

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 507 Rights of Dependent Children and Youth
SPONSOR(S): Kendrick
TIED BILLS: None **IDEN./SIM. BILLS:** SB 2294

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Healthy Families</u>	<u></u>	<u>Preston</u>	<u>Mitchell</u>
2) <u>Healthcare Council</u>	<u></u>	<u></u>	<u></u>
3) <u>Policy & Budget Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The bill amends s. 39.4085, Florida Statutes, to replace “goals for dependent children” with “rights for dependent children and youth”. The bill amends the substance of a number of the current goals, creates three additional rights, and appears to equate minimum standards of care with “rights”.

An indeterminate fiscal impact is anticipated by the Department of Children and Family Services, due to the perceived potential for litigation.

The bill provides an effective date.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Background

Florida

Section 39.4085, Florida Statutes, relating to goals for dependent children, was created during the 1999 legislative session.¹

- Legislation was filed in both the House and Senate, entitled: An act relating to dependent children; creating s. 39.4085, F.S.; providing a "Bill of Rights" specifying the rights of dependent children in shelter or foster care; providing an effective date.² HB 655 died in the Health and Human Services Appropriations Committee and SB 1448 died in the Committee on Children and Families, it's first committee of reference, where it was never heard.
- The substance of HB 655 and SB 1448 was amended onto CS/CS/SB 660 on the floor and an amendment was also adopted to change the term "rights" to the term "goals."³

Other States

In a report last updated in 2005,⁴ the following states are known to have taken steps to address the rights of children in foster care:

- **California** enacted in 2001 the following bill of rights along with a provision to its Health and Safety Code requiring that foster care providers must give every school-age child and his/her authorized representative an age-appropriate orientation and an explanation of the child's rights. Furthermore, any facility licensed to care for six or more children in foster care must post those rights in the form of posters provided by the State Foster Care Ombudsperson⁵.
- The **Maine** Youth Advisory Team includes a list of rights and responsibilities in its handbook entitled, "Answers... A handbook for youth by youth in foster care".⁶
- **New Jersey** has enacted the "Child Placement Bill of Rights Act, which provides a list of rights for children who are in out of home placements."⁷
- **New York** Lawyers for Children, a New York City organization, publishes an online booklet entitled, "Your Rights in Foster Care."⁸
- **Rhode Island's** Office of the Child Advocate publishes The Children's Bill of Rights handbook for children in state care.⁹

¹ See Chapter 99-206, Laws of Florida.

² See HB 655 and SB 1448 (1999).

³ CS/CS/SB 660 (1999) was an act relating to foster care and related services. The House companion was HB 2091 (1999).

⁴ Susan Dougherty, Rights of Children in Foster Care, This paper was originally prepared by the Casey Family Programs National Center for Resource Family Support in 2002. It has been updated by the National Resource Center for Family-Centered Practice and Permanency Planning, Hunter College School of Social Work.

⁵ See California Welfare and Institutions Code (Section 16001.9)

⁶ Available online at <http://www.ylat.org>.

⁷ Revised New Jersey Statute Section 9:6B-4.

⁸ Available online at <http://www.lawyersforchildren.org>.

⁹ Available online at <http://www.child-advocate.state.ri.us/Childrens%27BillofRights.htm>.

- **South Carolina** Nexuskids, an interdisciplinary effort from the Children's Law Office of the University of South Carolina School of Law, maintains a website containing a bill of rights written by GOALL (Go Out And Learn Life), the Youth Advisory Council created to help the Department of Social Services improve its independent living programs.¹⁰
- **Texas** Representative Rodriguez and Senator Uresti have filed companion pieces of legislation for consideration during the 2007 session that provide a comprehensive statement of children's rights while in foster care.

The Bill

The bill amends s. 39.4085, Florida Statutes, relating to goals for dependent children, to replace "goals for dependent children" with "rights for dependent children and youth". The bill amends the substance of a number of the current goals, includes three additional rights in this section of law, and appears to equate minimum standards of care with "rights".

C. SECTION DIRECTORY:

Section 1. Amends s. 39.4085, Florida Statutes, relating to goals for dependent children.

Section 2. Provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

An indeterminate fiscal impact is anticipated by the Department of Children and Family Services, due to the perceived potential for litigation.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

¹⁰ Available online at <http://www.nexuskids.org/FC%20Bill%20of%20Rights.htm>.

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Department of Children and Family Services reported that a number of the provisions of the bill will create implementation problems for the department including the maximum of two children per foster home, the selection of an attorney of the child's choice, weekly visitation with siblings, and a formal grievance process for any alleged violation of the section. Additionally, the bill provides for the appointment of a guardian ad litem and attorney ad litem and those appointments are made by the court rather than the department.

Family foster homes may be licensed for up to five children, including the family's own children. Special placement procedures must be followed, if a proposed placement will bring the total number of children in the home to over five.

D. STATEMENT OF THE SPONSOR

House Bill 507 simply requires a list of minimum expectations for foster youth, their families and those who care be put in one place in an appropriate form. This bill does not provide for any new rights for foster youth and does not promote litigation. All rights listed in the proposed legislation are in current statutes and this bill clearly provides a tool to educate foster youth of their rights while in care. This bill is about improving the foster care system by empowering the foster youth by providing them valuable information to allow them to actively participate in the planning processes.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES