

By: Uresti

S.B. No. 805

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;

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

(4) to receive adequate and healthy food and adequate clothing;

(5) to receive appropriate medical, dental, vision, and mental health services;

(6) to not be locked or otherwise confined in any room, building, or facility or placed in an area where the child is

1 physically prevented from leaving, unless the child is placed in a
2 residential treatment facility or a mental health facility under an
3 order of a physician or court;

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

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

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

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

15 (11) to visit and contact siblings and to contact
16 other family members, unless prohibited by court order;

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

19 (13) to interact with persons outside of the foster
20 care system, including teachers, church members, mentors, and
21 friends;

22 (14) to make and receive confidential telephone calls
23 and to send and receive unopened mail, unless prohibited by court
24 order;

25 (15) to receive a money allowance, in an amount
26 determined by the foster parent or other substitute care provider,
27 using money from the foster care payments made by the department to

1 the foster parent or other substitute care provider for the care of
2 the child;

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

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

10 (18) to receive care and treatment in the least
11 restrictive environment consistent with the best interests and
12 needs of the child;

13 (19) to not be unnecessarily or excessively medicated;

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

17 (21) if the child is at least 14 years of age, to
18 request a medical review of the child's medical care, including a
19 review of the medications prescribed to the child, by a medical
20 review team, and to receive a copy of the results of any medical
21 review;

22 (22) to be informed before the child is 16 years of age
23 that the child, at 16 years of age, may request a court hearing to
24 determine if the child has the capacity to consent to medical care
25 under Section 266.010;

26 (23) if the child is at least 16 years of age, to
27 consent to all or some medical care, as authorized by the court

1 under Section 266.010;

2 (24) if the child is at least 12 years of age, to
3 participate in the development of the child's service plan and
4 permanency plan;

5 (25) if the child is at least 12 years of age, to
6 review and receive information regarding the child's service plan
7 and permanency plan, including any changes made to the plans and
8 information about the child's out-of-home placement;

9 (26) to be appointed an attorney ad litem who is
10 competent and provides zealous legal representation of the child's
11 interests, and to meet, in person, with the child's attorney ad
12 litem before each status hearing, permanency review hearing, or
13 placement review hearing;

14 (27) to request the appointment of an attorney or
15 guardian ad litem to represent the child, if the child is not
16 already represented by an attorney or guardian ad litem;

17 (28) to attend a court hearing that affects the
18 conservatorship or placement of the child, including a status
19 hearing, a permanency review hearing, or a placement review
20 hearing;

21 (29) if the child is at least 14 years of age, to
22 remain in the courtroom during a court hearing that affects the
23 conservatorship or placement of the child, including a status
24 hearing, a permanency review hearing, or a placement review
25 hearing;

26 (30) regardless of the child's age, to speak privately
27 to the judge at a court hearing that affects the conservatorship or

1 placement of the child, including a status hearing, a permanency
2 review hearing, or a placement review hearing;

3 (31) if the child has a disability, to be informed, in
4 writing, of the name, existence, purpose, telephone number, and
5 address of the protection and advocacy system established in this
6 state under the applicable federal developmental disability laws,
7 as defined by Section 112.001, Human Resources Code, for the
8 purpose of advocating for and protecting the rights of persons with
9 that disability;

10 (32) to attend school and participate in sports,
11 clubs, and other extracurricular activities, consistent with the
12 child's age and developmental level;

13 (33) if the child participates in a special education
14 program, to meet and consult with the surrogate parent assigned to
15 the child in accordance with federal law, regarding the child's
16 individualized education program prior to each admission, review,
17 and dismissal committee meeting held regarding the child;

18 (34) to participate in an organization that advocates
19 for or on behalf of foster youth;

20 (35) to work and develop job skills consistent with
21 the child's age in accordance with state and federal law;

22 (36) if the child is at least 16 years of age, to have
23 access to information regarding postsecondary educational and
24 vocational options available to the child, including information
25 regarding financial aid available for postsecondary education and
26 the course work or other requirements required to complete
27 vocational training and postsecondary educational programs;

1 (37) to attend classes and receive other services
2 provided under the Preparation for Adult Living Program established
3 under Section 264.121;

4 (38) on, or as soon as possible after, the date of the
5 child's 18th birthday or the date the child's disabilities of
6 minority are removed, to be provided with the child's health
7 passport information in a printed and electronic format;

8 (39) to be informed in writing of the name, address,
9 and telephone number of the person at or the division or office of
10 the department that handles complaints regarding a violation of the
11 child's rights; and

12 (40) to make a confidential complaint with the
13 appropriate person at or the division or office of the department,
14 or to speak confidentially with an appropriate person at the
15 department, regarding a violation of the child's rights without
16 punishment or threat of punishment for making the complaint.

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

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

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

3 (2) for a child who has a disability, including an
4 impairment of vision or hearing, through any means that can
5 reasonably be expected to result in successful communication with
6 the child.

7 (e) A home or facility in which a child is placed in
8 substitute care shall prominently and conspicuously display a copy
9 of the foster children's bill of rights in a public area of the home
10 or facility that is readily accessible by the child. The foster
11 children's bill of rights must be printed in English and in a second
12 language.

13 (f) The department shall promote the participation of
14 foster children and former foster children in educating other
15 foster children about the foster children's bill of rights.

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