

**FLORIDA**

**IN THE CIRCUIT COURT, SIXTH JUDICIAL CIRCUIT  
IN AND FOR PASCO AND PINELLAS COUNTIES, FLORIDA**

ADMINISTRATIVE ORDER NO. PA/PI-CIR-02-65

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**RE: COURT APPOINTED ATTORNEY AD LITEM**

In order to provide for the orderly appointment and compensation of court appointed attorneys to act as an Attorney ad Litem for the child in dependency and termination of parental rights cases; and

pursuant to proviso language in line items 3201 through 3218, chapter 2002-394, Laws of Florida, section 39.4086, Fla. Stat., and Rule of Juvenile Procedure 8.217, it is

**ORDERED:**

1. An Attorney ad Litem may be appointed upon motion of a party or on the court's own motion. An Attorney ad Litem for a dependent child shall only be appointed:
  - a. in a proceeding arising under chapter 39, Florida Statutes,
  - b. when the court determines that it is in the best interests of a child to be represented by an attorney, and
  - c. where the Guardian ad Litem Program is currently appointed to represent the child.
2. An Attorney ad Litem cannot be appointed until the attorney has completed a training program provided by the Guardian ad Litem Program.
3. The Attorney ad Litem shall be appointed to represent the child's wishes for purposes of proceedings under chapter 39, Florida Statutes, as long as the child's wishes are consistent with the safety and well being of the child. The Attorney ad Litem must in all circumstances fulfill the same duties of advocacy, loyalty, confidentiality, and competent representation that are due an adult client. The Attorney ad Litem agrees to conduct advocacy on behalf of the child in accordance with the order of appointment, chapter 39, Florida Statutes, Rules of Juvenile Procedure, this and any subsequent administrative order.
4. The Attorney ad Litem may not restrict access to the child by the Guardian ad Litem Program or any other party without prior court approval.
5. The Attorney ad Litem shall represent the child until the Guardian ad Litem program is discharged from the case or, until earlier discharged by the court.

6. The Attorney ad Litem will not undertake any representation that conflicts with the order of appointment. Should a conflict arise, the Attorney ad Litem will notify the court immediately.

7. Each attorney selected as a court appointed Attorney ad Litem has agreed to and shall execute a contract with the Court in which the attorney agrees to act as an independent contractor and to accept \$300.00 per appointment. The attorney shall file a Petition for Award of Fees and Costs and request for payment no later than 60 days after discharged by the court.

8. If the attorney moves to withdraw from a case after appointment, no fee will be paid to the withdrawing attorney unless substantial work has been performed by the attorney. If substantial work has been performed, the withdrawing and substituting attorney shall share the fee. If the attorneys are unable to agree on the fee sharing amounts, the Court shall determine such amounts.

9. The attorney shall receive compensation for costs and expenses as follows:

- a. Court contract court reporter expenses for attendance at deposition. The attorney must utilize the court contract court reporters or court staff court reporters whichever is applicable for attendance at depositions. If depositions are required to be taken outside of the circuit, the court reporter shall be paid at the same rate as is paid to the court contract court reporters unless there has been prior written approval of the assigned judge.
- b. Transcript expenses with prior written approval of the assigned judge. The attorney shall utilize the court contract court reporter or court staff court reporters whichever is applicable to make copies of depositions or other transcripts, unless copies are provided by the Clerk of Court at no cost or unless otherwise provided by the Administrative Judge.
- c. Out-of-county or out-of-state travel expenses with prior written approval of the assigned judge. If such travel is permitted, the attorney is limited to state per diem as set out in §112.061(6), Florida Statutes. The attorney will not be compensated for local travel.
- d. Necessary copy fees when a copy charge is incurred from a third source; i.e., certified copies from the clerk, copies of medical records from medical facilities, etc., up to a maximum of \$25.00. Necessary copy fees in excess of the maximum may not be incurred without prior written court approval. Other photocopying costs are not generally taxable costs, absent unusual circumstances. If there are unusual circumstances, the attorney must explain them in a separate cover letter to the Court, unless a prior order has been obtained.
- e. Telephone expenses, absent unusual circumstances, are limited to ten (\$10.00) dollars. Request for reimbursement must be accompanied by the phone bill with the applicable long distance charges highlighted. If there are unusual circumstances, the attorney must explain them in a separate cover letter to the Court, unless a prior order has been obtained.
- f. Expert witness expenses with prior written approval of the assigned judge. In the event it is necessary to hire an outside expert, such as physicians, psychiatrists, psychologists, private investigators, etc., who will charge for consultation or testimony at deposition or trial, the attorney shall petition the Court prior to engaging such a professional for an approval of fees. The petition shall state the necessity of hiring the professional and must reflect, to the degree

practicable, the maximum fee that the professional will charge for services. Outside professional services will be subject to the administrative order controlling professional fees.

- g. All payments to the attorney shall be awarded only by order of the Pasco Administrative Judge or the circuit court judge assigned to handle juvenile dependency cases in Pinellas County, whichever is applicable. Attorneys will be paid the flat fee for actual work performed. The attorney shall submit petitions for payment of attorney's fees and costs in accordance with instructions of the Pasco Administrative Judge or the circuit court judge assigned to handle juvenile dependency cases in Pinellas County, whichever is applicable.

10. The attorney shall **not** receive compensation for the following costs or expenses:

- a. Postage.
- b. Service of subpoenas or other documents by a private process server. Unless extraordinary circumstances exist, the Sheriff must be utilized to serve subpoenas. There is no charge to the attorney for this service. All subpoenas, praecipe and other documents sent to the Sheriff must be prominently identified as "court appointed".
- c. Miscellaneous category of expenses or any expenses not mentioned above, without prior court approval.

11. Attorney shall not be compensated for any costs or expenses not mentioned above without prior approval of the chief judge or his or her designee.

**DONE AND ORDERED** in Chambers at St. Petersburg, Pinellas County, Florida, this \_\_\_\_ day of December 2002.

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David A. Demers, Chief Judge

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## The 2002 Florida Statutes

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JUDICIAL BRANCH PROCEEDINGS RELATING TO CHILDREN

**39.001 Purposes and intent; personnel standards and screening.--**

(1) PURPOSES OF CHAPTER.--The purposes of this chapter are:

(a) To provide for the care, safety, and protection of children in an environment that fosters healthy social, emotional, intellectual, and physical development; to ensure secure and safe custody; and to promote the health and well-being of all children under the state's care.

(b) To recognize that most families desire to be competent caregivers and providers for their children and that children achieve their greatest potential when families are able to support and nurture the growth and development of their children. Therefore, the Legislature finds that policies and procedures that provide for intervention through the department's child protection system should be based on the following principles:

1. The health and safety of the children served shall be of paramount concern.
2. The intervention should engage families in constructive, supportive, and nonadversarial relationships.
3. The intervention should intrude as little as possible into the life of the family, be focused on clearly defined objectives, and take the most parsimonious path to remedy a family's problems.
4. The intervention should be based upon outcome evaluation results that demonstrate success in protecting children and supporting families.

(c) To provide a child protection system that reflects a partnership between the department, other agencies, and local communities.

(d) To provide a child protection system that is sensitive to the social and cultural

diversity of the state.

(e) To provide procedures which allow the department to respond to reports of child abuse, abandonment, or neglect in the most efficient and effective manner that ensures the health and safety of children and the integrity of families.

(f) To preserve and strengthen the child's family ties whenever possible, removing the child from parental custody only when his or her welfare cannot be adequately safeguarded without such removal.

(g) To ensure that the parent or legal custodian from whose custody the child has been taken assists the department to the fullest extent possible in locating relatives suitable to serve as caregivers for the child.

(h) To ensure that permanent placement with the biological or 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.

(i) To secure for the child, when removal of the child from his or her own family is necessary, custody, care, and discipline as nearly as possible equivalent to that which should have been given by the parents; and to ensure, in all cases in which a child must be removed from parental custody, that the child is placed in an approved relative home, licensed foster home, adoptive home, or independent living program that provides the most stable and potentially permanent living arrangement for the child, as determined by the court. All placements shall be in a safe environment where drugs and alcohol are not abused.

(j) To ensure that, when reunification or adoption is not possible, the child will be prepared for alternative permanency goals or placements, to include, but not be limited to, long-term foster care, independent living, custody to a relative on a permanent basis with or without legal guardianship, or custody to a foster parent or legal custodian on a permanent basis with or without legal guardianship.

(k) To make every possible effort, when two or more children who are in the care or under the supervision of the department are siblings, to place the siblings in the same home; and in the event of permanent placement of the siblings, to place them in the same adoptive home or, if the siblings are separated, to keep them in contact with each other.

(l) To provide judicial and other procedures to assure due process through which children, parents, and guardians and other interested parties are assured fair hearings by a respectful and respected court or other tribunal and the recognition, protection, and enforcement of their constitutional and other legal rights, while ensuring that public safety interests and the authority and dignity of the courts are adequately protected.

(m) To ensure that children under the jurisdiction of the courts are provided equal treatment with respect to goals, objectives, services, and case plans, without regard to the location of their placement. It is the further intent of the Legislature that,



when children are removed from their homes, disruption to their education be minimized to the extent possible.

(2) DEPARTMENT CONTRACTS.--The department may contract with the Federal Government, other state departments and agencies, county and municipal governments and agencies, public and private agencies, and private individuals and corporations in carrying out the purposes of, and the responsibilities established in, this chapter.

(a) When the department contracts with a provider for any program for children, all personnel, including owners, operators, employees, and volunteers, in the facility must be of good moral character. A volunteer who assists on an intermittent basis for less than 40 hours per month need not be screened if the volunteer is under direct and constant supervision by persons who meet the screening requirements.

(b) The department shall require employment screening, and rescreening no less frequently than once every 5 years, pursuant to chapter 435, using the level 2 standards set forth in that chapter for personnel in programs for children or youths.

(c) The department may grant exemptions from disqualification from working with children as provided in s. 435.07.

(d) The department shall require all job applicants, current employees, volunteers, and contract personnel who currently perform or are seeking to perform child protective investigations to be drug tested pursuant to the procedures and requirements of s. 112.0455, the Drug-Free Workplace Act. The department is authorized to adopt rules, policies, and procedures necessary to implement this paragraph.

(e) The department shall develop and implement a written and performance-based testing and evaluation program to ensure measurable competencies of all employees assigned to manage or supervise cases of child abuse, abandonment, and neglect.

(3) GENERAL PROTECTIONS FOR CHILDREN.--It is a purpose of the Legislature that the children of this state be provided with the following protections:

(a) Protection from abuse, abandonment, neglect, and exploitation.

(b) A permanent and stable home.

(c) A safe and nurturing environment which will preserve a sense of personal dignity and integrity.

(d) Adequate nutrition, shelter, and clothing.

(e) Effective treatment to address physical, social, and emotional needs, regardless of geographical location.

(f) Equal opportunity and access to quality and effective education, which will meet the individual needs of each child, and to recreation and other community resources to develop individual abilities.

(g) Access to preventive services.

(h) An independent, trained advocate, when intervention is necessary and a skilled guardian or caregiver in a safe environment when alternative placement is necessary.

(4) SUBSTANCE ABUSE SERVICES.--The Legislature finds that children in the care of the state's dependency system need appropriate health care services, that the impact of substance abuse on health indicates the need for health care services to include substance abuse services to children and parents where appropriate, and that it is in the state's best interest that such children be provided the services they need to enable them to become and remain independent of state care. In order to provide these services, the state's dependency system must have the ability to identify and provide appropriate intervention and treatment for children with personal or family-related substance abuse problems. It is therefore the purpose of the Legislature to provide authority for the state to contract with community substance abuse treatment providers for the development and operation of specialized support and overlay services for the dependency system, which will be fully implemented and utilized as resources permit.

(5) PARENTAL, CUSTODIAL, AND GUARDIAN RESPONSIBILITIES.--Parents, custodians, and guardians are deemed by the state to be responsible for providing their children with sufficient support, guidance, and supervision. The state further recognizes that the ability of parents, custodians, and guardians to fulfill those responsibilities can be greatly impaired by economic, social, behavioral, emotional, and related problems. It is therefore the policy of the Legislature that it is the state's responsibility to ensure that factors impeding the ability of caregivers to fulfill their responsibilities are identified through the dependency process and that appropriate recommendations and services to address those problems are considered in any judicial or nonjudicial proceeding.

(6) LEGISLATIVE INTENT FOR THE PREVENTION OF ABUSE, ABANDONMENT, AND NEGLECT OF CHILDREN.--The incidence of known child abuse, abandonment, and neglect has increased rapidly over the past 5 years. The impact that abuse, abandonment, or neglect has on the victimized child, siblings, family structure, and inevitably on all citizens of the state has caused the Legislature to determine that the prevention of child abuse, abandonment, and neglect shall be a priority of this state. To further this end, it is the intent of the Legislature that a comprehensive approach for the prevention of abuse, abandonment, and neglect of children be developed for the state and that this planned, comprehensive approach be used as a basis for funding.

(7) PLAN FOR COMPREHENSIVE APPROACH.--

(a) The department shall develop a state plan for the prevention of abuse,

abandonment, and neglect of children and shall submit the plan to the Speaker of the House of Representatives, the President of the Senate, and the Governor no later than January 1, 1983. The Department of Education and the Division of Children's Medical Services Prevention and Intervention of the Department of Health shall participate and fully cooperate in the development of the state plan at both the state and local levels. Furthermore, appropriate local agencies and organizations shall be provided an opportunity to participate in the development of the state plan at the local level. Appropriate local groups and organizations shall include, but not be limited to, community mental health centers; guardian ad litem programs for children under the circuit court; the school boards of the local school districts; the Florida local advocacy councils; private or public organizations or programs with recognized expertise in working with children who are sexually abused, physically abused, emotionally abused, abandoned, or neglected and with expertise in working with the families of such children; private or public programs or organizations with expertise in maternal and infant health care; multidisciplinary child protection teams; child day care centers; law enforcement agencies, and the circuit courts, when guardian ad litem programs are not available in the local area. The state plan to be provided to the Legislature and the Governor shall include, as a minimum, the information required of the various groups in paragraph (b).

(b) The development of the comprehensive state plan shall be accomplished in the following manner:

1. The department shall establish an interprogram task force comprised of the Program Director for Family Safety, or a designee, a representative from the Child Care Services Program Office, a representative from the Family Safety Program Office, a representative from the Mental Health Program Office, a representative from the Substance Abuse Program Office, a representative from the Developmental Disabilities Program Office, and a representative from the Division of Children's Medical Services Prevention and Intervention of the Department of Health. Representatives of the Department of Law Enforcement and of the Department of Education shall serve as ex officio members of the interprogram task force. The interprogram task force shall be responsible for:

a. Developing a plan of action for better coordination and integration of the goals, activities, and funding pertaining to the prevention of child abuse, abandonment, and neglect conducted by the department in order to maximize staff and resources at the state level. The plan of action shall be included in the state plan.

b. Providing a basic format to be utilized by the districts in the preparation of local plans of action in order to provide for uniformity in the district plans and to provide for greater ease in compiling information for the state plan.

c. Providing the districts with technical assistance in the development of local plans of action, if requested.

d. Examining the local plans to determine if all the requirements of the local plans have been met and, if they have not, informing the districts of the deficiencies and

requesting the additional information needed.

e. Preparing the state plan for submission to the Legislature and the Governor. Such preparation shall include the collapsing of information obtained from the local plans, the cooperative plans with the Department of Education, and the plan of action for coordination and integration of departmental activities into one comprehensive plan. The comprehensive plan shall include a section reflecting general conditions and needs, an analysis of variations based on population or geographic areas, identified problems, and recommendations for change. In essence, the plan shall provide an analysis and summary of each element of the local plans to provide a statewide perspective. The plan shall also include each separate local plan of action.

f. Working with the specified state agency in fulfilling the requirements of subparagraphs 2., 3., 4., and 5.

2. The department, the Department of Education, and the Department of Health shall work together in developing ways to inform and instruct parents of school children and appropriate district school personnel in all school districts in the detection of child abuse, abandonment, and neglect and in the proper action that should be taken in a suspected case of child abuse, abandonment, or neglect, and in caring for a child's needs after a report is made. The plan for accomplishing this end shall be included in the state plan.

3. The department, the Department of Law Enforcement, and the Department of Health shall work together in developing ways to inform and instruct appropriate local law enforcement personnel in the detection of child abuse, abandonment, and neglect and in the proper action that should be taken in a suspected case of child abuse, abandonment, or neglect.

4. Within existing appropriations, the department shall work with other appropriate public and private agencies to emphasize efforts to educate the general public about the problem of and ways to detect child abuse, abandonment, and neglect and in the proper action that should be taken in a suspected case of child abuse, abandonment, or neglect. The plan for accomplishing this end shall be included in the state plan.

5. The department, the Department of Education, and the Department of Health shall work together on the enhancement or adaptation of curriculum materials to assist instructional personnel in providing instruction through a multidisciplinary approach on the identification, intervention, and prevention of child abuse, abandonment, and neglect. The curriculum materials shall be geared toward a sequential program of instruction at the four progressional levels, K-3, 4-6, 7-9, and 10-12. Strategies for encouraging all school districts to utilize the curriculum are to be included in the comprehensive state plan for the prevention of child abuse, abandonment, and neglect.

6. Each district of the department shall develop a plan for its specific geographical area. The plan developed at the district level shall be submitted to the interprogram

task force for utilization in preparing the state plan. The district local plan of action shall be prepared with the involvement and assistance of the local agencies and organizations listed in paragraph (a), as well as representatives from those departmental district offices participating in the treatment and prevention of child abuse, abandonment, and neglect. In order to accomplish this, the district administrator in each district shall establish a task force on the prevention of child abuse, abandonment, and neglect. The district administrator shall appoint the members of the task force in accordance with the membership requirements of this section. In addition, the district administrator shall ensure that each subdistrict is represented on the task force; and, if the district does not have subdistricts, the district administrator shall ensure that both urban and rural areas are represented on the task force. The task force shall develop a written statement clearly identifying its operating procedures, purpose, overall responsibilities, and method of meeting responsibilities. The district plan of action to be prepared by the task force shall include, but shall not be limited to:

- a. Documentation of the magnitude of the problems of child abuse, including sexual abuse, physical abuse, and emotional abuse, and child abandonment and neglect in its geographical area.
- b. A description of programs currently serving abused, abandoned, and neglected children and their families and a description of programs for the prevention of child abuse, abandonment, and neglect, including information on the impact, cost-effectiveness, and sources of funding of such programs.
- c. A continuum of programs and services necessary for a comprehensive approach to the prevention of all types of child abuse, abandonment, and neglect as well as a brief description of such programs and services.
- d. A description, documentation, and priority ranking of local needs related to child abuse, abandonment, and neglect prevention based upon the continuum of programs and services.
- e. A plan for steps to be taken in meeting identified needs, including the coordination and integration of services to avoid unnecessary duplication and cost, and for alternative funding strategies for meeting needs through the reallocation of existing resources, utilization of volunteers, contracting with local universities for services, and local government or private agency funding.
- f. A description of barriers to the accomplishment of a comprehensive approach to the prevention of child abuse, abandonment, and neglect.
- g. Recommendations for changes that can be accomplished only at the state program level or by legislative action.

#### (8) FUNDING AND SUBSEQUENT PLANS.--

- (a) All budget requests submitted by the department, the Department of Health, the Department of Education, or any other agency to the Legislature for funding of

efforts for the prevention of child abuse, abandonment, and neglect shall be based on the state plan developed pursuant to this section.

(b) The department at the state and district levels and the other agencies listed in paragraph (7)(a) shall readdress the plan and make necessary revisions every 5 years, at a minimum. Such revisions shall be submitted to the Speaker of the House of Representatives and the President of the Senate no later than June 30 of each year divisible by 5. An annual progress report shall be submitted to update the plan in the years between the 5-year intervals. In order to avoid duplication of effort, these required plans may be made a part of or merged with other plans required by either the state or Federal Government, so long as the portions of the other state or Federal Government plan that constitute the state plan for the prevention of child abuse, abandonment, and neglect are clearly identified as such and are provided to the Speaker of the House of Representatives and the President of the Senate as required above.

(9) LIBERAL CONSTRUCTION.--It is the intent of the Legislature that this chapter be liberally interpreted and construed in conformity with its declared purposes.

**History.**--s. 1, ch. 26880, 1951; s. 1, ch. 73-231; s. 1, ch. 78-414; s. 1, ch. 82-62; s. 62, ch. 85-81; s. 1, ch. 85-206; s. 10, ch. 85-248; s. 19, ch. 86-220; s. 1, ch. 90-53; ss. 1, 2, ch. 90-208; s. 2, ch. 90-306; s. 2, ch. 91-33; s. 68, ch. 91-45; s. 13, ch. 91-57; s. 5, ch. 93-156; s. 23, ch. 93-200; s. 19, ch. 93-230; s. 14, ch. 94-134; s. 14, ch. 94-135; ss. 9, 10, ch. 94-209; s. 1332, ch. 95-147; s. 7, ch. 95-152; s. 8, ch. 95-158; ss. 15, 30, ch. 95-228; s. 116, ch. 95-418; s. 1, ch. 96-268; ss. 128, 156, ch. 97-101; s. 69, ch. 97-103; s. 3, ch. 97-237; s. 119, ch. 97-238; s. 8, ch. 98-137; s. 18, ch. 98-403; s. 1, ch. 99-193; s. 13, ch. 2000-139; s. 5, ch. 2000-151; s. 5, ch. 2000-263.

**Note.**--Former s. 39.20; subsections (3)-(5) former s. 39.002, s. 409.70, subsections (6)-(8) former s. 415.501.

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### **39.807 Right to counsel; guardian ad litem.--**

(1)(a) At each stage of the proceeding under this part, the court shall advise the parent of the right to have counsel present. The court shall appoint counsel for indigent parents. The court shall ascertain whether the right to counsel is understood and, where appropriate, is knowingly and intelligently waived. The court shall enter its findings in writing with respect to the appointment or waiver of counsel for indigent parents.

(b) Once counsel has been retained or, in appropriate circumstances, appointed to represent the parent of the child, the attorney shall continue to represent the parent throughout the proceedings or until the court has approved discontinuing the attorney-client relationship. If the attorney-client relationship is discontinued, the court shall advise the parent of the right to have new counsel retained or appointed for the remainder of the proceedings.

(c)1. No waiver of counsel may be accepted if it appears that the parent is unable to make an intelligent and understanding choice because of mental condition, age, education, experience, the nature or complexity of the case, or other factors.

2. A waiver of counsel made in court must be of record. A waiver made out of court must be in writing with not less than two attesting witnesses and must be filed with the court. The witnesses shall attest to the voluntary execution of the waiver.

3. If a waiver of counsel is accepted at any stage of the proceedings, the offer of assistance of counsel must be renewed by the court at each subsequent stage of the proceedings at which the parent appears without counsel.

(d) This subsection does not apply to any parent who has voluntarily executed a written surrender of the child and consent to the entry of a court order therefor.

(2)(a) The court shall appoint a guardian ad litem to represent the best interest of the child in any termination of parental rights proceedings and shall ascertain at each stage of the proceedings whether a guardian ad litem has been appointed.

(b) The guardian ad litem has the following responsibilities:

1. To investigate the allegations of the petition and any subsequent matters arising in the case and, unless excused by the court, to file a written report. This report must include a statement of the wishes of the child and the recommendations of the guardian ad litem and must be provided to all parties and the court at least 72 hours before the disposition hearing.

2. To be present at all court hearings unless excused by the court.

3. To represent the best interests of the child until the jurisdiction of the court over the child terminates or until excused by the court.

(c) A guardian ad litem is not required to post bond but shall file an acceptance of the office.

(d) A guardian ad litem is entitled to receive service of pleadings and papers as provided by the Florida Rules of Juvenile Procedure.

(e) This subsection does not apply to any voluntary relinquishment of parental rights proceeding.

**History.**--s. 9, ch. 87-289; s. 17, ch. 90-306; s. 36, ch. 94-164; s. 89, ch. 98-403; s. 46, ch. 99-193; s. 36, ch. 2000-139.

**Note.**--Former s. 39.465.

**39.810 Manifest best interests of the child.**--In a hearing on a petition for termination of parental rights, the court shall consider the manifest best interests of the child. This consideration shall not include a comparison between the attributes of the parents and those of any persons providing a present or potential placement for the child. For the purpose of determining the manifest best interests of the child, the court shall consider and evaluate all relevant factors, including, but not limited to:



- (1) Any suitable permanent custody arrangement with a relative of the child.
- (2) The ability and disposition of the parent or parents to provide the child with food, clothing, medical care or other remedial care recognized and permitted under state law instead of medical care, and other material needs of the child.
- (3) The capacity of the parent or parents to care for the child to the extent that the child's safety, well-being, and physical, mental, and emotional health will not be endangered upon the child's return home.
- (4) The present mental and physical health needs of the child and such future needs of the child to the extent that such future needs can be ascertained based on the present condition of the child.
- (5) The love, affection, and other emotional ties existing between the child and the child's parent or parents, siblings, and other relatives, and the degree of harm to the child that would arise from the termination of parental rights and duties.
- (6) The likelihood of an older child remaining in long-term foster care upon termination of parental rights, due to emotional or behavioral problems or any special needs of the child.
- (7) The child's ability to form a significant relationship with a parental substitute and the likelihood that the child will enter into a more stable and permanent family relationship as a result of permanent termination of parental rights and duties.
- (8) The length of time that the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity.
- (9) The depth of the relationship existing between the child and the present custodian.
- (10) The reasonable preferences and wishes of the child, if the court deems the child to be of sufficient intelligence, understanding, and experience to express a preference.
- (11) The recommendations for the child provided by the child's guardian ad litem or legal representative.

**History.**--s. 31, ch. 94-164; s. 18, ch. 95-228; s. 92, ch. 98-403.

**Note.**--Former s. 39.4612.

**39.820 Definitions.**--As used in this part, the term:

- (1) "Guardian ad litem" as referred to in any civil or criminal proceeding includes the following: a certified guardian ad litem program, a duly certified volunteer, a staff attorney, contract attorney, or certified pro bono attorney working on behalf of a guardian ad litem or the program; staff members of a program office; a court-appointed attorney; or a responsible adult who is appointed by the court to represent the best interests of a child in a proceeding as provided for by law, including, but not limited to, this chapter, who is a party to any judicial proceeding as a representative of the child, and who serves until discharged by the court.
- (2) "Guardian advocate" means a person appointed by the court to act on behalf of



a drug dependent newborn pursuant to the provisions of this part.

**History.**--s. 101, ch. 98-403.

**39.822 Appointment of guardian ad litem for abused, abandoned, or neglected child.**--

(1) A guardian ad litem shall be appointed by the court at the earliest possible time to represent the child in any child abuse, abandonment, or neglect judicial proceeding, whether civil or criminal. Any person participating in a civil or criminal judicial proceeding resulting from such appointment shall be presumed prima facie to be acting in good faith and in so doing shall be immune from any liability, civil or criminal, that otherwise might be incurred or imposed.

(2) In those cases in which the parents are financially able, the parent or parents of the child shall reimburse the court, in part or in whole, for the cost of provision of guardian ad litem services. Reimbursement to the individual providing guardian ad litem services shall not be contingent upon successful collection by the court from the parent or parents.

(3) The guardian ad litem or the program representative shall review all disposition recommendations and changes in placements, and must be present at all critical stages of the dependency proceeding or submit a written report of recommendations to the court. Written reports must be filed with the court and served on all parties whose whereabouts are known at least 72 hours prior to the hearing.

**History.**--ss. 1, 2, 3, 4, 5, 6, ch. 63-24; s. 941, ch. 71-136; ss. 1, 1A, ch. 71-97; s. 32, ch. 73-334; s. 65, ch. 74-383; s. 1, ch. 75-101; s. 1, ch. 75-185; s. 4, ch. 76-237; s. 1, ch. 77-77; s. 3, ch. 77-429; ss. 1, 2, ch. 78-322; s. 3, ch. 78-326; s. 22, ch. 78-361; s. 1, ch. 78-379; s. 181, ch. 79-164; s. 1, ch. 79-203; s. 10, ch. 84-226; s. 3, ch. 90-211; s. 103, ch. 98-403; s. 51, ch. 99-193.

**Note.**--Former ss. 828.041, 827.07(16); s. 415.508.

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**Chapter 39**

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PROCEEDINGS RELATING TO CHILDREN

**39.824 Procedures and jurisdiction.**--

(1) The Supreme Court is requested to adopt rules of juvenile procedure by October 1, 1989, to implement this part. All procedures, including petitions, pleadings, subpoenas, summonses, and hearings in cases for the appointment of a guardian advocate shall be according to the Florida Rules of Juvenile Procedure unless otherwise provided by law.

(2) The circuit court shall have exclusive original jurisdiction of a proceeding in which appointment of a guardian advocate is sought. The court shall retain jurisdiction over a child for whom a guardian advocate is appointed until specifically relinquished by court order.

**History.**--s. 2, ch. 89-345; s. 105, ch. 98-403.

**39.825 Petition for appointment of a guardian advocate.**--A petition for appointment of a guardian advocate may be filed by the department, any relative of the child, any licensed health care professional, or any other interested person. The petition shall be in writing and shall be signed by the petitioner under oath stating his or her good faith in filing the petition. The form of the petition and its contents shall be determined by the Florida Rules of Juvenile Procedure.

**History.**--s. 2, ch. 89-345; s. 72, ch. 97-103; s. 106, ch. 98-403.

**Note.**--Former s. 415.5084.

**39.826 Process and service.**--

- (1) Personal appearance of a person in a hearing before the court shall obviate the necessity of serving process upon that person.
- (2) Upon the filing of a petition requesting the appointment of a guardian advocate, and upon request of the petitioner, the clerk or deputy clerk shall issue a summons.
- (3) The summons shall require the person on whom it is served to appear for a hearing at a time and place specified. Except in cases of medical emergency, the time shall be not less than 24 hours after service of the summons. The summons shall be directed to and shall be served upon the parents. It shall not be necessary to the validity of a proceeding for the appointment of a guardian advocate that the parents be present if their identity or presence is unknown after a diligent search and inquiry have been made, if they have become residents of a state other than this state, or if they evade service or ignore a summons, but in this event the person who made the search and inquiry shall file a certificate of those facts.
- (4) Upon the application of a party, the clerk or deputy clerk shall issue, and the court on its own motion may issue, subpoenas requiring attendance and testimony of witnesses and production of records, documents, or other tangible objects at any hearing.

**History.**--s. 2, ch. 89-345; s. 107, ch. 98-403.

**Note.**--Former s. 415.5085.