

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 youth 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.

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

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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 or youth, 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

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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; and 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 they are placed, to have those records
 205 available for review at no cost by their guardian ad litem and
 206 attorney ad litem if they deem such review necessary, and to be
 207 provided a complete and accurate copy of their entire case
 208 management file, including any documents or materials concerning
 209 services or benefits that may be available to them pursuant to
 210 s. 409.1451 to make the transition to self-sufficiency when they
 211 leave foster care at 18 years of age.

212 ~~(26)-(22)~~ To be permitted to communicate with other
 213 children and youth in care for the purpose of organizing
 214 ~~organize~~ as a group to advocate for ~~purposes of ensuring that~~
 215 ~~they receive the~~ services and living conditions to which they
 216 are entitled and to provide support for one another while in the
 217 custody of the department.

218 ~~(27)-(23)~~ To be afforded prompt access to all available
 219 state and federal programs, including, but not limited to: Early
 220 Periodic Screening, Diagnosis, and Testing (EPSDT) services,
 221 developmental services programs, Medicare and supplemental
 222 security income, Children's Medical Services, and programs for
 223 severely emotionally and behaviorally disturbed children and
 224 youth.

225
 226 The provisions of this section establish standards ~~goals~~ and not
 227 rights. Nothing in this section shall be interpreted as
 228 requiring the delivery of any particular service or level of
 229 service in excess of existing appropriations. No person shall
 230 have a cause of action against the state or any of its
 231 subdivisions, agencies, contractors, subcontractors, or agents,
 232 based upon the adoption of or failure to provide adequate
 233 funding for the achievement of these standards ~~goals~~ by the
 234 Legislature. Nothing herein shall require the expenditure of
 235 funds to meet the standards ~~goals~~ established herein except
 236 funds specifically appropriated for such purpose.

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

240 39.6012 Case plan tasks; services.--

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

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

252 39.603 Court approvals of case planning.--

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

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

258 39.701 Judicial review.--

259 (7)

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

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

279 Section 7. This act shall take effect July 1, 2008.