

1 A bill to be entitled
2 An act relating to children and young adults in out-
3 of-home care; amending s. 39.4085, F.S.; revising
4 legislative findings and providing legislative intent;
5 providing construction; specifying the rights of,
6 rather than goals for, children and young adults in
7 out-of-home care; providing the roles and
8 responsibilities of the Department of Children and
9 Families, community-based care lead agencies, and
10 other agency staff; authorizing and encouraging
11 district school boards to establish certain
12 educational programs; requiring the department to
13 adopt rules; creating s. 39.4088, F.S.; designating a
14 children's ombudsman as an autonomous entity within
15 the department; providing responsibilities of the
16 ombudsman; requiring the ombudsman to collect and post
17 certain data on the department's website; requiring
18 the ombudsman, in consultation with the department and
19 other specified entities and by a specified date, to
20 develop standardized information explaining the rights
21 of children and young adults placed in out-of-home
22 care; requiring the department, community-based care
23 lead agencies, and other agency staff to use the
24 information provided by the ombudsman in carrying out
25 specified responsibilities; requiring the department

26 to establish a statewide toll-free telephone number
 27 for the ombudsman; requiring the department to adopt
 28 rules; providing an effective date.

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

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

34 (Substantial rewording of section. See
 35 s. 39.4085, F.S., for present text.)
 36 39.4085 Foster Children's Bill of Rights.-

37 (1) LEGISLATIVE FINDINGS AND INTENT.-

38 (a) The Legislature finds that the design and delivery of
 39 child welfare services should be directed by the principle that
 40 the health and safety of children and young adults, including
 41 freedom from abuse, abandonment, or neglect, is of paramount
 42 concern.

43 (b) The Legislature also finds that emotional trauma,
 44 separation from family, frequent changes in placement, and
 45 frequent changes in school enrollment, as well as dependency
 46 upon the state to make decisions regarding current and future
 47 life options, may contribute to feelings of limited control over
 48 life circumstances in children and young adults in out-of-home
 49 care.

50 (c) Therefore, it is the intent of the Legislature to

51 empower these children and young adults by helping them become
52 better informed of their rights so they can become stronger
53 self-advocates.

54 (2) CONSTRUCTION.—This section may not be used for any
55 purpose in any civil or administrative action and does not
56 expand or limit any rights or remedies provided under any other
57 law.

58 (3) BILL OF RIGHTS.—Except as otherwise provided in this
59 chapter, the rights of a child or young adult placed in out-of-
60 home care are:

61 (a) To live in a safe, healthful, and comfortable home
62 where he or she is treated with respect and provided with
63 healthy food, appropriate clothing, and adequate storage space
64 for personal use and where the caregiver is aware of and
65 understands the child's or young adult's history, needs, and
66 risk factors and respects his or her preferences for attending
67 religious services and activities.

68 (b) To be free from physical, sexual, emotional, or other
69 abuse or corporal punishment. This includes the child's or young
70 adult's right to be placed away from other children or young
71 adults who are known to pose a threat of harm.

72 (c) To receive medical, dental, vision, and mental health
73 services as needed; to be free of the administration of
74 psychotropic medication or chemical substances unless the
75 administration of such medication or substances is authorized by

76 a parent or the court; and to be free from being confined in any
77 room, building, or facility unless placed by court order in a
78 residential treatment center.

79 (d) To be able to have contact and visitation with his or
80 her parents, other family members, and fictive kin and to be
81 placed with his or her siblings or, if not placed with his or
82 her siblings, to have frequent visitation and ongoing contact
83 with his or her siblings, unless prohibited by court order; and
84 to be provided with the location of and contact information for
85 siblings and to have the court consider the appropriateness of
86 continued communication with siblings who have left care.

87 (e) To be able to contact the children's ombudsman, as
88 described in s. 39.4088, regarding violations of rights; to
89 speak to the ombudsman confidentially; and to be free from
90 threats or punishment for making complaints.

91 (f) To maintain a bank account, to work, and to manage
92 personal income, including any allowance, consistent with his or
93 her age and developmental level, unless prohibited by the case
94 plan, and to be informed about any funds being held in the
95 master trust on behalf of the child or young adult.

96 (g) To attend school and participate in extracurricular,
97 cultural, and personal enrichment activities consistent with his
98 or her age and developmental level and to have social contact
99 with people outside of the foster care system, such as teachers,
100 church members, mentors, and friends.

101 (h) To attend all court hearings and address the court.

102 (i) To have fair and equal access to all available
103 services, placement, care, treatment, and benefits and to be
104 free from discrimination on the basis of race, national origin,
105 color, religion, sex, mental or physical disability, age, or
106 pregnancy.

107 (j) If he or she is 14 years of age or older or, if
108 younger, is of an appropriate age and capacity, to participate
109 in creating and reviewing his or her case plan and receive
110 information about his or her out-of-home placement and case
111 plan, including being told of changes to the plan, and to have
112 the ability to object to provisions of the case plan; and, if he
113 or she is 16 years of age or older, to provide assistance in
114 developing a transition plan.

115 (k) To participate in activities that will help develop
116 the necessary life skills to make the transition to independent
117 living and self-sufficiency as adults; and, for older youth, to
118 be informed of available independent living services and
119 community resources and how to apply for such services and
120 access resources.

121 (l) To be free from removal from an out-of-home placement
122 by the department or a community-based care lead agency unless
123 the caregiver becomes unable to care for the child or young
124 adult, the child or young adult achieves permanency, or the move
125 is otherwise in the child's or young adult's best interest and,

126 if removed, to a transition under s. 39.4023 which respects his
 127 or her relationships and personal belongings.

128 (m) To have a guardian ad litem appointed to represent his
 129 or her best interests and, if appropriate, to have an attorney
 130 appointed to represent his or her legal interests.

131 (4) ROLES AND RESPONSIBILITIES OF THE DEPARTMENT,
 132 COMMUNITY-BASED CARE LEAD AGENCIES, AND OTHER AGENCY STAFF;
 133 AUTHORITY OF DISTRICT SCHOOL BOARDS.-

134 (a) The department shall operate with the understanding
 135 that the rights of children and young adults in out-of-home care
 136 are critical to their safety, permanency, and well-being. The
 137 department shall work with all stakeholders to help such
 138 children and young adults become knowledgeable about their
 139 rights.

140 (b) The case manager or other agency staff shall provide
 141 verbal and written instructions to a child or young adult
 142 entering out-of-home care to educate the child or young adult on
 143 identifying and reporting abuse, abandonment, or neglect and
 144 shall explain and provide a copy of the Bill of Rights
 145 established in subsection (3). The verbal and written
 146 instructions and explanation must use words and phrasing that
 147 the child or young adult can understand and must occur in a
 148 manner that is most effective for that child or young adult. The
 149 written instructions and Bill of Rights are required only if the
 150 child or young adult is of a sufficient age and understanding to

151 receive such instructions and rights. The case manager or other
152 agency staff shall afford each child or young adult the
153 opportunity to ask questions about his or her rights and how to
154 identify and report abuse, abandonment, or neglect. The case
155 manager or other agency staff shall document in court reports
156 and case notes the date that such instructions and the Bill of
157 Rights were provided to the child or young adult. The case
158 manager or other agency staff must review the information with
159 the child or young adult every 6 months and upon every placement
160 change until the he or she leaves shelter or foster care.

161 (c) District school boards are authorized and encouraged
162 to establish educational programs for students ages 5 through 18
163 years relating to identifying and reporting abuse, abandonment,
164 or neglect and understanding the effects of such abuse,
165 abandonment, or neglect on a child or young adult. The district
166 school boards may provide such programs in conjunction with the
167 youth mental health awareness and assistance training program
168 required under s. 1012.584, any other mental health education
169 program offered by the school district, or any of the
170 educational instruction required under s. 1003.42(2).

171 (5) RULEMAKING.—The department shall adopt rules to
172 implement this section.

173 Section 2. Section 39.4088, Florida Statutes, is created
174 to read:

175 39.4088 Children's ombudsman.—The children's ombudsman

176 shall serve as an autonomous entity within the department for
177 the purpose of providing children and young adults placed in
178 out-of-home care with a means to resolve issues related to their
179 care, placement, or services without fear of retribution. The
180 ombudsman must be given access to any record of a state or local
181 agency which is necessary to carry out his or her
182 responsibilities and may meet or communicate with any child or
183 young adult in the child or young adult's placement.

184 (1) GENERAL RESPONSIBILITIES OF THE OMBUDSMAN.—The
185 ombudsman shall:

186 (a) Disseminate information on the rights of children and
187 young adults in out-of-home care established under s. 39.4085
188 and the services provided by the ombudsman.

189 (b) Attempt to resolve complaints informally.

190 (c) Conduct whatever investigation he or she determines is
191 necessary to resolve a complaint.

192 (d) Update the complainant on the progress of the
193 investigation and notify the complainant of the final outcome.

194
195 The ombudsman may not investigate, challenge, or overturn a
196 court order or decision.

197 (2) DATA COLLECTION.—The ombudsman shall:

198 (a) Document the number, source, origin, location, and
199 nature of all complaints.

200 (b) Compile all data collected over the course of the

201 year, including, but not limited to, the number of contacts to
202 the children's ombudsman toll-free telephone number; the number
203 of complaints made, including the type and source of those
204 complaints; the number of investigations performed by the
205 ombudsman; the trends and issues that arose in the course of
206 investigating complaints; the number of referrals made; and the
207 number of pending complaints.

208 (c) Post the compiled data on the department's website.

209 (3) DEVELOPMENT AND DISSEMINATION OF INFORMATION.—

210 (a) By January 1, 2023, the ombudsman, in consultation
211 with the department, children's advocacy and support groups, and
212 children and young adults in, or persons previously in, out-of-
213 home care, shall develop standardized information explaining the
214 rights granted under s. 39.4085. The information must be age-
215 appropriate, reviewed and updated by the ombudsman annually, and
216 made available through a variety of formats.

217 (b) The department, community-based care lead agencies,
218 and other agency staff must use the information provided by the
219 ombudsman to carry out their responsibilities to inform children
220 and young adults in out-of-home care of their rights pursuant to
221 the duties established under this section.

222 (c) The department shall establish a toll-free telephone
223 number for the children's ombudsman and post the number on the
224 homepage of the department's website.

225 (4) RULEMAKING.—The department shall adopt rules to

HB 563

2022

226 | implement this section.

227 | Section 3. This act shall take effect October 1, 2022.