

A BILL TO BE ENTITLED

AN ACT

relating to a foster children's bill of rights.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 263, Family Code, is amended by adding Section 263.007 to read as follows:

Sec. 263.007. FOSTER CHILDREN'S BILL OF RIGHTS. (a) In this section, "foster children's bill of rights" means the list of rights prescribed by Subsection (b) to which each child in substitute care is entitled.

(b) It is the policy of this state that each child in substitute care has the right:

(1) to live in a safe, healthy, and comfortable home where the child is treated with respect;

(2) to be free from physical, sexual, emotional, and other abuse, including corporal punishment and any form of discipline that humiliates or demeans the child;

(3) to be free from discrimination or harassment on the basis of gender, race, ethnicity, religion, national origin, disability, sexual orientation, or HIV status;

(4) to receive adequate and healthy food;

(5) to receive and keep adequate clothing suitable to the child's age and size and comparable to the clothing of other children in the community;

(6) to receive appropriate medical, dental, vision,

1 and mental health services;

2 (7) subject to Subdivisions (8) and (9), to not be  
3 physically restrained for longer than one minute unless other less  
4 restrictive behavioral interventions have been unsuccessful and  
5 physical restraint is necessary to:

6 (A) prevent substantial physical harm or  
7 imminent, probable death to the child or imminent physical harm to  
8 another person; or

9 (B) administer medication or provide medical  
10 treatment prescribed by a physician;

11 (8) to not be physically restrained for any period as  
12 punishment, retribution, retaliation, or discipline, to obtain  
13 compliance from the child, for the convenience of the foster parent  
14 or other substitute care provider, or as a substitute for effective  
15 treatment or rehabilitation;

16 (9) to not be locked or otherwise confined in any room,  
17 building, or facility or placed in an area where the child is  
18 physically prevented from leaving, unless the child is placed in a  
19 residential treatment facility or a mental health facility under an  
20 order of a physician or court;

21 (10) to be placed in substitute care with the child's  
22 siblings unless that placement is not in the best interests of the  
23 child or the child's sibling;

24 (11) if a sibling of the child is not placed in  
25 substitute care with the child, to be informed in writing of the  
26 name, address, and telephone number of the foster care home or other  
27 child-care facility in which the sibling is placed, unless

1 prohibited by court order or the child's caseworker or a department  
2 supervisor determines that it is not in the child's best interests  
3 and the caseworker or supervisor, as applicable, includes the  
4 reason for that determination in the child's case records;

5 (12) to have a private storage space in the home or  
6 facility in which the child resides to store the child's personal  
7 belongings;

8 (13) to not be subjected to unreasonable searches of  
9 the child's personal belongings;

10 (14) to contact caseworkers, attorneys ad litem,  
11 guardians ad litem, and court-appointed special advocates;

12 (15) to communicate with caseworkers, judges,  
13 attorneys ad litem, guardians ad litem, court-appointed special  
14 advocates, foster parents, and other providers in the child's  
15 primary language, including in sign language;

16 (16) to regularly visit and regularly contact siblings  
17 and to regularly contact other family members, unless prohibited by  
18 court order or the child's caseworker or a department supervisor  
19 determines that it is not in the child's best interests and the  
20 caseworker or supervisor, as applicable, includes the reason for  
21 that determination in the child's case records;

22 (17) to never be denied contact or visitation with  
23 siblings or other family members as a form of discipline;

24 (18) to attend religious services and activities of  
25 the child's choice;

26 (19) to interact with persons outside of the foster  
27 care system, including teachers, church members, mentors, and

1 friends;

2 (20) to make and receive confidential telephone calls  
3 and to send and receive unopened mail, unless prohibited by court  
4 order or the child's caseworker or a department supervisor  
5 determines that it is not in the child's best interests and the  
6 caseworker or supervisor, as applicable, includes the reason for  
7 that determination in the child's case records;

8 (21) to receive an age-appropriate money allowance, in  
9 an amount determined by the foster parent or other substitute care  
10 provider, for the purpose of developing money management skills,  
11 using money from the foster care payments made by the department to  
12 the foster parent or other substitute care provider for the care of  
13 the child;

14 (22) to maintain a personal bank account and manage  
15 personal income consistent with the child's age and developmental  
16 level, unless prohibited by the child's service plan;

17 (23) to expect that the child's records will be kept  
18 confidential in accordance with existing state and federal law,  
19 including the child's medical, mental health, child protective  
20 services, and educational records;

21 (24) to receive care and treatment in the least  
22 restrictive environment that is most like a family setting,  
23 consistent with the best interests and needs of the child;

24 (25) to not be unnecessarily or excessively medicated;

25 (26) to not be admitted as a voluntary inpatient to a  
26 mental health facility unless the child consents as required by  
27 Section 572.001(c), Health and Safety Code;

1           (27) if the child is at least 14 years of age, to  
2 request a medical review of the child's medical care, including a  
3 review of the medications prescribed to the child, by a medical  
4 review team, and to receive a copy of the results of any medical  
5 review;

6           (28) to be informed before the child is 16 years of age  
7 that the child, at 16 years of age, may request a court hearing to  
8 determine if the child has the capacity to consent to medical care  
9 under Section 266.010;

10           (29) if the child is at least 16 years of age, to  
11 consent to all or some medical care, as authorized by the court  
12 under Section 266.010;

13           (30) if the child is at least 12 years of age, to  
14 participate in the development of the child's service plan and  
15 permanency plan;

16           (31) if the child is at least 12 years of age, to  
17 review and receive information regarding the child's service plan  
18 and permanency plan, including any changes made to the plans;

19           (32) to receive information about the child's foster  
20 parent or other substitute care provider consistent with the  
21 child's age and developmental level;

22           (33) to be appointed an attorney ad litem who is  
23 competent and provides zealous legal representation of the child's  
24 interests, and to meet, in person, with the child's attorney ad  
25 litem before each hearing involving the child;

26           (34) to request the appointment of an attorney or  
27 guardian ad litem to represent the child, if the child is not

1 already represented by an attorney or guardian ad litem;

2 (35) to attend a court hearing that affects the  
3 conservatorship or placement of the child, including a status  
4 hearing, a permanency review hearing, or a placement review  
5 hearing;

6 (36) if the child is at least 14 years of age, to  
7 remain in the courtroom during a court hearing that affects the  
8 conservatorship or placement of the child, including a status  
9 hearing, a permanency review hearing, or a placement review  
10 hearing;

11 (37) regardless of the child's age, to speak privately  
12 to the judge at a court hearing that affects the conservatorship or  
13 placement of the child, including a status hearing, a permanency  
14 review hearing, or a placement review hearing;

15 (38) if the child has a disability, to be informed, in  
16 writing, of the name, existence, purpose, telephone number, and  
17 address of the protection and advocacy system established in this  
18 state under the applicable federal developmental disability laws,  
19 as defined by Section 112.001, Human Resources Code, for the  
20 purpose of advocating for and protecting the rights of persons with  
21 that disability;

22 (39) to attend school and participate in sports,  
23 clubs, and other school-related extracurricular activities,  
24 consistent with the child's age and developmental level;

25 (40) to participate in community activities,  
26 including recreational and social activities, consistent with the  
27 child's age and developmental level;

1           (41) to the extent possible, to have minimal  
2 disruption in the child's education, including the right to attend  
3 the same school if placed with an alternative substitute care  
4 provider, unless otherwise ordered by the court;

5           (42) if the child participates in a special education  
6 program, to meet and consult with the surrogate parent assigned to  
7 the child in accordance with federal law, regarding the child's  
8 individualized education program prior to each admission, review,  
9 and dismissal committee meeting held regarding the child;

10           (43) to participate in an organization that advocates  
11 for or on behalf of foster youth;

12           (44) to work and develop job skills consistent with  
13 the child's age in accordance with state and federal law;

14           (45) if the child is at least 16 years of age, to have  
15 access to information regarding postsecondary educational and  
16 vocational options available to the child, including information  
17 regarding financial aid available for postsecondary education and  
18 the course work or other requirements required to complete  
19 vocational training and postsecondary educational programs;

20           (46) to attend classes and receive other services  
21 provided under the Preparation for Adult Living Program established  
22 under Section 264.121;

23           (47) on, or as soon as possible after, the date of the  
24 child's 18th birthday or the date the child's disabilities of  
25 minority are removed, to be provided with the child's health and  
26 education passport information, social security card, state-issued  
27 personal identification card, and a certified copy of the child's

1 birth certificate;

2 (48) to be informed in writing of how the child may  
3 obtain copies of the child's case records;

4 (49) to be informed in writing of the name, address,  
5 and telephone number of the person at or the division or office of  
6 the department that handles complaints regarding a violation of the  
7 child's rights; and

8 (50) to make a confidential complaint with the  
9 appropriate person at or the division or office of the department,  
10 or to speak confidentially with an appropriate person at the  
11 department, regarding a violation of the child's rights without  
12 punishment or threat of punishment for making the complaint.

13 (c) This section may not be construed to require a foster  
14 parent or other substitute care provider to take any action that  
15 would impair the health or safety of a child in substitute care.  
16 Any action taken that is inconsistent with the foster children's  
17 bill of rights must be included in the permanency progress report or  
18 placement review report filed with a court.

19 (d) The department shall provide a written copy of the  
20 foster children's bill of rights to each child placed in substitute  
21 care in the child's primary language, if possible, and shall inform  
22 the child of the rights provided by the foster children's bill of  
23 rights:

24 (1) orally in the child's primary language, if  
25 possible, and in simple, nontechnical terms; or

26 (2) for a child who has a disability, including an  
27 impairment of vision or hearing, through any means that can



1 reasonably be expected to result in successful communication with  
2 the child.

3 (e) A home or facility in which a child is placed in  
4 substitute care shall provide a copy of the foster children's bill  
5 of rights to a child on the child's request. The foster children's  
6 bill of rights must be printed in English and in a second language.

7 (f) The department shall promote the participation of  
8 foster children and former foster children in educating other  
9 foster children about the foster children's bill of rights.

10 SECTION 2. This Act takes effect immediately if it receives  
11 a vote of two-thirds of all the members elected to each house, as  
12 provided by Section 39, Article III, Texas Constitution. If this  
13 Act does not receive the vote necessary for immediate effect, this  
14 Act takes effect September 1, 2007.