

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Children, Families &
2 Seniors Subcommittee
3 Representative Adkins offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

7 Section 1. Subsection (8) of section 39.6251, Florida
8 Statutes, is amended to read:

9 39.6251 Continuing care for young adults.—

10 (8) During the time that a young adult is in care, the
11 court shall maintain jurisdiction to ensure that the department
12 and the lead agencies are providing services and coordinate
13 with, and maintain oversight of, other agencies involved in
14 implementing the young adult's case plan, individual education
15 plan, and transition plan. The court shall review the status of
16 the young adult at least every 6 months and hold a permanency
17 review hearing at least annually. If the young adult has been

Amendment No.

18 appointed a guardian under chapter 744 or a guardian advocate
19 under s. 393.12, at the permanency review hearing the court
20 shall review the necessity of continuing the guardianship and
21 whether restoration of guardianship proceedings are needed when
22 the child reaches 22 years of age. The court may appoint a
23 guardian ad litem or continue the appointment of a guardian ad
24 litem with the young adult's consent. The young adult or any
25 other party to the dependency case may request an additional
26 hearing or review.

27 Section 2. Paragraphs (b) and (c) of subsection (3) of
28 section 39.701, Florida Statutes, are amended to read:

29 39.701 Judicial review.—

30 (3) REVIEW HEARINGS FOR CHILDREN 17 YEARS OF AGE.—

31 (b) At the first judicial review hearing held subsequent
32 to the child's 17th birthday, the department shall provide the
33 court with an updated case plan that includes specific
34 information related to the independent living skills that the
35 child has acquired since the child's 13th birthday, or since the
36 date the child came into foster care, whichever came later.

37 1. For any child that may meet the requirements for
38 appointment of a guardian pursuant to chapter 744, or a guardian
39 advocate pursuant to s. 393.12, the updated case plan must be
40 developed in a face-to-face conference with the child, if
41 appropriate; the child's attorney; any court-appointed guardian
42 ad litem; the temporary custodian of the child; and the parent,
43 if the parent's rights have not been terminated.

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Amendment No.

44 2. At the judicial review hearing, if the court determines
45 pursuant to the procedures and requirements of chapter 744 and
46 the Florida Probate Rules there is a good faith basis to believe
47 the child qualifies for appointment of a guardian advocate,
48 limited guardian, or plenary guardian and that no less
49 restrictive decision-making assistance will meet the child's
50 needs:

51 a. The department shall complete a multidisciplinary
52 report which must include, but is not limited to, a
53 psychosocial evaluation and educational report if such a report
54 has not been completed within the previous two years.

55 b. The department shall identify one or more individuals
56 who are willing to serve as the guardian advocate pursuant to s.
57 393.12 or as the plenary or limited guardian pursuant to chapter
58 744 and the Florida Probate Rules. Any other interested parties
59 or participants may make efforts to identify such a guardian
60 advocate, limited guardian, or plenary guardian. The child's
61 biological or adoptive family members, including the child's
62 parents if the parents' rights have not been terminated, may not
63 be considered for service as the plenary or limited guardian
64 unless the court enters a written order finding that such an
65 appointment is in the child's best interests.

66 c. Proceedings shall be initiated within 180 days after the
67 child's 17th birthday for the appointment of a guardian
68 advocate, plenary guardian, or limited guardian for the child in
69 the court with proper jurisdiction over probate matters

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Published On: 2/16/2015 5:18:22 PM

Amendment No.

70 according to the local rules of judicial administration and the
71 procedures and requirements of chapter 744 and the Florida
72 Probate Rules.

73 3. In the event another interested party or participant
74 initiates proceedings for the appointment of a guardian
75 advocate, plenary guardian, or limited guardian for the child,
76 the department shall provide all necessary documentation and
77 information to the petitioner to complete a petition under
78 chapter 393 or chapter 744 within 45 days after the first
79 judicial review hearing after the child's 17th birthday.

80 4. Any proceedings seeking appointment of a guardian
81 advocate or a determination of incapacity and the appointment of
82 a guardian must be conducted in a separate proceeding in the
83 court with proper jurisdiction over probate matters according to
84 local rules of judicial administration and the procedures and
85 requirements of chapter 744 and the Florida Probate Rules.

86 (c) If the court finds at the judicial review hearing that
87 the department has not met its obligations to the child as
88 stated in this part, in the written case plan, or in the
89 provision of independent living services, the court may issue an
90 order directing the department to show cause as to why it has
91 not done so. If the department cannot justify its noncompliance,
92 the court may give the department 30 days within which to
93 comply. If the department fails to comply within 30 days, the
94 court may hold the department in contempt.

Amendment No.

95 Section 3. Paragraph (c) is added to subsection (2) of
96 section 393.12, Florida Statutes, to read:

97 393.12 Capacity; appointment of guardian advocate.—

98 (2) APPOINTMENT OF A GUARDIAN ADVOCATE.—

99 (c) If a petition is filed pursuant to this section
100 requesting appointment of a guardian advocate for a minor who is
101 the subject of any proceeding under chapter 39, the court with
102 proper jurisdiction over probate matters according to local
103 rules of judicial administration and the Florida Probate Rules
104 shall have jurisdiction over the proceedings pursuant to this
105 section when the minor reaches the age of 17 years and 6 months
106 or anytime thereafter. The minor shall be provided all the due
107 process rights conferred upon an alleged developmentally
108 disabled adult pursuant to this chapter. The order of
109 appointment of guardian advocate under this section shall issue
110 upon the minor's 18th birthday or as soon thereafter as
111 possible.

112 Section 4. Subsection (1) of section 744.301, Florida
113 Statutes, is amended to read:

114 744.301 Natural guardians.—

115 (1) The parents jointly are the natural guardians of their
116 own children and of their adopted children, during minority,
117 unless the parent's parental rights have been terminated
118 pursuant to chapter 39. If a child is the subject of any
119 proceeding under chapter 39, the parents may act as natural
120 guardians under this section unless the dependency or probate

Amendment No.

121 court finds that it is not in the child's best interests. If one
122 parent dies, the surviving parent remains the sole natural
123 guardian even if he or she remarries. If the marriage between
124 the parents is dissolved, the natural guardianship belongs to
125 the parent to whom sole parental responsibility has been
126 granted, or if the parents have been granted shared parental
127 responsibility, both continue as natural guardians. If the
128 marriage is dissolved and neither parent is given parental
129 responsibility for the child, neither may act as natural
130 guardian of the child. The mother of a child born out of wedlock
131 is the natural guardian of the child and is entitled to primary
132 residential care and custody of the child unless the court
133 enters an order stating otherwise.

134 Section 5. Subsection (1) of section 744.3021, Florida
135 Statutes, is amended, and subsection (4) is added to that
136 section, to read:

137 744.3021 Guardians of minors.—

138 (1) Except as provided in subsection (4), upon petition of
139 a parent, brother, sister, next of kin, or other person
140 interested in the welfare of a minor, a guardian for a minor may
141 be appointed by the court without the necessity of adjudication
142 pursuant to s. 744.331. A guardian appointed for a minor,
143 whether of the person or property, has the authority of a
144 plenary guardian.

145 (4) If a petition is filed pursuant to this section
146 requesting appointment of a guardian for a minor that is the

Amendment No.

147 subject of any proceeding under chapter 39 and who is aged 17
148 years and 6 months or older, the court with proper jurisdiction
149 over probate matters according to local rules of judicial
150 administration and the procedures and requirements of this
151 chapter and the Florida Probate Rules shall have jurisdiction
152 over the proceedings under s. 744.331. The alleged incapacitated
153 minor under this subsection shall be provided all the due
154 process rights conferred upon an alleged incapacitated adult
155 pursuant to this chapter and the Florida Probate Rules. The
156 order of adjudication under s. 744.331 and the letters of
157 limited or plenary guardianship may issue upon the minor's 18th
158 birthday or as soon thereafter as possible.

159
160 Section 6. This act shall take effect July 1, 2015

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163 **T I T L E A M E N D M E N T**

164 Remove everything before the enacting clause and insert:

165 A bill to be entitled

166 An act relating to guardians for dependent children who are
167 developmentally disabled or incapacitated; amending s. 39.6251,
168 F.S.; requiring the continued review of the necessity of
169 guardianships for young adults; amending s. 39.701, F.S.;
170 requiring an updated case plan developed in a face-to-face
171 conference with the child and other specified persons, when
172 appropriate; providing requirements for the Department of

Amendment No.

173 Children and Families when a court determines there is a good
174 faith basis to believe a guardian or guardian advocate needs to
175 be appointed and that no less restrictive decision-making
176 assistance will meet the child's needs; requiring the department
177 to provide specified information if another interested party or
178 participant initiates proceedings for the appointment of a
179 guardian; requiring proceedings seeking appointment of a
180 guardian advocate or a determination of incapacity and the
181 appointment of a guardian be conducted in a separate proceeding
182 in probate court; amending s. 393.12, F.S.; requiring the
183 probate court to initiate proceedings for appointment of a
184 guardian advocate if petitions are filed for certain minors who
185 are subject to chapter 39, F.S., proceedings if such minors have
186 attained a specified age; providing that such a child has the
187 same due process rights as an adult; providing requirements for
188 when an order appointing a guardian advocate must be issued;
189 amending s. 744.301, F.S.; providing that if a child is subject
190 to proceedings under chapter 39, F.S., the parents may act as
191 natural guardians unless the dependency or probate court finds
192 that it is not in the child's best interests or their parental
193 rights have been terminated; amending s. 744.3021, F.S.;
194 requiring the probate court to initiate proceedings for
195 appointment of a guardian if petitions are filed for appointment
196 of guardian for a minor that is for certain minors who are
197 subject to chapter 39, F.S. proceedings if the minor has
198 attained a specified age; providing that such a child has the

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 437 (2015)

Amendment No.

199 same due process rights as an adult; providing requirements for
200 when an order appointing a guardian must be issued; providing an
201 effective date.