

1-1 By: Uresti S.B. No. 805
1-2 (In the Senate - Filed February 21, 2007; March 7, 2007,
1-3 read first time and referred to Committee on Health and Human
1-4 Services; April 16, 2007, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 8, Nays 0,
1-6 1 present not voting; April 16, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 805 By: Uresti

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to a foster children's bill of rights.
1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-12 SECTION 1. Subchapter A, Chapter 263, Family Code, is
1-13 amended by adding Section 263.007 to read as follows:
1-14 Sec. 263.007. FOSTER CHILDREN'S BILL OF RIGHTS. (a) In
1-15 this section, "foster children's bill of rights" means the list of
1-16 rights prescribed by Subsection (b) to which each child in
1-17 substitute care is entitled.
1-18 (b) It is the policy of this state that each child in
1-19 substitute care has the right:
1-20 (1) to live in a safe, healthy, and comfortable home
1-21 where the child is treated with respect;
1-22 (2) to be free from physical, sexual, emotional, and
1-23 other abuse, including corporal punishment and any form of
1-24 discipline that humiliates or demeans the child;
1-25 (3) to be free from discrimination or harassment on
1-26 the basis of gender, race, ethnicity, religion, national origin,
1-27 disability, sexual orientation, or HIV status;
1-28 (4) to receive adequate and healthy food;
1-29 (5) to receive and keep adequate clothing suitable to
1-30 the child's age and size and comparable to the clothing of other
1-31 children in the community;
1-32 (6) to receive appropriate medical, dental, vision,
1-33 and mental health services;
1-34 (7) subject to Subdivisions (8) and (9), to not be
1-35 physically restrained for longer than one minute unless other less
1-36 restrictive behavioral interventions have been unsuccessful and
1-37 physical restraint is necessary to:
1-38 (A) prevent substantial physical harm or
1-39 imminent, probable death to the child or imminent physical harm to
1-40 another person; or
1-41 (B) administer medication or provide medical
1-42 treatment prescribed by a physician;
1-43 (8) to not be physically restrained for any period as
1-44 punishment, retribution, retaliation, or discipline, to obtain
1-45 compliance from the child, for the convenience of the foster parent
1-46 or other substitute care provider, or as a substitute for effective
1-47 treatment or rehabilitation;
1-48 (9) to not be locked or otherwise confined in any room,
1-49 building, or facility or placed in an area where the child is
1-50 physically prevented from leaving, unless the child is placed in a
1-51 residential treatment facility or a mental health facility under an
1-52 order of a physician or court;
1-53 (10) to be placed in substitute care with the child's
1-54 siblings unless that placement is not in the best interests of the
1-55 child or the child's sibling;
1-56 (11) if a sibling of the child is not placed in
1-57 substitute care with the child, to be informed in writing of the
1-58 name, address, and telephone number of the foster care home or other
1-59 child-care facility in which the sibling is placed, unless
1-60 prohibited by court order or the child's caseworker or a department
1-61 supervisor determines that it is not in the child's best interests
1-62 and the caseworker or supervisor, as applicable, includes the
1-63 reason for that determination in the child's case records;

- 2-1 (12) to have a private storage space in the home or
 2-2 facility in which the child resides to store the child's personal
 2-3 belongings;
 2-4 (13) to not be subjected to unreasonable searches of
 2-5 the child's personal belongings;
 2-6 (14) to contact caseworkers, attorneys ad litem,
 2-7 guardians ad litem, and court-appointed special advocates;
 2-8 (15) to communicate with caseworkers, judges,
 2-9 attorneys ad litem, guardians ad litem, court-appointed special
 2-10 advocates, foster parents, and other providers in the child's
 2-11 primary language, including in sign language;
 2-12 (16) to regularly visit and regularly contact siblings
 2-13 and to regularly contact other family members, unless prohibited by
 2-14 court order or the child's caseworker or a department supervisor
 2-15 determines that it is not in the child's best interests and the
 2-16 caseworker or supervisor, as applicable, includes the reason for
 2-17 that determination in the child's case records;
 2-18 (17) to never be denied contact or visitation with
 2-19 siblings or other family members as a form of discipline;
 2-20 (18) to attend religious services and activities of
 2-21 the child's choice;
 2-22 (19) to interact with persons outside of the foster
 2-23 care system, including teachers, church members, mentors, and
 2-24 friends;
 2-25 (20) to make and receive confidential telephone calls
 2-26 and to send and receive unopened mail, unless prohibited by court
 2-27 order or the child's caseworker or a department supervisor
 2-28 determines that it is not in the child's best interests and the
 2-29 caseworker or supervisor, as applicable, includes the reason for
 2-30 that determination in the child's case records;
 2-31 (21) to receive an age-appropriate money allowance, in
 2-32 an amount determined by the foster parent or other substitute care
 2-33 provider, for the purpose of developing money management skills,
 2-34 using money from the foster care payments made by the department to
 2-35 the foster parent or other substitute care provider for the care of
 2-36 the child;
 2-37 (22) to maintain a personal bank account and manage
 2-38 personal income consistent with the child's age and developmental
 2-39 level, unless prohibited by the child's service plan;
 2-40 (23) to expect that the child's records will be kept
 2-41 confidential in accordance with existing state and federal law,
 2-42 including the child's medical, mental health, child protective
 2-43 services, and educational records;
 2-44 (24) to receive care and treatment in the least
 2-45 restrictive environment that is most like a family setting,
 2-46 consistent with the best interests and needs of the child;
 2-47 (25) to not be unnecessarily or excessively medicated;
 2-48 (26) to not be admitted as a voluntary inpatient to a
 2-49 mental health facility unless the child consents as required by
 2-50 Section 572.001(c), Health and Safety Code;
 2-51 (27) if the child is at least 14 years of age, to
 2-52 request a medical review of the child's medical care, including a
 2-53 review of the medications prescribed to the child, by a medical
 2-54 review team, and to receive a copy of the results of any medical
 2-55 review;
 2-56 (28) to be informed before the child is 16 years of age
 2-57 that the child, at 16 years of age, may request a court hearing to
 2-58 determine if the child has the capacity to consent to medical care
 2-59 under Section 266.010;
 2-60 (29) if the child is at least 16 years of age, to
 2-61 consent to all or some medical care, as authorized by the court
 2-62 under Section 266.010;
 2-63 (30) if the child is at least 12 years of age, to
 2-64 participate in the development of the child's service plan and
 2-65 permanency plan;
 2-66 (31) if the child is at least 12 years of age, to
 2-67 review and receive information regarding the child's service plan
 2-68 and permanency plan, including any changes made to the plans;
 2-69 (32) to receive information about the child's foster

3-1 parent or other substitute care provider consistent with the
3-2 child's age and developmental level;
3-3 (33) to be appointed an attorney ad litem who is
3-4 competent and provides zealous legal representation of the child's
3-5 interests, and to meet, in person, with the child's attorney ad
3-6 litem before each hearing involving the child;
3-7 (34) to request the appointment of an attorney or
3-8 guardian ad litem to represent the child, if the child is not
3-9 already represented by an attorney or guardian ad litem;
3-10 (35) to attend a court hearing that affects the
3-11 conservatorship or placement of the child, including a status
3-12 hearing, a permanency review hearing, or a placement review
3-13 hearing;
3-14 (36) if the child is at least 14 years of age, to
3-15 remain in the courtroom during a court hearing that affects the
3-16 conservatorship or placement of the child, including a status
3-17 hearing, a permanency review hearing, or a placement review
3-18 hearing;
3-19 (37) regardless of the child's age, to speak privately
3-20 to the judge at a court hearing that affects the conservatorship or
3-21 placement of the child, including a status hearing, a permanency
3-22 review hearing, or a placement review hearing;
3-23 (38) if the child has a disability, to be informed, in
3-24 writing, of the name, existence, purpose, telephone number, and
3-25 address of the protection and advocacy system established in this
3-26 state under the applicable federal developmental disability laws,
3-27 as defined by Section 112.001, Human Resources Code, for the
3-28 purpose of advocating for and protecting the rights of persons with
3-29 that disability;
3-30 (39) to attend school and participate in sports,
3-31 clubs, and other school-related extracurricular activities,
3-32 consistent with the child's age and developmental level;
3-33 (40) to participate in community activities,
3-34 including recreational and social activities, consistent with the
3-35 child's age and developmental level;
3-36 (41) to the extent possible, to have minimal
3-37 disruption in the child's education, including the right to attend
3-38 the same school if placed with an alternative substitute care
3-39 provider, unless otherwise ordered by the court;
3-40 (42) if the child participates in a special education
3-41 program, to meet and consult with the surrogate parent assigned to
3-42 the child in accordance with federal law, regarding the child's
3-43 individualized education program prior to each admission, review,
3-44 and dismissal committee meeting held regarding the child;
3-45 (43) to participate in an organization that advocates
3-46 for or on behalf of foster youth;
3-47 (44) to work and develop job skills consistent with
3-48 the child's age in accordance with state and federal law;
3-49 (45) if the child is at least 16 years of age, to have
3-50 access to information regarding postsecondary educational and
3-51 vocational options available to the child, including information
3-52 regarding financial aid available for postsecondary education and
3-53 the course work or other requirements required to complete
3-54 vocational training and postsecondary educational programs;
3-55 (46) to attend classes and receive other services
3-56 provided under the Preparation for Adult Living Program established
3-57 under Section 264.121;
3-58 (47) on, or as soon as possible after, the date of the
3-59 child's 18th birthday or the date the child's disabilities of
3-60 minority are removed, to be provided with the child's health and
3-61 education passport information, social security card, state-issued
3-62 personal identification card, and a certified copy of the child's
3-63 birth certificate;
3-64 (48) to be informed in writing of how the child may
3-65 obtain copies of the child's case records;
3-66 (49) to be informed in writing of the name, address,
3-67 and telephone number of the person at or the division or office of
3-68 the department that handles complaints regarding a violation of the
3-69 child's rights; and

4-1 (50) to make a confidential complaint with the
4-2 appropriate person at or the division or office of the department,
4-3 or to speak confidentially with an appropriate person at the
4-4 department, regarding a violation of the child's rights without
4-5 punishment or threat of punishment for making the complaint.

4-6 (c) This section may not be construed to require a foster
4-7 parent or other substitute care provider to take any action that
4-8 would impair the health or safety of a child in substitute care.
4-9 Any action taken that is inconsistent with the foster children's
4-10 bill of rights must be included in the permanency progress report or
4-11 placement review report filed with a court.

4-12 (d) The department shall provide a written copy of the
4-13 foster children's bill of rights to each child placed in substitute
4-14 care in the child's primary language, if possible, and shall inform
4-15 the child of the rights provided by the foster children's bill of
4-16 rights:

4-17 (1) orally in the child's primary language, if
4-18 possible, and in simple, nontechnical terms; or

4-19 (2) for a child who has a disability, including an
4-20 impairment of vision or hearing, through any means that can
4-21 reasonably be expected to result in successful communication with
4-22 the child.

4-23 (e) A home or facility in which a child is placed in
4-24 substitute care shall provide a copy of the foster children's bill
4-25 of rights to a child on the child's request. The foster children's
4-26 bill of rights must be printed in English and in a second language.

4-27 (f) The department shall promote the participation of
4-28 foster children and former foster children in educating other
4-29 foster children about the foster children's bill of rights.

4-30 SECTION 2. This Act takes effect immediately if it receives
4-31 a vote of two-thirds of all the members elected to each house, as
4-32 provided by Section 39, Article III, Texas Constitution. If this
4-33 Act does not receive the vote necessary for immediate effect, this
4-34 Act takes effect September 1, 2007.

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