

STORAGE NAME: h1343a.jo.doc
DATE: April 12, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
JUDICIAL OVERSIGHT
ANALYSIS**

BILL #: HB 1343
RELATING TO: Office of Counsel for Children
SPONSOR(S): Representative Greenstein

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) JUDICIAL OVERSIGHT YEAS 10 NAYS 0
 - (2) CHILD AND FAMILY SECURITY
 - (3) HEALTH AND HUMAN SERVICES APPROPRIATIONS
 - (4) COUNCIL FOR SMARTER GOVERNMENT
 - (5)
-

I. SUMMARY:

The bill creates an Office of Counsel for Children in District 10 (Broward County) of the Department of Children and Family Services. The office is to represent the legal interests of children in proceedings under chapter 39, Florida Statutes, and in any appeals that result from those proceedings. Counsel will be appointed by the court to children placed in out-of-home care. The bill prescribes the knowledge and training requirements for the staff attorneys and identifies the duties of the office. The Office of Counsel for Children is substituted for the Department of Children and Family Services as the party responsible for moving cases through dependency proceedings, but the appointment of the office does not eliminate the need to appoint a Guardian Ad Litem.

The bill also includes provisions clarifying the length of time available for continuances in dependency cases. It eliminates the requirement for review of placement of children in shelter at 15-day intervals, replacing with a provision for review when otherwise provided by law or determined by the court to be necessary. It removes the statutory requirements for the content of case plans in dependency cases, replacing with a direction to the department to develop by rule the requirements for such content, complying at a minimum with the federal requirements for case plans.

This bill substantially amends sections 39.013, 39.402, 39.506, 39.601 and 39.602 of the Florida Statutes and has an effective date of July 1, 2001.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Representation of Children

Guardian Ad Litem

Section 39.822, Florida Statutes, requires that a guardian ad litem be appointed by the court to represent a child in any child abuse, neglect or abandonment judicial proceeding. Such appointment is to occur at the earliest possible time and applies to either civil or criminal proceedings. A guardian ad litem is charged with representing the best interests of a child in a proceeding under ch. 39, Florida Statutes, or in any other judicial proceedings. The law specifies that the guardian ad litem can be any one of the following: a certified guardian ad litem program, a duly certified volunteer, a staff attorney, contract attorney or a certified pro bono attorney working on behalf of the guardian ad litem or program; staff members of the program office; a court-appointed attorney; or a responsible adult. The guardian ad litem or program representative is required to review all disposition recommendations and changes in placements and must be present at all critical stages of the dependency proceedings. Alternatively, a written report of recommendations can be submitted to the court, at least 72 hours prior to the hearing.

Attorney ad Litem Pilot Program

A 3 year pilot Attorney Ad Litem Program was established by the 2000 Legislature in the Ninth Judicial Circuit, Orange and Osceola counties, to provide legal representation for children who are maintained in out-of-home care by court order pursuant to s. 39.402, Florida Statutes, (Ch. 2000-139, LOF). Section 39.4086, Florida Statutes, charges the Office of State Courts Administrator (OSCA) with establishing the pilot program. The Ninth Judicial Circuit is authorized to contract with a private or public entity for the program, and to provide administrative oversight and supervision.

The court may appoint an attorney ad litem at any time following the shelter hearing, if the court finds that such representation is necessary. Upon such appointment the Department of Children and Family Services (DCF) is directed to provide information and records concerning the child to the program administrator. Representation of the attorneys ad litem is limited to chapter 39 proceedings. Section 39.4086(2)(f), Florida Statutes, stipulates that the attorney ad litem represent the child's wishes, as long as the child's wishes are consistent with the safety and well-being of the child. The attorney ad litem is required to fulfill the same duties of advocacy, loyalty, confidentiality

and competent representation for the child as is due to an adult client. A guardian ad litem is required to be appointed to all children for whom an attorney ad litem has been appointed to represent their best interest. A total of \$1.8 million was appropriated for both the attorney ad litem program and the guardian ad litem program as part of this pilot initiative, which is in the early stages of implementation.

An evaluation of the establishment, operation and impact of the pilot program in meeting the legal needs of dependent children is to be conducted by the Office of State Courts Administrator. This evaluation is to include a comparison of the children in the Ninth Judicial Circuit who received an attorney ad litem with those who did not. A report on the findings of the evaluation is required to be submitted to the Governor and Legislature by October 1, 2001 and October 1, 2002. A final report on the evaluation, including the feasibility of a statewide attorney ad litem program and recommendations for establishing, locating and operating a statewide program is required to be submitted by October 1, 2003.

Department of Children and Family Services

Prior to 1989, the department (then Department of Health and Rehabilitative Services), was generally not represented by legal counsel in dependency proceedings. Instead, caseworkers presented the department's position to the court. The exception to this practice was in termination of parental rights (TPR) proceedings, at which time the department usually contracted with private counsel to provide representation. In May 1989, the Florida Supreme Court ruled that the department was engaging in the unauthorized practice of law, *The Florida Bar. In re Advisory Opinion HRS Nonlawyer Counselor*, 547 So. 2d 909 (Fla. 1989). In its ruling, the court provided as follows:

Accordingly, we hold that adequate legal representation on behalf of HRS is required at every stage of juvenile dependency proceedings conducted pursuant to part III, chapter 39, Florida Statutes (1987). An attorney's presence is required in all court proceedings. An attorney's supervision is required in the preparation of all legal documents. A lawyer representing HRS must sign all petitions, pleadings, motions, discovery request, performance agreements, permanent placement plans, affidavits of diligent search, affidavits under the Uniform Child Custody Jurisdiction Act, affidavits filed in lieu of a detention petition, predispositional reports, judicial review social studies, certificates of service, notices of appeal, and all other significant legal documents. We extend our holding to include all child-in-need-of-services proceedings, all foster care proceedings, and all termination of parental rights proceedings conducted pursuant to parts IV, V, and VI, chapter 39, Florida Statutes (1987), and all comparable legal documents prepared thereunder.

Even though Chapter 39 has been amended and restructured since 1987 and since the ruling by the Supreme Court in 1989, there have been no apparent changes to the law which would change the Court's ruling. It was largely as a result of that ruling that the Child Welfare Legal Services (CWLS) function was developed within HRS.

The Child Welfare Legal Services Operating Procedures (No. 175-15) delineates the responsibilities of the department's child welfare attorneys and program staff in cases and proceedings governed by chapter 39, Florida Statutes. Child welfare attorneys include department employed attorneys, and in specified areas, the Office of the Attorney General or the State Attorney who represent the department under contract. Generally, the child welfare attorney is responsible for all matters related to obtaining constructive service in dependency cases involving the department, pursuant to ch. 39, Florida Statutes. The specific responsibilities identified in the procedures include such functions as determining if probable cause and legal sufficiency to remove the child from the home exists, filing petitions for the hearings required in the process such as the shelter hearing and judicial reviews, presenting information to the court such as the assessment findings and resulting

actions at the arraignment or 30 day shelter review hearing, and representing the department in any other dependency-related judicial matters involving the case through disposition.

The child welfare legal attorneys represent the department and its responsibilities relative to the dependency process of chapter 39, Florida Statutes. As such, department attorneys have been responsible for moving the children's cases through the system. Attorneys representing DCF have responsibilities much broader than representing a child; they represent the state of Florida in the accomplishment of its purposes relating to child protection. These purposes are reflective of the broad interest of the state in, not only protecting its children, but in ensuring that the processes are fair and that the legal interests of all involved are respected.

Beginning in 1996, governmental entities other than DCF have assumed the responsibility for part of the CWLS function. Currently, CWLS is the responsibility of the Office of the State Attorney (SAO) in DCF District 3 (Alachua, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Lafayette, Levy, Putnam, Suwannee, and Union counties), portions of District 4 (Baker County) and District 5 (Pasco and Pinellas counties). The CWLS function is the responsibility of the Office of the Attorney General (OAG) in DCF Districts 6 (Hillsborough and Manatee counties) and District 10 (Broward County). The Office of the State Attorney was responsible for CWLS in District 9 (Palm Beach County) from August 1, 1997 to July 1, 2000, and in Monroe County from August 6, 1996 to January 1, 2001. In both Palm Beach and Monroe counties, DCF resumed the CWLS function after the elected State Attorney declined further involvement. Each of these governmental entities performs or performed this function under contract to DCF.

The Guidelines for Public Policy and State Legislation Governing Permanence for Children (Guideline), from the U.S. Department of Health and Human Services, distinguishes between legal representation of the parent, child and child welfare agency. With the difficult decisions of how to best protect children, the Guideline pointed to the judges' need to make fully informed decisions. The recommendation of the Guideline is, therefore, that each of these parties have good legal representation. An identified component of the role of an agency attorney is representing the agency and its professional recommendations and positions.

The Florida Bar in 1999 established its Commission on the Legal Needs of Children. This commission was charged with examining legal representation of children in all court divisions and to make recommendations as to how to meet those needs. The Commission, chaired by Judge Sandy Karlan, Circuit Judge in Miami-Dade County, began meeting in July 1999. Its membership includes two justices of the Florida Supreme Court, Representative Sandra Murman, Senator Burt Saunders, Chief Judge Martha Warner of the Fourth District Court of Appeal, Broward County School Board Member Lois Wexler, the General Counsel for the Department of Juvenile Justice, the Secretary of the Department of Children and Families, circuit court judges from around the state, and attorneys from private practice and government practice. It was originally established as a two-year commission, but has recently been extended for one additional year due to the complexity of the issues involved. The first priority (of five) identified by the commission is the issue of representation, "how to adequately protect children's personal rights, liberties, and the preservation of children's assets.." The issues being examined by the commission are closely related to the issues raised by this bill. The report of the commission is now due by July 1, 2002.

Parents' Right to Counsel

Section 39.013, Florida Statutes, requires that all parents of children involved in dependency proceedings be informed of their right to counsel at each stage of the proceedings, and that parents be appointed counsel when they are unable to afford counsel. This law requires that the court determine whether waivers of counsel by parents are knowing and intelligent and must make its findings on this issue of writing. It also requires that once counsel has been appointed or has

entered an appearance, the attorney continues to represent the parent throughout the proceedings. If the attorney-client relationship is discontinued, the court must advise the parent of the right to have new counsel retained or appointed for the remainder of the proceedings.

Section 39.0134, Florida Statutes., includes provisions relating to compensation. If counsel is entitled to receive compensation for representation in accordance with a court appointment in a dependency proceeding pursuant to ch. 39, Florida Statutes, the compensation is established by each county. Section 39.0134(2), Florida Statutes, specifies that compensation must not exceed \$1,000 at the trial level and \$2,500 at the appellate level for representation pursuant to court appointment in a termination of parental rights proceeding.

Interests of the Child

The Guidelines for Public Policy and State Legislation Governing Permanence for Children was developed for the Children's Bureau of the Administration on Children, Youth and Families as a technical assistance document to help states review their own laws and develop statutes and policies that reflect the best practices of child welfare today. The Guideline points out that the role of the child's attorney is unique in this country's legal system and is not well defined in law. The child client being represented by the attorney may or may not be competent to make any or all decisions. There is little guidance regarding the role of the attorney in representing children as compared to the better developed laws and ethical obligations governing attorneys representing adults.

As a result, the appropriate role that an attorney should assume when representing a child has received considerable debate and discussion. A core issue is the extent to which the attorney should take direction from the child client. At one end of the spectrum is the representation of a child's "expressed interest" which generally entails advocating for the child's articulated position, as is the standard in representing adults. Representing the child's "best interest", on the other hand, is usually considered to be advocating for what the attorney thinks is in the child's best interest, even if contrary to the child's view and wishes. The American Bar Association Standards of Practice for Lawyers Representing a Child in Abuse and Neglect Cases (ABA Standards) contemplate representation of the child's expressed interest, in all cases except those children with exceptional problems such as children with limited language development, mental retardation, or serious mental illness. The expert workgroup that developed the Guideline could not reach a consensus on this issue and offered two policy options to state legislatures, client directed and substituted judgment, both presenting variations of expressed and best interests representation.

Representation of a child's legal interests is described in the Guideline as advocating for the interests of the child as set out in legislation, case law, standards of attorney conduct and applicable policy. The Guideline differentiates advocating for a child's legal interests from imposing an attorney's views of the child's interests unguided by any outside authority. Examples of what representing the child's legal interests could entail, based on the Utah model, includes timely progress of litigation, receipt of appropriate foster care services for children in out-of-home care, parental access to rehabilitation services, and regular visitation if reunification is a case plan goal.

In Florida, the rules that govern the role of an attorney are the Rules of Professional Conduct of the Florida Rules of Court. These rules recognize and respond to the various functions an attorney performs and prescribes terms for resolving conflicting responsibilities in representing his or her client. Provisions of the rules of particular relevance to the different approaches being debated in representing children are as follows:

M Rule 4.1.2. (a) Lawyer to abide by Client's Decision. This rule requires a lawyer to abide by a client's decisions concerning the objectives of representation, subject to identified limitations, and to consult with the client as to the means by which they are pursued.

M Rule 41.6. (a) Consent Required to Reveal Information. This rule prohibits a lawyer from revealing information relating to representation of a client unless the client consents to such disclosure. Exceptions to this prohibition are provided.

The Department of Children and Family Services reports that “the reconciliation of this ethical obligation and with the preparation of necessary pleadings and other legal activities which are required of a ‘moving party’ in a dependency case present significant if not insurmountable obstacles to the OCC lawyers”.

Discussions surrounding the need for legal counsel to represent the interests of children in the dependency process have focused, in part, on the ability of the department to move children into permanency within the prescribed time frames, the provision of needed services to achieve the goals for the child and the safety of the children while under department care and supervision. While the department is achieving its goals in a number of its performance standards that measure the outcomes desired for children in the dependency process, there are a number of measures for which the department is not achieving its goals. One of the most important measures relative to the prescribed time frames is the average foster care length of stay of children that the program plans on returning home. The Office of Program Policy Analysis and Government Accountability (OPPAGA) reported in its Child Protection Program Justification Review that this average length of stay was 20.2 months in June 2000 which exceeded the federal standard of 18 months. The most current department Situation Report for October – December 2000 reflects a current statewide average length of stay for all children in foster care of 36.2 months. The OPPAGA review also reports that that the percentage of children safe from reabuse while in foster care for the 1999-2000 fiscal year was 91.9 percent and below the state standard of 97 percent. The Situation Report provided by the department shows that for the third quarter of 1999-2000 through the first quarter of 2000-2001 the statewide average of children who were safe from abuse and neglect while receiving department services was 98.1 percent with a statewide trend for the 2000-2001 fiscal year thus far of 93 percent.

Time Frames for the Dependency Proceedings Under Ch. 39, Florida Statutes

The federal Adoption and Safe Families Act requires that the department establish court-approved permanency goals for each child within the first 12 months a child is in the department’s custody. The department must determine for the court’s approval if the child should be returned to the parent, continued in foster care for a specified period, placed for adoption or continued in foster care on a permanent or long-term basis because of the child’s special needs or circumstances. Section 39.001(1)(h), Florida Statutes, identifies one of the purposes of chapter 39, Florida Statutes, as “to ensure that permanent placement with the biological and adoptive family is achieved as soon as possible for every child in foster care and that no child remains in foster care longer than 1 year.”

Chapter 39, Florida Statutes, has established the following timeframes to guide the court’s involvement in the child safety and permanency process.

M Shelter Hearing - Within 24 hours of removal of the child from home

M Petition Filed Seeking Adjudication that Child is Dependent - Within 21 days of shelter hearing

M Arraignment Hearing Held - Within 28 days of Shelter Hearing

M Hearing to Review Shelter Placement - Every 15 days after arraignment hearing until child is released

M Adjudicatory Trial - No later than 30 days after arraignment

M Case Plan must be filed (if not filed earlier) - Within 60 days of the removal of the child

M Disposition Hearing and Case Plan Acceptance - 30 days after adjudicatory hearing

M Judicial Review - 90 days after the disposition hearing, but no later than 6 months after the child is removed from the home

M Judicial Review for Permanency - No later than 12 months after the date the child was placed in foster care, unless there is an extraordinary situation.

Sections 39.013(10) and 39.402(14), Florida Statutes, permit delays to the above time requirements of the chapter and the shelter hearing provisions respectively as a result of continuances granted. Continuances may be granted at the request of the child, the child's counsel or the child's guardian ad litem, the parent or legal custodian. Continuances may also be requested by the attorney for the department or the petitioner due to the unavailability of evidence material and to allow the attorney for the department or petitioner time to prepare. One problem raised by observers of the dependency process is that while time frames have been established to provide for a child's permanency within 12 months, continuances lengthen that process well beyond the statutory time frames.

Case Plans

The case plan is the document which drives the actions that will achieve permanency for the child. An accurate determination of needs and goals for the child, as well as appropriated identification of services to achieve these goals, is important to the success of this process and the case plan which articulates this process and the course of action. However, questions have been raised regarding the value and impact of the detailed prescription of the content of the case plans contained in the Florida law. In particular, these questions have focused on the extent to which the level of prescriptiveness contributes to unnecessary paperwork and prevents the individualization of the case plan to each child.

Section 471 of Title IV-E of the Social Security Act (42. U.S.C. 671) requires the development of a case plan as defined in section 475 (42 U.S.C. 675). Sections 39.601 and 39.602, Florida Statutes, set forth Florida's requirements for a case plan that must be developed for every child receiving services pursuant to ch. 39 Florida Statutes. The federal requirements are far less stringent than current state requirements for case plan provisions.

C. EFFECT OF PROPOSED CHANGES:

HB 1343 creates an Office of Counsel for Children in DCF's Tenth District to provide legal representation to children in the proceedings of chapter 39, Florida Statutes. It expands the parties who can request continuances while limiting the circumstances and number of continuances that can be requested. The required 15 day hearing to review shelter placement and statutory specifications for the case plan are removed.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Provides legislative intent that children who are placed in out-of-home placements receive representation of their legal interests which promotes the efficient use of judicial resources, advances the timely resolution of dependency litigation, and ensures prompt response to the health, safety and welfare of the children. The section creates an Office of Counsel for Children in the tenth regional district (Broward County) of the Department of Children and Family Services which is

contiguous with the Seventeenth Judicial Circuit. The office is to provide legal representation to children in the judicial proceedings of chapter 39, Florida Statutes, and is to be administered by an administrative counsel who is to be appointed by the Governor for a three year term. Such counsel must have a minimum of 5 years experience in the area of child advocacy, child welfare or juvenile law and must be and have been in good standing with the Florida Bar for the preceding 5 years. Knowledge and training requirements for staff attorneys are prescribed and include the needs of children, families and foster families as it pertains to child abuse, neglect or abandonment and programs and materials for chapter. 39, Florida Statutes.

The section provides that once the office receives an appointment, pursuant s. 39.402, Florida Statutes, a staff attorney is assigned to represent the legal interests of the child. (The exact process for receiving an appointment and the point during the shelter placement and hearing process at which the appointment is to be made is not specified). The child is to be represented by the office until the court discharges the office because permanency has been achieved or the court determines the child no longer requires representation. The section also specifically provides that, upon court appointment, the Office of Counsel for Children is substituted for the Department of Children and Family Services as the moving party in a case, but the appointment of the office does not eliminate the need for appointment of a Guardian Ad Litem.

Duties of the office in representing the children as set forth in the bill include the following:

M Conducting independent investigations of the child and family circumstances;

M Monitoring the efforts of the department to explore placement options, to pursue alternatives to removal of the child, and in developing and providing the services to parties under the case plan;

M Ensuring that pertinent evidence is timely provided to the court by reviewing of all relevant records, conducting interviews, and meeting with the child, if appropriate, to understand the child's desires and concerns and monitor the safety of the placement;

M Attending all judicial proceedings and filing necessary petitions and other judicial actions;

M Keeping the child informed of the judicial proceedings, outcomes and services to be provided; participating in mediation and negotiating settlements; and

M Monitoring all actions that affect the child's health, safety and welfare, including the development and implementation of the case plan, compliance with court orders, the parents' receipt and follow through with court ordered services and the impact of the services, and any violations of court orders or changes in circumstances necessitating a review of the case.

The section provides the same privilege and confidentiality to the records of the Office of the Counsel that are provided in state law. The requirements of s. 39.001(2), Florida Statutes, for department contracts are also imposed on the office and its employees, which include level two employment screening pursuant to chapter 435, Florida Statutes, the exclusion of certain volunteers from employment screening, and the granting of exemptions from disqualifications from employment with children provided by s. 435.07, Florida Statutes.

The office is directed to develop measurable performance outcomes relative to the impact of the legal representation on child safety, improvements in provision of appropriate services, compliance with statutory time standards, and associated reductions in the length of stay of children in state care. A report on these performance measures is to be submitted annually to the Governor and Legislature.

Section 2. Amends s. 39.013, Florida Statutes, relating to procedures and jurisdiction, to expand the entities that may request a continuance to “any party”. At the same time, the section limits the circumstances under which continuances can be granted and limits the total number of days that can be granted.

Section 3. Amends s. 39.402, Florida Statutes, relating to placement in a shelter, to expand the entities that may request a continuance to “any party”. At the same time, the section limits the circumstances under which continuances can be granted and limits the total number of days that can be granted.

Section 4. Amends s. 39.506, Florida Statutes, relating to arraignment hearings, and removes the requirement for continual court review at no more than 15 day intervals until the child is either returned home or until the disposition hearing.

Section 5. Amends s. 39.601, Florida Statutes, relating to case plan requirements, to remove the current statutory contents of a case plan and providing instead that the department shall adopt rules governing the content and format of case plans and the department shall establish procedures for developing, implementing, and modifying case plans that must, at a minimum, meet the standards contained in the Social Security Act.

Section 6. Amends s. 39.602, Florida Statutes, relating to case planning when the parents do not participate and the child is out of the home, to remove the requirement that the case plan must include, but need not be limited to, the services that are to be provided by the department, the goals and plans for the child, and the time frame for accomplishing both the provisions of the plan and permanency for the child.

Section 7. Provides an effective date of July 1, 2001.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Department of Children and Family Services and Office of State Courts Administrator both provided fiscal impact estimates for the Office of Counsel for Children based on the experience of the Attorney Ad Litem to date of \$2,358,067. Based on the initial costs estimates for the Attorney Ad Litem program, \$310,000 will provide legal representation to 150 children, which averages to \$2,066 per child. For the period of January through December 2000, the Office of State Courts Administrator's Summary Reporting System data indicates that in Broward county, 1,141 dependency petitions were filed. (1,141 multiplied by \$2,066 totaling \$2,358,067)

A major consideration in determining the fiscal impact is whether or the extent to which the Office of Counsel for Children will assume the department's legal functions. If both the Office and department's current scope of legal services co-exist, the full level of projected costs would likely be required. If the Office assumes legal functions of the department, the fiscal impact may be reduced. However, there are issues surrounding the ability of the Office to qualify for the federal funding.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not reduce the authority of municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill will not reduce the authority of municipalities and counties to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill will not reduce the state tax shared with counties and municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

Provides that the department shall adopt rules governing the content and format of case plans and the department shall establish procedures for developing, implementing, and modifying case plans that must, at a minimum, meet the standards contained in the Social Security Act.

C. OTHER COMMENTS:

Neither the National Conference of State Legislatures (NCSL) nor the American Bar Association's Center on Children and the Law, is aware of any state in the nation that has created a program similar to the program created by this bill.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 12, 2001, the Committee on Judicial Oversight adopted six amendments:

M Amendment #1 provides that the Office of Counsel for Children is being established as a pilot.

M Amendment #2 places the Office in the Department of Legal Affairs for budget purposes only.

M Amendment #3 provides specific direction for the appointment of the Office to represent children.

M Amendment #4 clarifies that the privileges being applied to the Office are those provided in law to legal representation and removes the reference to applying confidentiality to the records of the Office.

M Amendment #5 requires an evaluation of the pilot and provides for an expiration date for the pilot.

M Amendment #6 corrects a technical reference.

VII. SIGNATURES:

COMMITTEE ON JUDICIAL OVERSIGHT:

Prepared by:

Staff Director:

Carol Preston

Lynne Overton