



FLORIDA STATEWIDE GUARDIAN AD LITEM OFFICE
Dennis Moore
Interim Executive Director

TO: All Staff

FROM: Deborah Lacombe
Director of Legislative Affairs/Deputy General Counsel

DATE: May 30, 2008

SUBJECT: 2008 Legislative Session

This memorandum provides an overview of substantive bills passed during the 2008 legislative session. As you know, the Program received a \$1.25 million reduction in our budget for next year. This is in addition to the \$1.4 cut received in the current year budget. The Legislature also revised the proviso language passed as part of the budget and has directed that with respect to the GAL Program's funding:

Funds and positions . . . shall first be used to represent children involved in dependency proceedings. Once all children in dependency proceedings are represented, the funds may be used to represent children in other proceedings as authorized by law.

Proviso language gives direction to state organizations as to how the Legislature expects state dollars to be used. Each year since the State Office was established, proviso language was placed in the appropriations bill which prohibited the Program from using state funds to represent children in dissolution of marriage proceedings *unless* the child was also the subject of a dependency proceeding. This year, the proviso more accurately reflects the need to represent children in dependency court before allowing funds to be used to represent children who have not been alleged to be abused, abandoned or neglected.

As under the previous language, the new language provides that if the Program represents a child in a dependency case, the Program may represent that child in any

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other type of proceeding (including, for example, dissolution of marriage, criminal or administrative proceedings). The new language expands the prohibition on representation in dissolution proceedings (without an underlying dependency allegation) to any proceeding unless there is a dependency allegation. Therefore, the Program may not use state funds to advocate for a child in a civil or criminal proceeding *unless* the child is involved in dependency proceedings. For example, the Program could not use state funds to represent a child victim/witness in a criminal trial or a dissolution of marriage proceeding unless the child was also involved in a dependency proceeding. If you have any questions about this new language, please feel free to call me or Dennis Moore.

Additionally, there were numerous budget cuts that affect advocacy for children. One of the more publicized was the lack of funding provided for maintenance adoption subsidies. At the end of session, a provision was included in HB 7077 to allow the Department of Children and Families to use unspent trust funds to make up for any shortfall. The State Office will communicate with DCF to determine how this will be operationalized and will distribute any information we receive.

Regarding substantive bills, the Program authored and supported a bill proposing revisions to section 39.806 (SB 2756/HB 1467). The bill sought to clarify when a judge could terminate parental rights for case plan non-compliance and to allow for a qualitative consideration of the impact of incarceration for a substantial portion of a child's minority. This bill did not pass.

The following is an overview of bills that passed which impact Chapter 39 and independent living. The State Office is working on a strike-through/underline version of Chapter 39, which should be distributed around July 1. None of these bills have been approved by the Governor yet and therefore are not law. They are all available for viewing on the legislature's website, www.leg.state.fl.us.

HB 625 by Representative Glorioso

SB 2192 by Senator Storms

This bill provides that family foster homes, residential child-caring agencies and other authorized caregivers must comply with the same requirements for foster parents regarding the development of plans for age-appropriate activities for children in their care. New language requires the Independent Living Services Advisory Council to analyze the system of independent living transition services and assess the most effective method of assisting young adults in completing high school. Lastly, the bill creates section 743.046, allowing removal of the disability of non-age for the purpose of allowing a youth in foster care to secure utility services at a residential property upon the youth's 18th birthday.

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HB 663 by Representative Cannon**SB 1084 by Senator Rich**

Chapter 63 is revised in this bill, which includes new section 63.085(2) requiring disclosure of information to preadoptive parents concerning the background of the child they seek to adopt and the child's family's social and medical history.

HB 739 by Representative Ambler**SB 688 by Senator Crist**

This bill contains numerous revisions to the law relating to guardian advocates. Relevant to dependency court, section 393.12 is amended to allow any circuit court to appoint a guardian advocate. This will enable dependency judges to appoint guardian advocates for children with developmental disabilities pursuant to the procedures in section 393.12 (also revised).

HB 7077 by House Healthcare Council and Representative Galvano**SB 1048 by Senate Committee on Children and Families**

This bill was initially proposed by DCF and had provisions added that were member issues. Some of the most significant provisions include:

- Revising section 39.01's definitions of abandonment and harm, and creation of a definition of "child who has exhibited inappropriate sexual behavior" (a number of provisions throughout Chapter 39 were amended to add this phrase alongside "alleged juvenile sexual offender").
- Clarifying requirements of the criminal history check in section 39.0138.
- Creating new subsection (5) in 39.401 adding requirements for/restrictions on the use of non-relative placements.
- Revising section 39.502 to provide that foster parents or preadoptive parents should be provided notice of proceedings relating to children in their care or those they are seeking to adopt.
- Expanding section 39.504 to allow petitions for injunctions from further abuse or acts of domestic violence. New language is added to specify the relief that can be awarded in the injunction and that law enforcement officers may use their arrest powers to enforce the injunction.
- Amending section 39.507 to clarify a child is dependent after an order of adjudication is entered based on the conduct of either parent. The new language ensures courts determine whether each parent abused, abandoned or neglected the child but specifies a child is only adjudicated once. If a subsequent evidentiary hearing is held following the adjudication of the child, the court must supplement the adjudicatory order, disposition order and the case plan as necessary.
- Specifying in section 39.521(3)(c), if no parent is willing or available to assume care and custody of a child who has been adjudicated dependent, and the court will not place the child in the temporary legal custody or an adult relative, the

court shall consider whether it would be appropriate to place the child with the adoptive parent of the child's sibling next. (Similar language was added to section 39.401 to encourage identification of placement with adoptive parents of siblings when children are initially removed from their homes.)

- Revising section 39.701 to require service of notice of a judicial review hearing (regardless of whether the person was present at the previous hearing) upon children over the age of 13 and the attorney for the child.
- Amending section 39.806 to allow for termination of parental rights for failure to comply with the case plan for a period of 9 months (previously 12). New grounds for expedited TPR are established in situations where: (1) individuals have a history of extensive, abusive, and chronic use of alcohol or a controlled substance and have refused/failed to complete treatment; (2) parents have had children placed in out-of-home care three or more times; or (3) a parent gives birth to a child who meets the criteria for a substance exposed newborn despite having the opportunity to participate in treatment when the parent has previously had a child adjudicated dependent because that child was a substance exposed newborn.
- Allowing the Legislative Budget Commission to consider approval of a budget amendment for fiscal year 2008 -2009 requesting additional trust fund authority for expenditures enhancing child protection and adoption.

The State Office will schedule a conference call to discuss these bills prior to July 1. In the meantime, if you have questions, please feel free to call me at 850.414.2435. Thank you.

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