

1 A bill to be entitled
2 An act relating to dependent children and youth; amending
3 s. 39.0016, F.S.; authorizing the Department of Children
4 and Family Services to permit children in foster care to
5 participate in home schooling, enroll in the K-8 Virtual
6 School Program, or attend a private school on scholarship
7 under certain conditions; amending s. 39.201, F.S.;
8 providing a process for recommending a change of placement
9 of a child in a shelter or foster home who is perceived to
10 be at risk; providing for a hearing; requiring that any
11 written requests, reports, or recommendations required be
12 provided to the department, the community-based care lead
13 agency, the court, the parents, and the guardian ad litem
14 for review; amending s. 39.4085, F.S.; revising
15 legislative findings and intent; establishing standards
16 for delivery of child welfare services for dependent
17 children and youth; requiring an informational session
18 when children or youth are placed in custody of the
19 department; requiring additional documentation in case
20 management files; requiring that a child or youth be
21 placed in a home determined to be safe; allowing for a
22 change of placement when a threat to safety exists;
23 requiring criminal history records checks of persons with
24 whom the child or youth may be placed; providing for a
25 child or youth to participate in developing a plan to deal
26 with behavioral risks; providing for a child or youth to
27 participate in developing the case plan, make objections,
28 and receive responses to objections; providing for a move

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29 to permanency as soon as appropriate and in the interest
30 of the child's or youth's safety or well-being; requiring
31 case workers to prepare reports for a child's or youth's
32 case management file; requiring children or youths to be
33 placed with their siblings when possible; requiring the
34 department or community-based care lead agency to comply
35 with reporting requirements of the court; providing for a
36 guardian ad litem to report on a child's or youth's
37 expressed wishes; requiring records to be maintained in a
38 complete and accurate manner and to be available to the
39 guardian ad litem or attorney ad litem at no cost;
40 permitting children or youth in care to communicate and to
41 organize an advocacy plan; amending s. 39.6012, F.S.;
42 requiring case plans to include additional information;
43 amending s. 39.603, F.S.; providing for the appearance of
44 a child in court to discuss the placement informational
45 session; amending s. 39.701, F.S.; requiring caseworkers
46 to include a written report regarding communication with
47 the child in the case management file; providing for a
48 hearing; providing for severability; providing an
49 effective date.

50
51 Be It Enacted by the Legislature of the State of Florida:

52
53 Section 1. Subsection (6) is added to section 39.0016,
54 Florida Statutes, to read:

55 39.0016 Education of abused, neglected, and abandoned
56 children.--

57 (6) Upon the request of a foster parent, the department
 58 shall allow a child living in a foster home to be home educated
 59 pursuant to s. 1002.41, enroll in the K-8 Virtual School Program
 60 pursuant to s. 1002.415, or attend a private school on a
 61 scholarship pursuant to s. 1002.39 or s. 220.187 under the
 62 following conditions:

63 (a) If parental rights have not been terminated, when the
 64 biological parent gives written consent for the change in the
 65 school setting and the home school or K-8 virtual school plan is
 66 incorporated into the child's case plan and approved by the
 67 court;

68 (b) If parental rights have been terminated, when the home
 69 school or K-8 virtual school plan is incorporated into the
 70 child's case plan and approved by the court; or

71 (c) If the child is subject to an individual education
 72 plan, when the foster parent approves the individual education
 73 plan and that plan is incorporated into the child's case plan
 74 and approved by the court.

75 Section 2. Paragraph (j) is added to subsection (2) of
 76 section 39.201, Florida Statutes, to read:

77 39.201 Mandatory reports of child abuse, abandonment, or
 78 neglect; mandatory reports of death; central abuse hotline.--

79 (2)

80 (j) If an employee of the department or community-based
 81 care lead agency, or any subcontractor of the community-based
 82 care lead agency, believes that the physical, mental, or
 83 emotional health or safety of a child in a shelter or foster
 84 home is at risk, the employee shall, in addition to making a

85 call to the central abuse hotline or appropriate county
 86 sheriff's office, make a written request or recommendation to
 87 move the child for his or her protection. The written request or
 88 recommendation shall be made part of the child's case management
 89 file and a copy of the written request or recommendation shall
 90 be provided for review to the department, the community-based
 91 care lead agency, the court, the guardian ad litem appointed to
 92 the child, and the child's parents if their parental rights have
 93 not been terminated and they are not the subject or cause of the
 94 threat raised while the matter is still under investigation. The
 95 court shall, on its own motion or upon the request of the
 96 guardian ad litem or any other party, hold a status conference
 97 or hearing to discuss the request, report, or recommendation and
 98 any resulting investigation or review by the department or
 99 community-based care lead agency.

100 Section 3. Section 39.4085, Florida Statutes, is amended
 101 to read:

102 39.4085 Legislative findings and declaration of intent for
 103 standards ~~goals~~ for dependent children and youth.--The
 104 Legislature finds and declares that the design and delivery of
 105 child welfare services should be directed by the principle that
 106 the health and safety of children and youth should be of
 107 paramount concern and, therefore, establishes the following
 108 standards ~~goals~~ for children and youth in shelter or foster
 109 care:

110 (1) To have an informational session with an employee of
 111 the department or community-based care lead agency during which
 112 they shall be advised of and receive a copy of this section ~~act~~

113 and have it fully explained to them in an age-appropriate manner
114 when they are placed in the custody of the department.

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

118 (3) To have their privacy protected, have their personal
119 belongings secure and transported with them, and, unless
120 otherwise ordered by the court, have uncensored communication,
121 including receiving and sending unopened communications and
122 having access to a telephone.

123 (4) To have personnel providing services who are
124 sufficiently qualified and experienced to assess the risk
125 children and youth face prior to removal from their homes and to
126 meet the needs of the children and youth once they are in the
127 custody of the department.

128 (5) To remain in the custody of their parents or legal
129 custodians unless and until there has been a determination by a
130 qualified person exercising competent professional judgment that
131 removal is necessary to protect their physical, mental, or
132 emotional health or safety.

133 (6) To have a full risk, health, educational, medical and
134 psychological screening and, if needed, assessment and testing
135 upon adjudication into foster care; and to have their
136 photograph, ~~and~~ fingerprints, birth certificate, and health
137 insurance information, if available, included in their case
138 management file.

139 (7) To be referred to and receive services, including
140 necessary medical, emotional, psychological, psychiatric, and

141 educational evaluations and treatment, as soon as practicable
142 after identification of the need for such services by the
143 screening and assessment process.

144 (8) To be placed in a home with no more than one other
145 child, unless they are part of a sibling group.

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

149 (10) To be placed in a home where they will not be touched
150 in an inappropriate manner, asked to touch another person in an
151 inappropriate manner, or engage in any other inappropriate act.

152 (11) To be placed in a home where the child or youth feels
153 safe and, upon approval of the court, to be moved to a new out-
154 of-home placement if a qualified person exercising competent,
155 professional judgment makes a written request or recommendation
156 to move the child or youth to protect his or her physical,
157 mental, emotional, or behavioral health or safety.

158 (12) To have any and all criminal history records checks
159 pursuant to s. 39.0138 completed on any person with whom
160 placement of a child or youth is being considered, including any
161 caregivers, family members, and individuals residing in the
162 household from which the child or youth was removed if
163 reunification after removal is sought pursuant to s. 39.521,
164 before the child or youth is placed.

165 (13)~~(10)~~ To be placed in a home where the shelter or
166 foster caregiver is aware of and understands the child's or
167 youth's history, needs, and risk factors.

168 (14)~~(11)~~ If the court deems it is in the best interest of
169 the child or youth, to participate with caregivers and
170 professionals in developing a plan ~~To be the subject of a plan~~
171 ~~developed by the counselor and the shelter or foster caregiver~~
172 to deal with identified behaviors that may present a risk to the
173 child or youth or others. If the child or youth is participating
174 in the development of the plan, the caregivers and professionals
175 shall use age-appropriate terminology so that the child or youth
176 is able to understand the process and the decisions that are
177 made.

178 (15)~~(12)~~ If the court deems it is in the best interest of
179 the child or youth, to be involved and incorporated, where
180 ~~appropriate,~~ in the development of the case plan, to have a case
181 plan which will address the child's or youth's ~~their~~ specific
182 needs, to receive a copy of the written case plan, to have the
183 case plan and related services explained in an age-appropriate
184 manner, to have the opportunity and to object to any of the
185 provisions of the case plan, to receive an explanation of all
186 responses to his or her objections, and to initial the written
187 case plan before it is submitted to the court for approval.

188 (16)~~(13)~~ To receive meaningful case management and
189 planning that will quickly return the child or youth to his or
190 her family or move the child or youth on to other forms of
191 permanency consistent with the child's or youth's safety and
192 well-being.

193 (17)~~(14)~~ To receive regular communication with a
194 caseworker, at least once a month, which shall include meeting
195 with the child or youth alone and conferring with the shelter or

196 foster caregiver and to have a written summary of that meeting
 197 included in the child's or youth's case management file.

198 ~~(18)-(15)~~ To be placed in the same home as their siblings
 199 or, when that is not possible, to enjoy regular visitation, at
 200 least once a week, with their siblings unless the court orders
 201 otherwise.

202 ~~(19)-(16)~~ To enjoy regular visitation with their parents,
 203 at least once a month, unless the court orders otherwise.

204 ~~(20)-(17)~~ To receive a free and appropriate education;
 205 minimal disruption to their education and retention in their
 206 home school, if appropriate; referral to the child study team;
 207 all special educational services, including, where appropriate,
 208 the appointment of a parent surrogate; the sharing of all
 209 necessary information between the school board and the
 210 department, including information on attendance and educational
 211 progress.

212 ~~(21)-(18)~~ To be able to raise grievances with the
 213 department over the care they are receiving from their
 214 caregivers, caseworkers, or other service providers.

215 ~~(22)-(19)~~ To be heard by the court, if appropriate, at all
 216 review hearings.

217 ~~(23)~~ To have the department or community-based care lead
 218 agency adhere to the requirements set forth in s. 39.701(7)(a)
 219 and report the information required therein to the court.

220 ~~(24)-(20)~~ To have a guardian ad litem appointed to
 221 represent, within reason, their best interests and report on
 222 their expressed wishes and, where appropriate, an attorney ad
 223 litem appointed by the court to represent their legal interests;

224 the guardian ad litem and attorney ad litem shall have immediate
 225 and unlimited access to the children and youth they represent.

226 ~~(25)-(21)~~ To have all their records maintained in a
 227 complete and accurate manner, including the full name and street
 228 address of any and all shelters, foster parents, or permanent
 229 placements with whom the child or youth is placed, to have those
 230 records available for review at no cost by their guardian ad
 231 litem and attorney ad litem if they deem such review necessary,
 232 and to be provided a complete and accurate copy of his or her
 233 entire case management file, including any documents or
 234 materials concerning services or benefits that may be available
 235 to him or her pursuant to s. 409.1451 to make the transition to
 236 self-sufficiency when he or she leaves foster care at 18 years
 237 of age.

238 ~~(26)-(22)~~ To be permitted to communicate with other
 239 children and youth in care for the purpose of organizing
 240 ~~organize~~ as a group to advocate for ~~purposes of ensuring that~~
 241 ~~they receive the~~ services and living conditions to which they
 242 are entitled and to provide support for one another while in the
 243 custody of the department.

244 ~~(27)-(23)~~ To be afforded prompt access to all available
 245 state and federal programs, including, but not limited to: Early
 246 Periodic Screening, Diagnosis, and Testing (EPSDT) services,
 247 developmental services programs, Medicare and supplemental
 248 security income, Children's Medical Services, and programs for
 249 severely emotionally and behaviorally disturbed children and
 250 youth.

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252 The provisions of this section establish standards ~~goals~~ and not
253 rights. Nothing in this section shall be interpreted as
254 requiring the delivery of any particular service or level of
255 service in excess of existing appropriations. No person shall
256 have a cause of action against the state or any of its
257 subdivisions, agencies, contractors, subcontractors, or agents,
258 based upon the adoption of or failure to provide adequate
259 funding for the achievement of these standards ~~goals~~ by the
260 Legislature. Nothing herein shall require the expenditure of
261 funds to meet the standards ~~goals~~ established herein except
262 funds specifically appropriated for such purpose.

263 Section 4. Subsection (3) of section 39.6012, Florida
264 Statutes, is renumbered as subsection (4), and a new subsection
265 (3) is added to that section, to read:

266 39.6012 Case plan tasks; services.--

267 (3) The case plan shall include the full name and street
268 address of all shelters, foster parents, or permanent placements
269 with whom the child is placed, and the child shall receive a
270 complete copy of his or her case management file, including any
271 documents or materials concerning services or benefits that may
272 be available to him or her pursuant to s. 409.1451 to make the
273 transition to self-sufficiency, at no cost, when he or she
274 leaves foster care at 18 years of age.

275 Section 5. Subsection (4) is added to section 39.603,
276 Florida Statutes, to read:

277 39.603 Court approvals of case planning.--

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278 (4) At the hearing on the case plan, the court may require
279 the child to appear before the court to discuss the placement
280 informational session provided for in s. 39.4085(1).

281 Section 6. Paragraph (e) is added to subsection (7) of
282 section 39.701, Florida Statutes, to read:

283 39.701 Judicial review.--

284 (7)

285 (e) After each meeting between the child and his or her
286 caseworker, the caseworker shall prepare a written report
287 summarizing his or her communication with the child for the
288 child's case management file. A copy of the written report shall
289 be provided for review to the department, the community-based
290 care lead agency, the court, the guardian ad litem appointed to
291 the child, and the child's parents if their parental rights have
292 not been terminated and they are not the subject or cause of the
293 concern while the matter is still under investigation. The court
294 shall, on its own motion or upon the request of the guardian ad
295 litem or any other party, hold a status conference or hearing to
296 discuss the report and any resulting investigation or review by
297 the department or community-based care lead agency.

298 Section 7. If any provision of this act or the application
299 thereof to any person or circumstance is held invalid, the
300 invalidity does not affect other provisions or applications of
301 the act which can be given effect without the invalid provision
302 or application, and to this end the provisions of this act are
303 declared severable.

304 Section 8. This act shall take effect July 1, 2007.