

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

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 enrolled in or
59 change his or her school setting to a home education program
60 pursuant to s. 1002.41, a K-8 Virtual School Program pursuant to
61 s. 1002.415, or a public or private school scholarship program
62 pursuant to s. 1002.39 or s. 220.187, when such enrollment or
63 change in school setting is incorporated into the child's case
64 plan and approved by the court. If the child has a surrogate
65 parent appointed pursuant to subparagraph (4)(c)5., the
66 surrogate parent must approve the program before it is
67 incorporated into the child's case plan.

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

70 39.201 Mandatory reports of child abuse, abandonment, or
71 neglect; mandatory reports of death; central abuse hotline.--

72 (2)

73 (j) If an employee of the department or community-based
74 care lead agency, or any subcontractor of the community-based
75 care lead agency, believes that the physical, mental, or
76 emotional health or safety of a child in a shelter or foster
77 home is at risk, the employee shall, in addition to making a
78 call to the central abuse hotline or appropriate county
79 sheriff's office, make a written request or recommendation to
80 move the child for his or her protection. The written request or
81 recommendation shall be made part of the child's case management
82 file and a copy of the written request or recommendation shall
83 be provided for review to the department, the community-based
84 care lead agency, the court, the guardian ad litem appointed to

85 the child, and the child's parents if their parental rights have
 86 not been terminated and they are not the subject or cause of the
 87 threat raised while the matter is still under investigation. The
 88 court shall, on its own motion or upon the request of the
 89 guardian ad litem or any other party, hold a status conference
 90 or hearing to discuss the request, report, or recommendation and
 91 any resulting investigation or review by the department or
 92 community-based care lead agency.

93 Section 3. Section 39.4085, Florida Statutes, is amended
 94 to read:

95 39.4085 Legislative findings and declaration of intent for
 96 standards ~~goals~~ for dependent children and youth.--The
 97 Legislature finds and declares that the design and delivery of
 98 child welfare services should be directed by the principle that
 99 the health and safety of children and youth should be of
 100 paramount concern and, therefore, establishes the following
 101 standards ~~goals~~ for children and youth in shelter or foster
 102 care:

103 (1) To have an informational session with an employee of
 104 the department or community-based care lead agency during which
 105 they shall be advised of and receive a copy of this section ~~act~~
 106 and have it fully explained to them in an age-appropriate manner
 107 when they are placed in the custody of the department.

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

111 (3) To have their privacy protected, have their personal
 112 belongings secure and transported with them, and, unless

113 otherwise ordered by the court, have uncensored communication,
114 including receiving and sending unopened communications and
115 having access to a telephone.

116 (4) To have personnel providing services who are
117 sufficiently qualified and experienced to assess the risk
118 children and youth face prior to removal from their homes and to
119 meet the needs of the children and youth once they are in the
120 custody of the department.

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

126 (6) To have a full risk, health, educational, medical and
127 psychological screening and, if needed, assessment and testing
128 upon adjudication into foster care; and to have their
129 photograph, ~~and~~ fingerprints, birth certificate, and health
130 insurance information, if available, included in their case
131 management file.

132 (7) To be referred to and receive services, including
133 necessary medical, emotional, psychological, psychiatric, and
134 educational evaluations and treatment, as soon as practicable
135 after identification of the need for such services by the
136 screening and assessment process.

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

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

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

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

151 (12) To have any and all criminal history records checks
 152 pursuant to s. 39.0138 completed on any person with whom
 153 placement of a child or youth is being considered, including any
 154 caregivers, family members, and individuals residing in the
 155 household from which the child or youth was removed if
 156 reunification after removal is sought pursuant to s. 39.521,
 157 before the child or youth is placed.

158 (13)~~(10)~~ To be placed in a home where the shelter or
 159 foster caregiver is aware of and understands the child's or
 160 youth's history, needs, and risk factors.

161 (14)~~(11)~~ If the court deems it is in the best interest of
 162 the child or youth, to participate with caregivers and
 163 professionals in developing a plan ~~To be the subject of a plan~~
 164 ~~developed by the counselor and the shelter or foster caregiver~~
 165 to deal with identified behaviors that may present a risk to the
 166 child or youth or others. If the child or youth is participating

167 in the development of the plan, the caregivers and professionals
168 shall use age-appropriate terminology so that the child or youth
169 is able to understand the process and the decisions that are
170 made.

171 ~~(15)-(12)~~ If the court deems it is in the best interest of
172 the child or youth, to be involved and incorporated, where
173 ~~appropriate,~~ in the development of the case plan, to have a case
174 plan which will address the child's or youth's their specific
175 needs, to receive a copy of the written case plan, to have the
176 case plan and related services explained in an age-appropriate
177 manner, to have the opportunity and to object to any of the
178 provisions of the case plan, to receive an explanation of all
179 responses to his or her objections, and to initial the written
180 case plan before it is submitted to the court for approval.

181 ~~(16)-(13)~~ To receive meaningful case management and
182 planning that will quickly return the child or youth to his or
183 her family or move the child or youth on to other forms of
184 permanency consistent with the child's or youth's safety and
185 well-being.

186 ~~(17)-(14)~~ To receive regular communication with a
187 caseworker, at least once a month, which shall include meeting
188 with the child or youth alone and conferring with the shelter or
189 foster caregiver and to have a written summary of that meeting
190 included in the child's or youth's case management file.

191 ~~(18)-(15)~~ To be placed in the same home as their siblings
192 or, when that is not possible, to enjoy regular visitation, at
193 least once a week, with their siblings unless the court orders
194 otherwise.

195 ~~(19)~~~~(16)~~ To enjoy regular visitation with their parents,
196 at least once a month, unless the court orders otherwise.

197 ~~(20)~~~~(17)~~ To receive a free and appropriate education;
198 minimal disruption to their education and retention in their
199 home school, if appropriate; referral to the child study team;
200 all special educational services, including, where appropriate,
201 the appointment of a parent surrogate; the sharing of all
202 necessary information between the school board and the
203 department, including information on attendance and educational
204 progress.

205 ~~(21)~~~~(18)~~ To be able to raise grievances with the
206 department over the care they are receiving from their
207 caregivers, caseworkers, or other service providers.

208 ~~(22)~~~~(19)~~ To be heard by the court, if appropriate, at all
209 review hearings.

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

213 ~~(24)~~~~(20)~~ To have a guardian ad litem appointed to
214 represent, within reason, their best interests and report on
215 their expressed wishes and, where appropriate, an attorney ad
216 litem appointed by the court to represent their legal interests;
217 the guardian ad litem and attorney ad litem shall have immediate
218 and unlimited access to the children and youth they represent.

219 ~~(25)~~~~(21)~~ To have all their records maintained in a
220 complete and accurate manner, including the full name and street
221 address of any and all shelters, foster parents, or permanent
222 placements with whom the child or youth is placed, to have those

223 records available for review at no cost by their guardian ad
 224 litem and attorney ad litem if they deem such review necessary,
 225 and to be provided a complete and accurate copy of his or her
 226 entire case management file, including any documents or
 227 materials concerning services or benefits that may be available
 228 to him or her pursuant to s. 409.1451 to make the transition to
 229 self-sufficiency when he or she leaves foster care at 18 years
 230 of age.

231 ~~(26)-(22)~~ To be permitted to communicate with other
 232 children and youth in care for the purpose of organizing
 233 ~~organize~~ as a group to advocate for ~~purposes of ensuring that~~
 234 ~~they receive the~~ services and living conditions to which they
 235 are entitled and to provide support for one another while in the
 236 custody of the department.

237 ~~(27)-(23)~~ To be afforded prompt access to all available
 238 state and federal programs, including, but not limited to: Early
 239 Periodic Screening, Diagnosis, and Testing (EPSDT) services,
 240 developmental services programs, Medicare and supplemental
 241 security income, Children's Medical Services, and programs for
 242 severely emotionally and behaviorally disturbed children and
 243 youth.

244
 245 The provisions of this section establish standards ~~goals~~ and not
 246 rights. Nothing in this section shall be interpreted as
 247 requiring the delivery of any particular service or level of
 248 service in excess of existing appropriations. No person shall
 249 have a cause of action against the state or any of its
 250 subdivisions, agencies, contractors, subcontractors, or agents,

251 based upon the adoption of or failure to provide adequate
 252 funding for the achievement of these standards ~~goals~~ by the
 253 Legislature. Nothing herein shall require the expenditure of
 254 funds to meet the standards ~~goals~~ established herein except
 255 funds specifically appropriated for such purpose.

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

259 39.6012 Case plan tasks; services.--

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

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

270 39.603 Court approvals of case planning.--

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

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

276 39.701 Judicial review.--

277 (7)

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

291 Section 7. If any provision of this act or the application
292 thereof to any person or circumstance is held invalid, the
293 invalidity does not affect other provisions or applications of
294 the act which can be given effect without the invalid provision
295 or application, and to this end the provisions of this act are
296 declared severable.

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