

GENERAL LEGAL ISSUES

Attorneys for Dependent Children with Certain Special Needs

Generally.

- A dependent child who has certain special needs has a particular need for an attorney to represent the dependent child in proceedings under chapter 39, as well as in fair hearings and appellate proceedings, so that the attorney may address the child's medical and related needs and the services and supports necessary for the child to live successfully in the community. § 39.01305(1)(a)(2).
- As used in section 39.01305, Florida Statutes, the term "dependent child" means a child who is subject to any proceeding under this chapter. The term does not require that a child be adjudicated dependent for purposes of section 39.01305, Florida Statutes. § 39.01305(2).
- The court shall appoint an attorney to represent any child who has special needs as defined in § 39.01305 and who is subject to any proceeding under chapter 39. Rule 8.231(b)

Statutory criteria.

- An attorney shall be appointed for a dependent child who:
 - Resides in a skilled nursing facility or is being considered for placement in a skill nursing home;
 - Is prescribed a psychotropic medication but declines assent to the psychotropic medication;
 - Has a diagnosis of a developmental disability as defined in § 393.063;
 - Is being placed in a residential treatment center or being considered for placement in a residential treatment center; OR
 - Is a victim of human trafficking as defined in § 787.06(2)(d);§ 39.01305(3).

Representation with or without compensation.

- Before a court may appoint an attorney, who may be compensated pursuant to § 39.01305, the court must request a recommendation from the Statewide Guardian Ad Litem Office for an attorney who is willing to represent the child without additional compensation. If such an attorney is available within 15 days after the court's request, the court must appoint that attorney. However, the court may appoint a compensated attorney within the 15-day period if the Statewide Guardian Ad Litem Office informs the court that it will not be able to recommend an attorney within that time period. § 39.01305(4)(a).

Term of appointment.

- After an attorney is appointed, the appointment continues in effect until the attorney is allowed to withdraw or is discharged by the court or until the case is dismissed. § 39.01305(4)(b).
- An attorney who is appointed under § 39.01305 to represent the child shall provide the complete range of legal services, from the removal from home or from the initial appointment through all available appellate proceedings. With the permission of the court, the attorney for the dependent child may arrange for supplemental or separate counsel to represent the child in appellate proceedings. § 39.01305(4)(b).
- A court order appointing an attorney under § 39.01305 must be in writing. § 39.01305(4)(b).

No limitation.

Section 39.01305 does not limit the authority of the court to appoint an attorney for a dependent child in a proceeding under chapter 39. § 39.01305(8).