

A bill to be entitled

An act relating to rights of dependent children and youth; amending s. 39.4085, F.S.; revising legislative findings and intent; establishing rights for children and youth in shelter and foster care; requiring additional documentation to be included in a case management file; revising placement criteria; providing for children and youth in shelter and foster care to participate in certain planning processes; revising provisions relating to educational services; providing for access by a child or youth to representation in the grievance process; providing for review of certain records at no cost by specified persons; providing for access to programs for behaviorally disturbed children and youth; providing for medical care while in the care of the state; providing transitional services; prohibiting certain causes of action; providing for continuation of certain rights and remedies established in state or federal law; providing an effective date.

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

Section 1. Section 39.4085, Florida Statutes, is amended to read:

39.4085 Legislative findings and declaration of intent for rights of ~~goals for~~ dependent children and youth.--The Legislature finds and declares that the design and delivery of child welfare services should be directed by the principle that

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29 the health and safety of children and youth should be of  
30 paramount concern and that minimum standards of care, called  
31 "rights," will assist those involved in the care of children and  
32 youth to institute best practices and, therefore, establishes  
33 the following rights ~~goals~~ for children and youth in shelter or  
34 foster care:

35 (1) To receive a copy of this section or an age-  
36 appropriate version of the rights described in this section ~~act~~  
37 and have those rights ~~it~~ fully explained to them in an age-  
38 appropriate manner when they are placed in the custody of the  
39 department and at the time of each change of placement.

40 (2) To enjoy individual dignity, liberty, pursuit of  
41 happiness, and the protection of their civil and legal rights as  
42 persons in the custody of the state.

43 (3) To have their privacy protected, have their personal  
44 belongings secure and transported with them, and, unless  
45 otherwise ordered by the court to protect their safety, have  
46 uncensored communication, including receiving and sending  
47 unopened communications and having access to a telephone.

48 (4) To have personnel providing services who are  
49 sufficiently qualified and experienced to assess the risk  
50 children and youth face prior to removal from their homes and to  
51 meet the needs of the children and youth once they are in the  
52 custody of the department.

53 (5) To remain in the custody of their parents or legal  
54 custodians unless and until there has been a determination by a  
55 qualified person exercising competent professional judgment that

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56 removal is necessary to protect their physical, mental, or  
57 emotional health or safety.

58 (6) To have a full risk, health, educational, medical and  
59 psychological screening and, if needed, assessment and testing  
60 upon adjudication into foster care; and to have their  
61 photograph, and fingerprints, birth certificate, and health  
62 insurance information included in their case management file.

63 (7) To be referred to and receive services, including  
64 necessary medical, emotional, psychological, psychiatric, and  
65 educational evaluations and treatment, as soon as practicable  
66 after identification of the need for such services by the  
67 screening and assessment process or when a need arises.

68 (8) To be placed in the most family-like setting available  
69 that is safe and adequate in a home with no more than one other  
70 foster child, unless they are part of a sibling group, and to  
71 remain in a stable, nurturing placement without the risk of  
72 removal by the department to a second placement without notice  
73 and coordination of services.

74 (9) To be placed away from other children and adults known  
75 to pose a threat of harm to them, either because of their own  
76 risk factors or those of the other person ~~child~~.

77 (10) To be placed in a home where they will not be touched  
78 in an inappropriate manner or asked to perform inappropriate  
79 actions and where they are able to feel safe and be treated with  
80 respect when reporting an act or language that disturbs them.

81 ~~(11)-(10)~~ To be placed in a home where the shelter or  
82 foster caregiver is aware of and understands the child's or  
83 youth's history, needs, and risk factors.

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84        ~~(12)-(11)~~ To participate with caregivers and professionals  
85 in developing a plan ~~be the subject of a plan developed by the~~  
86 ~~counselor and the shelter or foster caregiver~~ to deal with  
87 identified needs and any behaviors that may present a risk to  
88 the child or youth or others.

89        ~~(13)-(12)~~ To be involved ~~and incorporated~~, where  
90 appropriate, in the development of the case plan, to have a case  
91 plan which will address the their specific needs of the child or  
92 youth and the family, to have the case plan and related services  
93 explained and delivered in a respectful and racially and  
94 culturally sensitive manner, and to have the opportunity to  
95 object to any of the provisions of the case plan, and to receive  
96 an explanation of all responses to objections.

97        ~~(14)-(13)~~ To receive meaningful case management and  
98 planning that will quickly return the child or youth to his or  
99 her family or move the child or youth on to other forms of  
100 permanency as soon as legally appropriate, consistent with the  
101 child's or youth's safety and well-being, and to be advised that  
102 permanency is a right of the child or youth and that time is of  
103 the essence in proceedings relating to his or her case.

104        ~~(15)-(14)~~ To receive regular communication with a  
105 caseworker, at least once a month, which shall include meeting  
106 with the child or youth alone and conferring with the shelter or  
107 foster caregiver.

108        ~~(16)-(15)~~ To be placed in the same home as their siblings  
109 and, when that is not possible, to enjoy private communication  
110 and at least weekly regular visitation, at least once a week,  
111 with their siblings unless the court orders otherwise.

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112        ~~(17)-(16)~~ To enjoy regular visitation with their parents,  
113 at least once a month, unless the court orders otherwise.

114        ~~(18)-(17)~~ To receive a free and appropriate education as  
115 provided under the Florida School Code in the least restrictive  
116 environment available; minimal disruption to their education for  
117 court and related proceedings and continuation ~~retention~~ in  
118 their home school, ~~if appropriate~~; referral to the child study  
119 team when appropriate educational progress is not being made;  
120 receipt of all special educational services for which the child  
121 or youth is eligible, including, ~~when~~ ~~where~~ appropriate, the  
122 appointment of a ~~parent~~ surrogate parent for educational  
123 decisionmaking; and the sharing of all necessary information  
124 between the school board and the department, including  
125 information on attendance and educational progress.

126        ~~(19)-(18)~~ To be able to raise grievances with the  
127 department over the care they are receiving from their  
128 caregivers, caseworkers, or other service providers and, for any  
129 violation of the rights explained in this section, have access  
130 to the grievance process established by the local community-  
131 based care organization and access to representation if the  
132 child or youth so requests.

133        ~~(20)-(19)~~ To be present and heard by the court and other  
134 decisionmakers, ~~if appropriate~~, at all ~~review~~ hearings and any  
135 other meetings or proceedings where decisions are made regarding  
136 the child or youth, unless the child or youth decides otherwise  
137 or the court determines that an appearance is not in the child's  
138 or youth's best interests.

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139        ~~(21)-(20)~~ To have a guardian ad litem appointed to  
140 represent, ~~within reason,~~ their best interests and report on  
141 their expressed wishes and to have, where appropriate, an  
142 attorney ad litem of their choice or appointed by the court to  
143 represent their legal interests; the guardian ad litem and  
144 attorney ad litem shall have immediate and unlimited access to  
145 the children and youth they represent.

146        ~~(22)-(21)~~ To have all their records maintained in a  
147 complete and accurate manner and to have those records available  
148 for review at no cost by their guardian ad litem and attorney ad  
149 litem if they deem such review necessary.

150        ~~(23)-(22)~~ To be permitted to communicate with other  
151 children and youth in care for the purpose of organizing  
152 ~~organize as a group to advocate for purposes of ensuring that~~  
153 ~~they receive the~~ services and living conditions to which they  
154 are entitled and for improvements in the child welfare system,  
155 and to provide support for one another while in the custody of  
156 the department.

157        ~~(24)-(23)~~ To be afforded prompt access to all available  
158 state and federal programs, including, but not limited to: Early  
159 Periodic Screening, Diagnosis, and Testing (EPSDT) services,  
160 developmental services programs, Medicare and supplemental  
161 security income, Children's Medical Services, and programs for  
162 severely emotionally and behaviorally disturbed children and  
163 youth.

164        ~~(25)~~ To be afforded all necessary medical, dental, and  
165 vision care while in the custody of the state.

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166        (26) To be afforded the services, opportunities, and  
167 supports needed to transition to adulthood and self-sufficiency,  
168 especially including the right to develop, with assistance, a  
169 meaningful plan for transition and to be given an explanation of  
170 the rights and responsibilities under Florida's Road-to-  
171 Independence Program.

172  
173 ~~The provisions of this section establish goals and not rights.~~  
174 Nothing in this section shall be interpreted as requiring the  
175 delivery of any particular service or level of service in excess  
176 of existing appropriations. No person shall have a cause of  
177 action against the state or any of its subdivisions, agencies,  
178 contractors, subcontractors, or agents, based upon the ~~adoption~~  
179 ~~of~~ ~~or~~ failure to provide adequate funding for the minimum  
180 standards established in this section ~~achievement of these goals~~  
181 by the Legislature. Nothing herein shall require the expenditure  
182 of funds for the rights to meet the goals established herein  
183 except funds specifically appropriated for such purpose;  
184 however, if a right specified in this section is established  
185 elsewhere in state or federal law, this section shall not  
186 abrogate that right or any potential remedy otherwise available.

187        Section 2. This act shall take effect July 1, 2007.