applicability; providing an
23 effective date.

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25 Be It Enacted by the Legislature of the State of Florida:
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27 Section 1. Section 39.01305, Florida Statutes, is created
28 to read:

29 39.01305 Appointment of an attorney for a dependent child
30 with certain special needs.-

31 (1) (a) The Legislature finds that:

32 1. All children in proceedings under this chapter have
33 important interests at stake, such as health, safety, and well-
34 being and the need to obtain permanency.

35 2. A dependent child who has certain special needs has a
36 particular need for an attorney to represent the dependent child
37 in proceedings under this chapter, as well as in fair hearings
38 and appellate proceedings, so that the attorney may address the
39 child's medical and related needs and the services and supports
40 necessary for the child to live successfully in the community.

41 (b) The Legislature recognizes the existence of
42 organizations that provide attorney representation to children
43 in certain jurisdictions throughout the state. Further, the
44 statewide Guardian Ad Litem Program provides best interest
45 representation for dependent children in every jurisdiction in
46 accordance with state and federal law. The Legislature,
47 therefore, does not intend that funding provided for
48 representation under this section supplant proven and existing
49 organizations representing children. Instead, the Legislature
50 intends that funding provided for representation under this
51 section be an additional resource for the representation of more
52 children in these jurisdictions, to the extent necessary to meet

53 the requirements of this chapter, with the cooperation of
54 existing local organizations or through the expansion of those
55 organizations. The Legislature encourages the expansion of pro
56 bono representation for children. This section is not intended
57 to limit the ability of a pro bono attorney to appear on behalf
58 of a child.

59 (2) An attorney shall be appointed for a dependent child
60 who:

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

63 (b) Is prescribed a psychotropic medication but declines
64 assent to the psychotropic medication;

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

67 (d) Is being placed in a residential treatment center or
68 being considered for placement in a residential treatment
69 center; or

70 (e) Is a victim of human trafficking as defined in s.
71 787.06(2)(d).

72 (3)(a) Before a court may appoint an attorney, who may be
73 compensated pursuant to this section, the court must request a
74 recommendation from the Statewide Guardian Ad Litem Office for
75 an attorney who is willing to represent a child without
76 additional compensation. If such an attorney is available within
77 15 days after the court's request, the court must appoint that
78 attorney. However, the court may appoint a compensated attorney

79 within the 15-day period if the Statewide Guardian Ad Litem
80 Office informs the court that it will not be able to recommend
81 an attorney within that time period.

82 (b) After an attorney is appointed, the appointment
83 continues in effect until the attorney is allowed to withdraw or
84 is discharged by the court or until the case is dismissed. An
85 attorney who is appointed under this section to represent the
86 child shall provide the complete range of legal services, from
87 the removal from home or from the initial appointment through
88 all available appellate proceedings. With the permission of the
89 court, the attorney for the dependent child may arrange for
90 supplemental or separate counsel to represent the child in
91 appellate proceedings. A court order appointing an attorney
92 under this section must be in writing.

93 (4) Except if the attorney has agreed to provide pro bono
94 services, an appointed attorney or organization must be
95 adequately compensated and provided with access to funding for
96 expert witnesses, depositions, and other costs of litigation.
97 Payment to an attorney is subject to appropriations and subject
98 to review by the Justice Administrative Commission for
99 reasonableness. The Justice Administrative Commission shall
100 contract with attorneys appointed by the court. Attorney fees
101 may not exceed \$3,000 per child per year.

102 (5) The department shall develop procedures to identify a
103 dependent child who has a special need specified under
104 subsection (2) and to request that a court appoint an attorney

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105 for the child.

106 (6) The department may adopt rules to administer this
107 section.

108 (7) This section does not limit the authority of the court
109 to appoint an attorney for a dependent child in a proceeding
110 under this chapter.

111 (8) Implementation of this section is subject to
112 appropriations expressly made for that purpose.

113 Section 2. This act shall take effect July 1, 2014.