

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Healthy Families</u>	<u>8 Y, 0 N</u>	<u>Preston</u>	<u>Mitchell</u>
2) <u>Healthcare Council</u>	<u>15 Y, 0 N, As CS</u>	<u>Preston</u>	<u>Gormley</u>
3) <u>Policy &amp; Budget Council</u>	<u>30 Y, 0 N, As CS</u>	<u>Leznoff</u>	<u>Hansen</u>
4) _____	_____	_____	_____
5) _____	_____	_____	_____

### SUMMARY ANALYSIS

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

The bill provides that children living in foster homes have the option to be home educated, enroll in the K-8 Virtual School Program, or attend a private school on scholarship under certain specified conditions. It also provides that if an employee of DCF or CBC lead agency, or any subcontractor of the CBC lead agency, believes that the physical, mental or emotional health or safety of child in a foster home or shelter is at risk, the employee shall, in addition to making a call to the central abuse hotline or appropriate county sheriff’s office, make a written request or recommendation to move the child for his or her protection.

The bill also creates a new requirement for the case plan that requires placement information to be included in the case management file; creates a new requirement that the court may require a child to appear in court to discuss the informational session provided for in the goals for children in foster care; and creates a new requirement related to written summaries of monthly caseworker meetings with a child.

The bill has no fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2007.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Safeguard individual liberty** – The bill provides additional educational options for children living in foster care.

#### 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.<sup>1</sup>

- 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.<sup>2</sup> 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."<sup>3</sup>

##### Other States

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

- **California**, in 2001, enacted a 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 Ombudsperson<sup>5</sup>.
- 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".<sup>6</sup>
- **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."<sup>7</sup>
- **New York** Lawyers for Children, a New York City organization, publishes an online booklet entitled, "Your Rights in Foster Care."<sup>8</sup>

<sup>1</sup> See Chapter 99-206, Laws of Florida.

<sup>2</sup> See HB 655 and SB 1448 (1999).

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

<sup>4</sup> 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.

<sup>5</sup> See California Welfare and Institutions Code (Section 16001.9)

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

<sup>7</sup> Revised New Jersey Statute Section 9:6B-4.

- **Rhode Island's** Office of the Child Advocate publishes The Children's Bill of Rights handbook for children in state care.<sup>9</sup>
- **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 or 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.<sup>10</sup>
- **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 "standards for dependent children and youth". The bill amends the substance of a number of the current goals and includes four additional standards in this section of law.

The bill provides that children living in foster homes have the option to be home educated, enroll in the K-8 Virtual School Program, or attend a private school on scholarship under certain specified conditions and provides that if an employee of DCF or CBC lead agency, or any subcontractor of the CBC lead agency, believes that the physical, mental or emotional health or safety of child in a foster home or shelter is at risk, the employee shall, in addition to making a call to the central abuse hotline or appropriate county sheriff's office, make a written request or recommendation to move the child for his or her protection.

The bill also creates a new requirement for the case plan that requires placement information to be included in the case management file; creates a new requirement that the court may require a child to appear in court to discuss the informational session provided for in the goals for children in foster care; and creates a new requirement related to written summaries of monthly caseworker meetings with a child.

### **C. SECTION DIRECTORY:**

**Section 1.** Amends s. 39.0016, Florida Statutes, relating to education of abused, neglected, and abandoned children.

**Section 2.** Amends s. 39.201, Florida Statutes, relating to mandatory reports of child abuse, abandonment, or neglect.

**Section 3.** Amends s. 39.4085, Florida Statutes, relating to goals for dependent children.

**Section 4.** Amends s. 39.6012, Florida Statutes, relating to case plan tasks.

**Section 5.** Amends s. 39.603, Florida Statutes, relating to court approval of case planning.

**Section 6.** Amends s. 39.701, Florida Statutes, relating to judicial review.

**Section 7.** Provides for severability.

**Section 8.** Provides an effective date of July 1, 2007.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

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

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

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

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

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:

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:

None.

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

On **March 27, 2007**, the Healthcare Council adopted a strike all amendment to the bill which does the following:

- Provides that children living in foster homes have the option to be home educated, enroll in the K-8 Virtual School Program, or attend a private school on scholarship under certain specified conditions;
- Provides that if an employee of DCF or CBC lead agency, or any subcontractor of the CBC lead agency, believes that the physical, mental or emotional health or safety of child in a foster home or shelter is at risk, the employee shall, in addition to making a call to the central abuse hotline or appropriate county sheriff's office, make a written request or recommendation to move the child for his or her protection;
- **Replaces the term “goals” with the term “standards” and strengthens those currently contained in statute to do the following:**
  - Provide for DCF or a CBC lead agency to advise a child in foster care of these goals in an age-appropriate manner;
  - Add the birth certificate and health insurance information if available to the list of things that should be included in the case management file;
  - Provide for the child to participate with caregivers and professionals in developing a plan to deal with behaviors that may place the child at risk;
  - Provide for the case plan and services explained in an age appropriate manner, and if the youth has objections to the provisions of the plan, the youth should receive an explanation to the responses to the objections;
  - Provide for a written summary of all monthly meetings with the caseworker to be included in the case management file;
  - Provide that a child should be placed in the same home with siblings when possible;
  - Include additional information related to past placements to be placed in the case management file – that file is to be given to the child when he or she ages out of the foster care system; and
  - Allow intercommunication between children and youth in foster care to organize and advocate for services and living conditions.
- **Adds 4 new “standards” to those currently contained in statute which do the following:**
  - Provides for children to be placed in a home where they will not be touched in an inappropriate manner, asked to touch another person in an inappropriate manner, or engage in any other inappropriate acts;
  - Provides for children to be placed in a home where the child or youth feels safe and, upon approval of the court, to be moved to a new out-of-home placement under certain circumstances;
  - Provides that any and all required criminal history records checks be completed on any person with whom placement of a child or youth is being considered, including any caregivers, family members, and individuals residing in within the household from which the child was removed if reunification after removal is sought , before the child or youth is placed; and
  - Provides for DCF or CBC lead agency adhere to the requirements relating to judicial reviews and report the information required to the court.
- Creates a new requirement for the case plan that requires placement information to be included in the case management file;
- Creates a new requirement that the court may require a child to appear in court to discuss the informational session provided for in the goals for children in foster care;
- Creates a new requirement related to written summaries of monthly caseworker meetings with a child and specifies who the summary is to be provided to.

The bill was reported favorable as amended as a Council Substitute. The analysis reflects the bill as amended.

On **April 5 2007**, the Policy and Budget Council adopted 1 clarifying amendment to the bill relating to provisions regarding a foster child enrolling in home education, K-8 Virtual School Program or a public or private school scholarship program which was then reported favorable as a Council Substitute. The analysis reflects the Council Substitute.