

By Senator Garcia

39-373-02

See HB

1 A bill to be entitled

2 An act relating to foster care; amending s.

3 39.812, F.S.; specifying the circumstances

4 under which the Department of Children and

5 Family Services may remove a child from a

6 foster home after denying the foster parent's

7 application for adoption; providing legislative

8 findings and intent regarding the role of

9 foster parents as participants in the state's

10 child welfare system; creating s. 409.1684,

11 F.S.; creating the "Foster Parent Act";

12 specifying responsibilities of the department

13 with respect to foster parents; specifying

14 rights and responsibilities of foster parents;

15 requiring the department and agencies providing

16 foster care services under contract with the

17 department to prepare an annual plan for

18 implementation of the act; providing an

19 effective date.

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

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23 Section 1. Subsection (4) of section 39.812, Florida

24 Statutes, is amended to read:

25 39.812 Postdisposition relief; petition for

26 adoption.--

27 (4) The court shall retain jurisdiction over any child

28 placed in the custody of the department until the child is

29 adopted. After custody of a child for subsequent adoption has

30 been given to the department, the court has jurisdiction for

31 the purpose of reviewing the status of the child and the

1 progress being made toward permanent adoptive placement. As
2 part of this continuing jurisdiction, for good cause shown by
3 the guardian ad litem for the child, the court may review the
4 appropriateness of the adoptive placement of the child. When a
5 licensed foster parent has applied to adopt a foster child who
6 has resided with the foster parent for at least 6 months and
7 who has previously been permanently committed to the legal
8 custody of the department and the department does not grant
9 the application to adopt, the department may not, in the
10 absence of a prior court order authorizing it to do so, remove
11 the child from the foster home, except when:

12 (a) There is probable cause to believe that the child
13 is at imminent risk of abuse or neglect;

14 (b) Thirty days have expired following written notice
15 to the foster parent of the denial of the application to
16 adopt, within which period no formal challenge of the
17 department's decision has been filed; or

18 (c) The foster parent agrees to the child's removal.

19 Section 2. Legislative findings and intent.--

20 (1) Family foster care is an essential service for
21 children and their families who have been separated due to
22 child abuse, neglect, or dependency. When children have been
23 separated from their families, it is the responsibility of the
24 Department of Children and Family Services, its service
25 providers, and other participants in the child welfare system
26 to respond to the needs of the children and their families, by
27 means which shall include:

28 (a) Providing protection and nurture to children in a
29 safe, healthy environment.

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1 (b) Meeting the developmental and emotional needs of
2 the children, including maintaining and promoting the child's
3 emotional attachment to his or her own family.

4 (c) Protecting and promoting the child's cultural
5 identity and heritage.

6 (d) Working toward permanency for the children by
7 connecting them to safe, nurturing relationships intended to
8 last a lifetime, preferably with their own family.

9 (2) Foster parents are an essential part of and
10 fulfill an integral role in the child welfare system, along
11 with children in care who are old enough to participate in
12 planning and services, parents of children in care,
13 caseworkers, and other professionals serving the child and
14 family. By providing care for children and supporting the
15 attachment of children to their families in a manner sensitive
16 to each child's and family's unique needs, the foster parent
17 serves the child, the family, and the community.

18 (3) In order to successfully fulfill their role,
19 foster parents must be committed to the goals for dependent
20 children provided in section 39.4085, Florida Statutes, and
21 must provide care to children and promote the best interests
22 of the children and families served. In order to achieve these
23 goals, foster parents must understand and be sensitive to
24 issues of culture, ethnicity, and religion, and the children's
25 connection with their families, and must maintain a level of
26 care, conduct, and demeanor that is consistent with the high
27 professional ethics demanded of all others serving children in
28 the child welfare system.

29 (4) The Legislature finds that there is a need to
30 establish public policy regarding the role of foster parents.
31 The Legislature intends by enactment of section 409.1684,

1 Florida Statutes, to provide a statement of foster parents'
2 rights and responsibilities, which shall apply to all foster
3 parents in the state, whether supervised by the Department of
4 Children and Family Services or by another agency under
5 contract to the department to provide foster care services.

6 Section 3. Section 409.1684, Florida Statutes, is
7 created to read:

8 409.1684 Foster parent rights and responsibilities.--

9 (1) SHORT TITLE.--This section may be cited as the
10 "Foster Parent Act."

11 (2) RESPONSIBILITIES OF DEPARTMENT OF CHILDREN AND
12 FAMILY SERVICES TO A FOSTER PARENT.--The responsibilities of
13 the Department of Children and Family Services to a foster
14 parent include, but are not limited to, the following:

15 (a) Treating a foster parent with dignity, respect,
16 and consideration as a professional participant in the child
17 welfare system.

18 (b) Giving a foster parent standardized preservice
19 training and appropriate ongoing training to meet mutually
20 assessed needs and improve the foster parent's skills.

21 (c) Informing a foster parent as to how to contact the
22 appropriate child-placing agency in order to receive
23 information and assistance to access supportive services for
24 children in the foster parent's care.

25 (d) Providing a foster parent with timely financial
26 reimbursement commensurate with the care needs of the child,
27 as specified in a contract.

28 (e) Providing a foster parent with a clear, written
29 understanding of a placement agency's plan concerning the
30 placement of a child in the foster parent's home. Inherent in
31 this right is the foster parent's responsibility to support

1 activities that will promote the child's right to
2 relationships with his or her own family and cultural
3 heritage.

4 (f) Providing to a foster parent a fair, timely, and
5 impartial investigation of complaints concerning the foster
6 parent's licensure, the opportunity to have a person of the
7 foster parent's choosing present during the investigation, and
8 due process during the investigation; the right to request and
9 receive mediation or an administrative review, or both, of
10 decisions that affect licensing parameters; and the right to
11 have decisions concerning a licensing corrective action plan
12 specifically explained and tied to the licensing standards
13 violated.

14 (g) Providing to a foster parent at any time during
15 which a child is placed with the foster parent additional or
16 necessary information that is relevant to the care of the
17 child.

18 (h) Notifying a foster parent of scheduled meetings
19 and staff briefings concerning the foster child in order to
20 include the foster parent in actively participating in the
21 case planning and decisionmaking process regarding the child,
22 including individual service planning meetings, administrative
23 case reviews, interdisciplinary staff briefings, and
24 individual educational planning meetings; of the foster
25 parent's right to be informed of decisions made by the courts,
26 or by the department or its service providers, concerning the
27 child; of the foster parent's right to provide input
28 concerning the plan of services for the child and to have that
29 input given full consideration in the same manner as
30 information presented by any other professional participant in
31 the child welfare system; and of the foster parent's right to

1 communicate with other professionals who work with the foster
2 child within the context of the provision of services to
3 dependent children, including therapists, physicians, and
4 teachers.

5 (i) Providing to a foster parent, in a timely and
6 consistent manner, any information a caseworker or other
7 service provider has regarding the child and the child's
8 family which is pertinent to the care and needs of the child
9 and to making a permanency plan for the child. Disclosure of
10 information concerning the child's family shall be limited to
11 information that is essential for understanding the needs of
12 and providing care to the child, in order to protect the
13 rights of the child's family. When a positive relationship
14 exists between the foster parent and the child's family, the
15 child's family may consent to disclosure of additional
16 information.

17 (j) Providing to a foster parent reasonable written
18 notice of:

19 1. Any change in a child's case plan, and the reasons
20 for the change.

21 2. Plans to terminate the placement of the child with
22 the foster parent, and the reasons for the termination in
23 placement.

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25 Such notice shall be waived only in cases of a court order or
26 when the child is determined to be at imminent risk of harm.

27 (k) Notifying a foster parent in a timely and complete
28 manner of all court hearings, including notice of the date and
29 time of the hearing, the name of the judge or hearing officer
30 hearing the case, the location of the hearing, and the court
31 docket number of the case.

1 (l) Considering a foster parent as a placement option
2 when a foster child who was formerly placed with the foster
3 parent is to reenter foster care, if that placement is
4 consistent with the best interest of the child and other
5 children in the family foster home.

6 (m) Providing to a foster parent timely access to the
7 child-placing agency's existing appeals process and the right
8 to be free from acts of harassment and retaliation by any
9 other party when exercising the right to appeal.

10 (n) Informing a foster parent of the rights accorded
11 to foster parents concerning reports of misconduct by
12 department employees, service providers, or contractors, and
13 the investigation and confidential handling of such reports.

14 (3) RESPONSIBILITIES OF FOSTER PARENTS.--A foster
15 parent's responsibilities include, but are not limited to, the
16 following:

17 (a) The responsibility to openly communicate and share
18 information about the child with other participants in the
19 child welfare system.

20 (b) The responsibility to respect the confidentiality
21 of information concerning foster children and their families
22 and to act appropriately within applicable confidentiality
23 laws and rules.

24 (c) The responsibility to advocate for children in the
25 foster parent's care.

26 (d) The responsibility to treat children in the foster
27 parent's care and the children's families with dignity,
28 respect, and consideration.

29 (e) The responsibility to recognize the foster
30 parent's own individual and familial strengths and limitations
31 when deciding whether to accept a child into care; and the

1 responsibility to recognize the foster parent's own support
2 needs and to use appropriate supports in providing care for
3 foster children.

4 (f) The responsibility to be aware of the benefits of
5 relying on and affiliating with other foster parents and
6 foster parent associations in improving the quality of care
7 and service to children and families.

8 (g) The responsibility to assess the foster parent's
9 ongoing individual training needs and take action to meet
10 those needs.

11 (h) The responsibility to develop and assist in
12 implementing strategies to prevent placement disruptions,
13 recognizing the traumatic impact of placement disruptions on a
14 foster child and all members of the foster family; and the
15 responsibility to provide emotional support for the foster
16 children and members of the foster family if preventive
17 strategies fail and placement disruptions occur.

18 (i) The responsibility to know the impact foster
19 parenting has on individuals and family relationships; and the
20 responsibility to endeavor to minimize, as much as possible,
21 any stress that results from foster parenting.

22 (j) The responsibility to know the rewards and
23 benefits to children, parents, families, and society that come
24 from foster parenting and to promote the foster parenting
25 experience in a positive way.

26 (k) The responsibility to know the roles, rights, and
27 responsibilities of foster parents, other professional
28 participants in the child welfare system, the foster child,
29 and the foster child's own family.

30 (l) The responsibility to know and, as necessary,
31 fulfill the foster parent's responsibility to serve as a

1 mandated reporter of suspected child abuse, abandonment, or
2 neglect under s. 39.201; and the responsibility to know the
3 department's policy regarding allegations that a foster parent
4 has committed child abuse, abandonment, or neglect, and the
5 applicable administrative rules and procedures governing
6 investigations of those allegations.

7 (m) The responsibility to know and receive training
8 regarding the purpose of administrative case reviews, case
9 plans, and court processes, as well as any filing or time
10 requirements associated with those proceedings; and the
11 responsibility to actively participate in the foster parent's
12 designated role in these proceedings.

13 (n) The responsibility to know the department's appeal
14 procedure for foster parents and the rights of foster parents
15 under the procedure.

16 (o) The responsibility to know and understand the
17 importance of maintaining accurate and relevant records
18 regarding the child's history and progress, and the
19 responsibility to be aware of and follow the procedures and
20 rules of the department.

21 (p) The responsibility to share information, through
22 the department, its service providers, or other participants
23 in the child welfare system, with the subsequent caregiver,
24 whether the child's parent or another caregiver, regarding the
25 child's adjustment in the family foster home.

26 (q) The responsibility to provide care and services
27 that are respectful of and responsive to the child's cultural
28 needs and are supportive of the relationship between the child
29 and his or her own family; the responsibility to recognize the
30 increased importance of maintaining a child's cultural
31 identity when the race or culture of the foster family differs

1 from that of the foster child; and the responsibility to take
2 action to address these issues.

3 (4) IMPLEMENTATION; ANNUAL PLAN.--The department and
4 each agency providing foster care services under contract with
5 the department shall be responsible for implementing this
6 section and shall annually, by January 1, prepare a plan
7 providing for implementation of this section in each of the
8 department's service districts. The plans shall be submitted
9 to foster parents for comment.

10 Section 4. This act shall take effect upon becoming a
11 law.

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14 LEGISLATIVE SUMMARY

15 Specifies the circumstances under which the Department of
16 Children and Family Services may remove a child from a
17 foster home after denying the foster parent's application
18 for adoption. Provides legislative findings and intent
19 regarding the role of foster parents as participants in
20 the child welfare system. Creates the "Foster Parent
21 Act." Specifies responsibilities of the department with
22 respect to foster parents and specifies the rights and
23 responsibilities of foster parents. Requires the
24 department and each agency providing foster care services
25 under contract with the department to implement the act
26 and prepare an annual plan for implementation in the
27 department's service districts.
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