

1 A bill to be entitled
2 An act relating to dependent children and youth; amending
3 s. 39.201, F.S.; providing a process for recommending a
4 change of placement of a child in a shelter or foster home
5 who is perceived to be at risk; providing for a hearing;
6 requiring that any written requests, reports, or
7 recommendations required be provided to the department,
8 the community-based care lead agency, the court, the
9 parents, and the guardian ad litem for review; amending s.
10 39.4085, F.S.; revising legislative findings and intent;
11 establishing standards for delivery of child welfare
12 services for dependent children and youth; requiring an
13 informational session when children or youth are placed in
14 custody of the department; requiring additional
15 documentation in case management files; requiring that a
16 child or youth be placed in a home determined to be safe;
17 allowing for a change of placement when a threat to safety
18 exists; requiring criminal history records checks and
19 Florida Abuse Hotline Information System history checks of
20 persons with whom the child or youth may be placed;
21 providing for a child or youth to participate in
22 developing a plan to deal with behavioral risks; providing
23 for a child or youth to participate in developing the case
24 plan, make objections, and receive responses to
25 objections; providing for a move to permanency as soon as
26 appropriate and in the interest of the child's or youth's
27 safety or well-being; requiring case workers to prepare
28 reports for a child's or youth's case management file;

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

46

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

48

49 Section 1. Paragraph (j) is added to subsection (2) of
 50 section 39.201, Florida Statutes, to read:

51 39.201 Mandatory reports of child abuse, abandonment, or
 52 neglect; mandatory reports of death; central abuse hotline.--

53 (2)

54 (j) If an employee of the department or community-based
 55 care lead agency, or any subcontractor of the community-based
 56 care lead agency, believes that the physical, mental, or

57 emotional health or safety of a child in a shelter or foster
58 home is at risk, the employee shall, in addition to making a
59 call to the central abuse hotline or appropriate county
60 sheriff's office, make a written request or recommendation to
61 move the child for his or her protection. The written request or
62 recommendation shall be made part of the child's case management
63 file and a copy of the written request or recommendation shall
64 be provided for review to the department, the community-based
65 care lead agency, the court, the guardian ad litem appointed to
66 the child, and the child's parents if their parental rights have
67 not been terminated and they are not the subject or cause of the
68 threat raised while the matter is still under investigation. The
69 court shall, on its own motion or upon the request of the
70 guardian ad litem or any other party, hold a status conference
71 or hearing to discuss the request, report, or recommendation and
72 any resulting investigation or review by the department or
73 community-based care lead agency.

74 Section 2. Section 39.4085, Florida Statutes, is amended
75 to read:

76 39.4085 Legislative findings and declaration of intent for
77 standards ~~goals~~ for dependent children and youth.--The
78 Legislature finds and declares that the design and delivery of
79 child welfare services should be directed by the principle that
80 the health and safety of children and youth should be of
81 paramount concern and, therefore, establishes the following
82 standards ~~goals~~ for children and youth in shelter or foster
83 care:

84 (1) To have an informational session with an employee of

85 the department or community-based care lead agency during which
86 they shall be advised of and receive a copy of this section ~~æt~~
87 and have it fully explained to them in an age-appropriate manner
88 when they are placed in the custody of the department.

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

92 (3) To have their privacy protected, have their personal
93 belongings secure and transported with them, and, unless
94 otherwise ordered by the court, have uncensored communication,
95 including receiving and sending unopened communications and
96 having access to a telephone.

97 (4) To have personnel providing services who are
98 sufficiently qualified and experienced to assess the risk
99 children and youth face prior to removal from their homes and to
100 meet the needs of the children and youth once they are in the
101 custody of the department.

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

107 (6) To have a full risk, health, educational, medical and
108 psychological screening and, if needed, assessment and testing
109 upon adjudication into foster care; and to have their
110 photograph, ~~and~~ fingerprints, birth certificate, and health
111 insurance information, if available, included in their case
112 management file.

113 (7) To be referred to and receive services, including
 114 necessary medical, emotional, psychological, psychiatric, and
 115 educational evaluations and treatment, as soon as practicable
 116 after identification of the need for such services by the
 117 screening and assessment process.

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

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

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

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

132 (12) To have any and all criminal history records checks
 133 pursuant to s. 39.0138, including a Florida Abuse Hotline
 134 Information System (FAHIS) history check, completed on any
 135 person with whom placement of a child or youth is being
 136 considered, including any caregivers, family members, and
 137 individuals residing in the household from which the child or
 138 youth was removed if reunification after removal is sought
 139 pursuant to s. 39.521, before the child or youth is placed.

140 (13)~~(10)~~ To be placed in a home where the shelter or

141 foster caregiver is aware of and understands the child's or
142 youth's history, needs, and risk factors.

143 (14)-(11) If the court deems it is in the best interest of
144 the child or youth, to participate with caregivers and
145 professionals in developing a plan ~~To be the subject of a plan~~
146 ~~developed by the counselor and the shelter or foster caregiver~~
147 to deal with identified behaviors that may present a risk to the
148 child or youth or others. If the child or youth is participating
149 in the development of the plan, the caregivers and professionals
150 shall use age-appropriate terminology so that the child or youth
151 is able to understand the process and the decisions that are
152 made.

153 (15)-(12) If the court deems it is in the best interest of
154 the child or youth, to be involved and incorporated, where
155 ~~appropriate,~~ in the development of the case plan, to have a case
156 plan which will address the child's or youth's ~~their~~ specific
157 needs, to receive a copy of the written case plan, to have the
158 case plan and related services explained in an age-appropriate
159 manner, to have the opportunity and to object to any of the
160 provisions of the case plan, to receive an explanation of all
161 responses to his or her objections, and to initial the written
162 case plan before it is submitted to the court for approval.

163 (16)-(13) To receive meaningful case management and
164 planning that will quickly return the child or youth to his or
165 her family or move the child or youth on to other forms of
166 permanency consistent with the child's or youth's safety and
167 well-being.

168 (17)-(14) To receive regular communication with a

169 caseworker, at least once a month, which shall include meeting
170 with the child or youth alone and conferring with the shelter or
171 foster caregiver and to have a written summary of that meeting
172 included in the child's or youth's case management file.

173 ~~(18)-(15)~~ To be placed in the same home as their siblings
174 or, when that is not possible, to enjoy regular visitation, at
175 least once a week, with their siblings unless the court orders
176 otherwise.

177 ~~(19)-(16)~~ To enjoy regular visitation with their parents,
178 at least once a month, unless the court orders otherwise.

179 ~~(20)-(17)~~ To receive a free and appropriate education;
180 minimal disruption to their education and retention in their
181 home school, if appropriate; referral to the child study team;
182 all special educational services, including, where appropriate,
183 the appointment of a parent surrogate; the sharing of all
184 necessary information between the school board and the
185 department, including information on attendance and educational
186 progress.

187 ~~(21)-(18)~~ To be able to raise grievances with the
188 department over the care they are receiving from their
189 caregivers, caseworkers, or other service providers.

190 ~~(22)-(19)~~ To be heard by the court, if appropriate, at all
191 review hearings.

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

195 ~~(24)-(20)~~ To have a guardian ad litem appointed to
196 represent, within reason, their best interests and report on

197 their expressed wishes and, where appropriate, an attorney ad
198 litem appointed by the court to represent their legal interests;
199 the guardian ad litem and attorney ad litem shall have immediate
200 and unlimited access to the children and youth they represent.

201 ~~(25)-(21)~~ To have all their records maintained in a
202 complete and accurate manner, including the full name and street
203 address of any and all shelters, foster parents, or permanent
204 placements with whom the child or youth is placed, to have those
205 records available for review at no cost by their guardian ad
206 litem and attorney ad litem if they deem such review necessary,
207 and to be provided a complete and accurate copy of his or her
208 entire case management file, including any documents or
209 materials concerning services or benefits that may be available
210 to him or her pursuant to s. 409.1451 to make the transition to
211 self-sufficiency when he or she leaves foster care at 18 years
212 of age.

213 ~~(26)-(22)~~ To be permitted to communicate with other
214 children and youth in care for the purpose of organizing
215 ~~organize~~ as a group to advocate for ~~purposes of ensuring that~~
216 ~~they receive the~~ services and living conditions to which they
217 are entitled and to provide support for one another while in the
218 custody of the department.

219 ~~(27)-(23)~~ To be afforded prompt access to all available
220 state and federal programs, including, but not limited to: Early
221 Periodic Screening, Diagnosis, and Testing (EPSDT) services,
222 developmental services programs, Medicare and supplemental
223 security income, Children's Medical Services, and programs for
224 severely emotionally and behaviorally disturbed children and

225 | youth.

226 |

227 | The provisions of this section establish standards ~~goals~~ and not
 228 | rights. Nothing in this section shall be interpreted as
 229 | requiring the delivery of any particular service or level of
 230 | service in excess of existing appropriations. No person shall
 231 | have a cause of action against the state or any of its
 232 | subdivisions, agencies, contractors, subcontractors, or agents,
 233 | based upon the adoption of or failure to provide adequate
 234 | funding for the achievement of these standards ~~goals~~ by the
 235 | Legislature. Nothing herein shall require the expenditure of
 236 | funds to meet the standards ~~goals~~ established herein except
 237 | funds specifically appropriated for such purpose.

238 | Section 3. Subsection (3) of section 39.6012, Florida
 239 | Statutes, is renumbered as subsection (4), and a new subsection
 240 | (3) is added to that section, to read:

241 | 39.6012 Case plan tasks; services.--

242 | (3) The case plan shall include the full name and street
 243 | address of all shelters, foster parents, or permanent placements
 244 | with whom the child is placed. Notwithstanding s. 39.202(1), the
 245 | child shall receive a complete copy of his or her case
 246 | management file, including any documents or materials concerning
 247 | services or benefits that may be available to him or her
 248 | pursuant to s. 409.1451 to make the transition to self-
 249 | sufficiency, at no cost, when he or she leaves foster care at 18
 250 | years of age.

251 | Section 4. Subsection (4) is added to section 39.603,
 252 | Florida Statutes, to read:

253 39.603 Court approvals of case planning.--

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

257 Section 5. Paragraph (e) is added to subsection (7) of
 258 section 39.701, Florida Statutes, to read:

259 39.701 Judicial review.--

260 (7)

261 (e) After each meeting between the child and his or her
 262 caseworker, the caseworker shall prepare a written report
 263 summarizing his or her communication with the child for the
 264 child's case management file. A copy of the written report shall
 265 be provided for review to the department, the community-based
 266 care lead agency, the court, the guardian ad litem appointed to
 267 the child, and the child's parents if their parental rights have
 268 not been terminated and they are not the subject or cause of the
 269 concern while the matter is still under investigation. The court
 270 shall, on its own motion or upon the request of the guardian ad
 271 litem or any other party, hold a status conference or hearing to
 272 discuss the report and any resulting investigation or review by
 273 the department or community-based care lead agency.

274 Section 6. If any provision of this act or the application
 275 thereof to any person or circumstance is held invalid, the
 276 invalidity does not affect other provisions or applications of
 277 the act which can be given effect without the invalid provision
 278 or application, and to this end the provisions of this act are
 279 declared severable.

280 Section 7. This act shall take effect July 1, 2007.