

By Senator Bradley

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1 A bill to be entitled
 2 An act relating to appointment of attorneys for
 3 dependent children with certain special needs;
 4 amending s. 39.01305, F.S.; revising the circumstances
 5 under which the court must appoint an attorney for a
 6 dependent child; increasing the maximum attorney fees
 7 that may be charged per child per year by attorneys
 8 appointed to represent dependent children; requiring
 9 the Department of Children and Families to enter into
 10 an agreement with the Justice Administrative
 11 Commission to obtain specified federal funds;
 12 specifying how such funds must be used by the
 13 department and the commission, respectively; providing
 14 an effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

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 18 Section 1. Subsections (3) through (6) of section 39.01305,
 19 Florida Statutes, are amended to read:

20 39.01305 Appointment of an attorney for a dependent child
 21 with certain special needs.—

22 (3) The court must appoint an attorney ~~shall be appointed~~
 23 for a dependent child if any of the following circumstances
 24 apply to the child ~~who~~:

25 (a) Resides in a skilled nursing facility or is being
 26 considered for placement in a skilled nursing home.†

27 (b) Is prescribed a psychotropic medication and either does
 28 not agree ~~but declines assent~~ to the psychotropic medication or
 29 is younger than 8 years old.†

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30 (c) Is diagnosed with or exhibits symptoms evidencing a
31 need for assessment or treatment of a ~~Has a diagnosis of a~~
32 developmental disability. ~~as defined in s. 393.063;~~

33 (d) Is being placed in a residential treatment center or
34 being considered for placement in a residential treatment
35 center. ~~;~~ ~~or~~

36 (e) Is a victim of, or is at risk of becoming a victim of,
37 human trafficking as defined in s. 787.06(2) (d).

38 (f) Is required to have counsel appointed for a
39 postdisposition change in custody hearing pursuant to s.
40 39.522(3) (c).

41 (g) Has an open criminal or delinquency case.

42 1. If the child is already represented by the public
43 defender or regional conflict counsel in the criminal or
44 delinquency case and the public defender's office or office of
45 criminal conflict and civil regional counsel has agreed to
46 accept dependency appointments for children who have open
47 criminal or delinquency cases, the court must appoint the public
48 defender or the regional conflict counsel to represent the child
49 until the conclusion of the chapter 39 proceeding.

50 2. If the office representing the child in the criminal or
51 delinquency case is unwilling or unable to take the appointment,
52 the court must appoint an attorney from the registry.

53 (h) Is determined by the court to be in need of an
54 attorney.

55 (4) ~~(a) Before a court may appoint an attorney, who may be~~
56 ~~compensated pursuant to this section, the court must request a~~
57 ~~recommendation from the Statewide Guardian Ad Litem Office for~~
58 ~~an attorney who is willing to represent a child without~~

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59 ~~additional compensation. If such an attorney is available within~~
60 ~~15 days after the court's request, the court must appoint that~~
61 ~~attorney. However, the court may appoint a compensated attorney~~
62 ~~within the 15-day period if the Statewide Guardian Ad Litem~~
63 ~~Office informs the court that it will not be able to recommend~~
64 ~~an attorney within that time period.~~

65 ~~(b)~~ After the court appoints an attorney ~~an attorney is~~
66 ~~appointed~~, the appointment continues in effect until the
67 attorney is allowed to withdraw or is discharged by the court or
68 until the case is dismissed. An attorney ~~who is~~ appointed under
69 this section to represent the child shall provide the complete
70 range of legal services, from the removal from home or from the
71 initial appointment through all available appellate proceedings.
72 With the permission of the court, the attorney for the dependent
73 child may arrange for supplemental or separate counsel to
74 represent the child in appellate proceedings. A court order
75 appointing an attorney under this section must be in writing.

76 (5) Unless the attorney has agreed to provide pro bono
77 services, an appointed attorney or organization must be
78 adequately compensated. All appointed attorneys and
79 organizations, including pro bono attorneys, must be provided
80 with access to funding for expert witnesses, depositions, and
81 other due process costs of litigation. Payment of attorney fees
82 and case-related due process costs are subject to appropriations
83 and review by the Justice Administrative Commission for
84 reasonableness. The Justice Administrative Commission shall
85 contract with attorneys appointed by the court. Attorney fees
86 may not exceed \$1,500 ~~1,000~~ per child per year.

87 (6) The department shall develop procedures to identify a

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88 dependent child who has a special need specified under
89 subsection (3) and to request that a court appoint an attorney
90 for the child. The department shall enter into an agreement with
91 the Justice Administrative Commission to obtain federal Title
92 IV-E funds for the provision of attorneys to children under this
93 section. In addition to providing for attorney compensation, the
94 Title IV-E funds for the children's attorneys must be used:

95 (a) By the department to:

96 1. Conduct an annual review of the circumstances of each
97 child who does not have an attorney, to determine whether any of
98 the circumstances specified in subsection (3) applies;

99 2. Collect and report annually to the Legislature, for each
100 judicial circuit, the number of eligible dependent children for
101 whom counsel was appointed and the length of time between the
102 determination of eligibility and the appointment of counsel for
103 each child for each of the circumstances specified in subsection
104 (3); or

105 3. Improve its procedures to speed the time between the
106 determination of eligibility and the appointment of counsel.

107 (b) By the Justice Administrative Commission to:

108 1. Expand the due process resources available to enable the
109 children's attorneys to access multidisciplinary resources,
110 including, but not limited to, social workers, investigators,
111 paralegals, and peer partners; or

112 2. Implement recommendations of the Florida Supreme Court
113 Steering Committee on Families and Children in the Court.

114 Section 2. This act shall take effect July 1, 2023.