

By the Committees on Appropriations; Judiciary; and Children, Families, and Elder Affairs; and Senator Detert

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1 A bill to be entitled
2 An act relating to guardians; providing a short title;
3 amending s. 39.6251, F.S.; requiring the court at the
4 permanency review hearing to review the necessity of
5 continuing guardianship and whether restoration of
6 guardianship proceedings are needed when a young adult
7 reaches a certain age under certain circumstances;
8 amending s. 39.701, F.S.; requiring that, for a child
9 meeting certain requirements, the updated case plan be
10 developed in a face-to-face conference with specified
11 persons; requiring the Department of Children and
12 Families to take specified actions at the judicial
13 review hearing if the court makes certain
14 determinations; requiring the department to provide
15 documentation and information to a petitioner under
16 certain circumstances; requiring certain proceedings
17 to be conducted separately; expanding the
18 circumstances under which a court, after making
19 certain findings, may issue an order directing the
20 department to show cause; amending s. 393.12, F.S.;
21 providing that the guardianship court has jurisdiction
22 over proceedings for appointment of a guardian
23 advocate if petitions are filed for certain minors who
24 are subject to a proceeding under ch. 39, F.S., if
25 such minors have attained a specified age; providing
26 that such minors have the same due process rights as
27 certain adults; providing requirements for when an
28 order appointing a guardian advocate must be issued;
29 requiring that proceedings seeking appointment of a

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30 guardian advocate for certain minors be conducted in
31 separate proceedings; amending s. 744.301, F.S.;
32 providing that if a child is subject to proceedings
33 under ch. 39, F.S., the parents may act as natural
34 guardians unless the dependency or probate court finds
35 that it is not in the child's best interests or their
36 parental rights have been terminated; amending s.
37 744.3021, F.S.; requiring the guardianship court to
38 initiate proceedings for appointment of guardians for
39 certain minors who are subject to proceedings under
40 ch. 39, F.S., if petitions are filed and if such
41 minors have reached a specified age; providing that
42 certain minors have the same due process rights as
43 certain adults; providing requirements for when an
44 order of adjudication and letters of limited or
45 plenary guardianship may be issued; requiring that
46 proceedings seeking appointment of a guardian advocate
47 for certain minors be conducted in separate
48 proceedings; providing an effective date.

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50 Be It Enacted by the Legislature of the State of Florida:

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52 Section 1. This act may be cited as "The Regis Little Act
53 to Protect Children with Special Needs."

54 Section 2. Subsection (8) of section 39.6251, Florida
55 Statutes, is amended to read:

56 39.6251 Continuing care for young adults.—

57 (8) During the time that a young adult is in care, the
58 court shall maintain jurisdiction to ensure that the department

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59 and the lead agencies are providing services and coordinate
60 with, and maintain oversight of, other agencies involved in
61 implementing the young adult's case plan, individual education
62 plan, and transition plan. The court shall review the status of
63 the young adult at least every 6 months and hold a permanency
64 review hearing at least annually. If the young adult has been
65 appointed a guardian under chapter 744 or a guardian advocate
66 under s. 393.12, the court shall review at the permanency review
67 hearing the necessity of continuing the guardianship and whether
68 restoration of guardianship proceedings are needed when the
69 young adult reaches 22 years of age. The court may appoint a
70 guardian ad litem or continue the appointment of a guardian ad
71 litem with the young adult's consent. The young adult or any
72 other party to the dependency case may request an additional
73 hearing or review.

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

76 39.701 Judicial review.—

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

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

84 1. For any child that may meet the requirements for
85 appointment of a guardian pursuant to chapter 744 or a guardian
86 advocate pursuant to s. 393.12, the updated case plan must be
87 developed in a face-to-face conference with the child, if

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88 appropriate; the child's attorney; any court-appointed guardian
89 ad litem; the temporary custodian of the child; and the parent,
90 if the parent's rights have not been terminated.

91 2. At the judicial review hearing, if the court determines
92 pursuant to the requirements of chapter 744 that there is a good
93 faith basis to believe that the child qualifies for appointment
94 of a guardian advocate, limited guardian, or plenary guardian
95 and that no less restrictive decisionmaking assistance will meet
96 the child's needs:

97 a. The department shall complete a multidisciplinary
98 report, which must include, but is not limited to, a
99 psychosocial evaluation and educational report if such a report
100 has not been completed within the previous 2 years.

101 b. The department shall identify one or more individuals
102 who are willing to serve as the guardian advocate pursuant to s.
103 393.12 or as the plenary or limited guardian pursuant to chapter
104 744. Any other interested parties or participants may make
105 efforts to identify such a guardian advocate, limited guardian,
106 or plenary guardian. A child's biological or adoptive family
107 member, including the child's parent if the parent's rights have
108 not been terminated, may not be considered for service as the
109 plenary or limited guardian unless the court enters a written
110 order finding that such an appointment is in the child's best
111 interests.

112 c. Proceedings may be initiated within 6 months after the
113 child's 17th birthday for the appointment of a guardian
114 advocate, plenary guardian, or limited guardian for the child in
115 a separate proceeding in the division of the court with proper
116 jurisdiction over guardianship matters and pursuant to chapter

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117 744. The Legislature encourages the use of pro bono
118 representation to initiate proceedings under this section.

119 3. In the event another interested party or participant
120 initiates proceedings for the appointment of a guardian
121 advocate, plenary guardian, or limited guardian for the child,
122 the department shall provide all necessary documentation and
123 information to the petitioner to complete a petition under
124 chapter 393 or chapter 744 within 45 days after the first
125 judicial review hearing after the child's 17th birthday.

126 4. Any proceedings seeking appointment of a guardian
127 advocate or a determination of incapacity and the appointment of
128 a guardian must be conducted in a separate proceeding in the
129 division of the court with jurisdiction over guardianship
130 matters and pursuant to chapter 744.

131 (c) If the court finds at the judicial review hearing that
132 the department has not met its obligations to the child as
133 stated in this part, in the written case plan, or in the
134 provision of independent living services, the court may issue an
135 order directing the department to show cause as to why it has
136 not done so. If the department cannot justify its noncompliance,
137 the court may give the department 30 days within which to
138 comply. If the department fails to comply within 30 days, the
139 court may hold the department in contempt.

140 Section 4. Paragraph (c) is added to subsection (2) of
141 section 393.12, Florida Statutes, to read:

142 393.12 Capacity; appointment of guardian advocate.—

143 (2) APPOINTMENT OF A GUARDIAN ADVOCATE.—

144 (c) If a petition is filed pursuant to this section
145 requesting appointment of a guardian advocate for a minor who is

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146 the subject of any proceeding under chapter 39, the division of
147 the court with jurisdiction over guardianship matters has
148 jurisdiction over the proceedings pursuant to this section when
149 the minor reaches the age of 17 years and 6 months or anytime
150 thereafter. The minor shall be provided all the due process
151 rights conferred upon an alleged developmentally disabled adult
152 pursuant to this chapter. The order of appointment of a guardian
153 advocate under this section shall be issued upon the minor's
154 18th birthday or as soon thereafter as possible. Any proceeding
155 pursuant to this paragraph shall be conducted separately from
156 any other proceeding.

157 Section 5. Subsection (1) of section 744.301, Florida
158 Statutes, is amended to read:

159 744.301 Natural guardians.—

160 (1) The parents jointly are the natural guardians of their
161 own children and of their adopted children, during minority,
162 unless the parents' parental rights have been terminated
163 pursuant to chapter 39. If a child is the subject of any
164 proceeding under chapter 39, the parents may act as natural
165 guardians under this section unless the dependency or probate
166 court finds that it is not in the child's best interests. If one
167 parent dies, the surviving parent remains the sole natural
168 guardian even if he or she remarries. If the marriage between
169 the parents is dissolved, the natural guardianship belongs to
170 the parent to whom sole parental responsibility has been
171 granted, or if the parents have been granted shared parental
172 responsibility, both continue as natural guardians. If the
173 marriage is dissolved and neither parent is given parental
174 responsibility for the child, neither may act as natural

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175 guardian of the child. The mother of a child born out of wedlock
176 is the natural guardian of the child and is entitled to primary
177 residential care and custody of the child unless the court
178 enters an order stating otherwise.

179 Section 6. Subsection (1) of section 744.3021, Florida
180 Statutes, is amended, and subsection (4) is added to that
181 section, to read:

182 744.3021 Guardians of minors.—

183 (1) Except as provided in subsection (4), upon petition of
184 a parent, brother, sister, next of kin, or other person
185 interested in the welfare of a minor, a guardian for a minor may
186 be appointed by the court without the necessity of adjudication
187 pursuant to s. 744.331. A guardian appointed for a minor,
188 whether of the person or property, has the authority of a
189 plenary guardian.

190 (4) If a petition is filed pursuant to this section
191 requesting appointment of a guardian for a minor who is the
192 subject of any proceeding under chapter 39 and who is aged 17
193 years and 6 months or older, the division of the court with
194 jurisdiction over guardianship matters has jurisdiction over the
195 proceedings under s. 744.331. The alleged incapacitated minor
196 under this subsection shall be provided all the due process
197 rights conferred upon an alleged incapacitated adult pursuant to
198 this chapter and applicable court rules. The order of
199 adjudication under s. 744.331 and the letters of limited or
200 plenary guardianship may be issued upon the minor's 18th
201 birthday or as soon thereafter as possible. Any proceeding
202 pursuant to this subsection shall be conducted separately from
203 any other proceeding.

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Section 7. This act shall take effect July 1, 2015.