

By Senator Garcia

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1                                   A bill to be entitled  
2       An act relating to children and young adults in out-  
3       of-home care; creating s. 39.4084, F.S.; providing  
4       legislative findings and intent; requiring the  
5       Department of Children and Families to establish the  
6       Office of the Children's Ombudsman to serve a  
7       specified purpose; requiring the department to ensure  
8       that the office has sufficient staff; specifying dates  
9       by which the office must be established and certain  
10      information and training and processes provided;  
11      specifying the duties of the office; authorizing the  
12      office to access certain records; authorizing the  
13      office to work in conjunction with individuals and  
14      agencies to resolve complaints with the child's or  
15      young adult's permission; requiring the department to  
16      work with all stakeholders to educate children and  
17      young adults in out-of-home care regarding their  
18      rights and protections and the benefits available to  
19      them; requiring specified staff to provide certain  
20      materials to children and young adults in out-of-home  
21      care and explain certain rights and protections;  
22      requiring such staff to provide children and young  
23      adults in out-of-home care with information and  
24      instructions regarding the Office of the Children's  
25      Ombudsman and to engage in a specified discussion;  
26      requiring such staff to document the information given  
27      and explained to children or young adults in out-of-  
28      home care; requiring such staff to review certain  
29      information with children and young adults in out-of-

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30 home care at specified intervals and upon every  
31 placement change; requiring such staff to provide  
32 caregivers with a written copy of the child's or young  
33 adult's rights and protections upon placement change;  
34 requiring specified facilities to post certain  
35 materials; requiring the office to submit an annual  
36 report to the Legislature by a specified date;  
37 providing requirements for such report; requiring the  
38 office to post the report on its website; requiring  
39 the department to adopt rules; providing construction;  
40 providing an effective date.

41  
42 Be It Enacted by the Legislature of the State of Florida:

43  
44 Section 1. Section 39.4084, Florida Statutes, is created to  
45 read:

46 39.4084 Education for children and young adults in out-of-  
47 home care.-

48 (1) LEGISLATIVE FINDINGS AND INTENT.-

49 (a) The Legislature recognizes that a child or young adult  
50 in out-of-home care can best advocate for himself or herself  
51 when aware of the laws intended to benefit him or her. It is the  
52 intent of the Legislature to empower such children or young  
53 adults to be stronger self-advocates by becoming better informed  
54 in a developmentally appropriate and understandable way about  
55 the laws enacted in furtherance of ss. 39.001(1)(a) and 39.4085.  
56 It is the intent of the Legislature that the department operate  
57 with the understanding that the rights and protections of a  
58 child or young adult in out-of-home care are critical to his or

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59 her safety, permanency, and well-being.

60 (b) The Legislature has enacted numerous laws to directly  
61 benefit a child or young adult who is subject to chapter 39  
62 proceedings. The laws are located throughout the Florida  
63 Statutes and are not collected in one place and may not be  
64 easily understandable to a child, a young adult, or his or her  
65 caregiver. Therefore, it is the Legislature's intent to help  
66 such children or young adults understand the existing rights and  
67 protections by ensuring that they are provided with regularly  
68 updated and developmentally appropriate materials regarding such  
69 rights and protections.

70 (c) The Legislature also finds that given the complexity of  
71 the child welfare system in this state and the laws that govern  
72 the system, a child or young adult in out-of-home care may need  
73 the assistance of an ombudsman to assist them in understanding  
74 and accessing the protections and benefits afforded by the law.

75 (2) THE OFFICE OF THE CHILDREN'S OMBUDSMAN.—

76 (a) By September 1, 2023, the department shall establish  
77 the Office of the Children's Ombudsman to serve as an autonomous  
78 entity within the department to assist children and young adults  
79 in out-of-home care with resolving issues when they feel their  
80 rights or protections have been violated. In addition to  
81 overseeing the resolution process, the office shall create and  
82 disseminate educational materials and oversee the process of  
83 ensuring that a child or young adult is educated about his or  
84 her rights and protections. The department shall ensure that the  
85 office has sufficient staff to meet its goals and perform its  
86 duties. By January 30, 2024, the office shall distribute  
87 standardized information to the department and other

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88 stakeholders and begin to provide training and processes to  
89 comply with this section for the department and stakeholders.

90 (b) The duties of the office include, but are not limited  
91 to:

92 1. Establishing a process for receiving, processing, and  
93 resolving complaints by a child or young adult in out-of-home  
94 care when he or she feels his or her rights or protections have  
95 been violated. This process must be developed in consultation  
96 with youth advocacy organizations.

97 2. Conducting investigations to resolve complaints by a  
98 child or young adult.

99 3. Informing and educating children and young adults in  
100 out-of-home care about their rights and protections under state  
101 and federal law as well as the purpose, contact information, and  
102 services of the office.

103 4. Developing standardized materials at developmentally  
104 appropriate levels for all children and young adults in out-of-  
105 home care which explain relevant rights and protections and the  
106 process for resolving complaints. Such materials must be updated  
107 annually to reflect any legislative, administrative rule, or  
108 other policy changes. Such materials must be developed in  
109 consultation with the department, children's advocacy and  
110 support organizations, and those who are or were children or  
111 young adults in out-of-home care.

112 5. Providing all educational materials to the courts,  
113 community-based care lead agencies and their subcontracted  
114 providers, case workers, guardians ad litem and the Guardian Ad  
115 Litem Program, and others to assist them in educating children  
116 and young adults in out-of-home care about their rights and

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117 protections.

118 6. Maintaining a publicly available website and telephone  
119 number, publicizing and conducting outreach efforts, and  
120 informing individuals about the office's services, resolution  
121 process, and materials outlining rights and protections.

122 7. Making inquiries and reviewing relevant information and  
123 records deemed necessary for investigations.

124 8. Developing and facilitating training for case managers,  
125 child protective investigators, and others to instruct them on  
126 how to educate children and young adults in out-of-home care  
127 about their rights and protections.

128 (c) The office may access all relevant records maintained  
129 by the department and its contracted and subcontracted providers  
130 related to complaints received. With the child's or young  
131 adult's permission, the office may work in conjunction with  
132 individuals and agencies as needed to resolve the complaint.

133 (3) EDUCATION FOR CHILDREN AND YOUNG ADULTS ABOUT CERTAIN  
134 RIGHTS AND PROTECTIONS.—

135 (a) The department shall work with all stakeholders to  
136 ensure a child or young adult in out-of-home care becomes  
137 knowledgeable about his or her rights and the state and federal  
138 laws enacted to protect and benefit such children and young  
139 adults, including, but not limited to, all of the following:

140 1. Safety.

141 2. Education.

142 3. Placement, visitation, and contact with siblings,  
143 family, and other important persons.

144 4. Court participation.

145 5. Participation in permanency planning, transition

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146 planning, and other case planning.

147 6. Access to food, clothing, shelter, and health care.

148 7. The topic of normalcy and what that means for children  
149 and young adults in out-of-home care.

150 (b) The case manager, child protective investigator, or  
151 other staff shall provide each child or young adult in out-of-  
152 home care with a developmentally appropriate copy of educational  
153 materials prepared by the office. Such case manager, child  
154 protective investigator, or other staff shall also provide the  
155 child or young adult with information and instructions about the  
156 office and engage the child or young adult in a discussion that  
157 explains his or her rights and protections while in out-of-home  
158 care and what he or she can do if he or she feels that his or  
159 her rights or protections are being violated. Such discussions  
160 and explanations must consist of words and phrasing that each  
161 child or young adult can understand and must occur in a manner  
162 that is most effective for each child or young adult. The case  
163 manager, child protective investigator, or other staff shall  
164 give each child or young adult the opportunity to ask questions.  
165 The case manager, child protective investigator, or other staff  
166 shall document in court reports and case notes the date that the  
167 information was explained and provided to the child or young  
168 adult. The case manager, the child protective investigator, or  
169 other staff shall review the information, including a copy of  
170 the educational materials, with the child or young adult at  
171 least every 6 months or upon every placement change that results  
172 in a new caregiver for the child or young adult until he or she  
173 leaves out-of-home care. Upon every placement change, the case  
174 manager, child protective investigator, or other staff must

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175 provide the child's caregiver with a written copy of the child's  
176 or young adult's rights and protections. All case managers,  
177 child protective investigators, and other appropriate staff must  
178 complete annual training relating to such rights and  
179 protections. A facility licensed to care for six or more  
180 children or young adults in out-of-home care shall post  
181 materials provided by the Office of the Children's Ombudsman in  
182 a prominent place in the facility.

183 (4) REPORT.—Beginning July 30, 2024, and each July 30  
184 thereafter, the office shall submit a report to the President of  
185 the Senate and the Speaker of the House of Representatives which  
186 includes an analysis of all data collected over the course of  
187 the year by the office, a discussion of internal policy changes,  
188 and any recommendations consistent with such data for improving  
189 the child welfare system and delivery of services. The data  
190 collected by the office for reporting must include, but is not  
191 limited to, the number of contacts with the office by children  
192 and young adults in out-of-home care; the number of complaints  
193 made, including the type and source of such complaints; the  
194 number of investigations performed by the office; complainant  
195 satisfaction with the results of the office's investigations and  
196 resolutions; the issues that arose while investigating  
197 complaints and, if applicable, any trends associated with those  
198 issues; the number of referrals to services made; and the number  
199 of pending complaints. The office shall monitor the distribution  
200 of the standardized materials throughout this state and  
201 periodically survey stakeholders to evaluate and improve the  
202 degree to which children and young adults in out-of-home care  
203 are adequately informed of their rights and protections. The

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204 report must be posted on the office's website.

205 (5) RULEMAKING.—The department shall adopt rules to  
206 implement this section.

207 (6) CONSTRUCTION.—This section does not create a civil or  
208 administrative cause of action and does not expand or limit any  
209 rights, protections, or remedies provided under any other law.  
210 The rights and protections described in this section are broad  
211 expressions of the rights and protections of a child or young  
212 adult in out-of-home care and are not exhaustive of all rights  
213 and protections set forth in the United States Constitution, the  
214 State Constitution, and federal and state law.

215 Section 2. This act shall take effect July 1, 2023.