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Bill Analysis

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Primary Sponsors: Sens. Maharath and Fedor

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SUMMARY

- Creates a list of certain rights that every child has while in foster care.
- Provides that none of the listed rights require service in excess of current appropriations or the expenditure of funds not specifically designated for purposes of meeting the rights.

DETAILED ANALYSIS

Rights of children in foster care

The bill provides that every child in foster care has the following rights:

Freedom

- To enjoy individual dignity, liberty, pursuit of happiness, and the protection of the child's civil and legal rights as a person in the custody of the state;
- To exercise freedom of thought, conscience, and religion or to abstain from the practice of religion.¹

Privacy

- To have the child's privacy protected, personal belongings secure and transported with the child, and, unless a court orders otherwise, uncensored communication, including receiving and sending unopened communications and having access to a telephone.²

¹ R.C. 2151.317(A)(3) and (30).

² R.C. 2151.317(A)(4).

Case management

- To have personnel providing services who are sufficiently qualified and experienced to assess the risk the child faces prior to removal from the home, and to meet the needs of the child once in the custody of the state;
- To have the child's photograph included in the child's case management file;
- To be the subject of a plan developed by the agency and the foster caregiver or kinship caregiver to deal with identified behaviors that may present a risk to the child or others;
- To be involved and incorporated in the development of the case plan, to have a case plan that will address the child's specific needs, and to object to any of the provisions of the case plan;
- To receive meaningful case management and planning that will quickly return the child to the child's family or move the child on to other forms of permanency;
- To receive regular communication with a caseworker, at least once per month, which shall include meeting with the child alone and conferring with the foster caregiver or kinship caregiver.³

Parents and visitation

- To remain in the custody of the child's parents or legal guardians until there has been a determination by a qualified person exercising competent professional judgement that removal is necessary to protect the physical, mental, or emotional health or safety of the child;
- To enjoy regular visitation, at least once per week, with the child's siblings unless the court orders otherwise;
- To enjoy regular visitation with the child's parents, at least once a month, unless the court orders otherwise.⁴

Health, safety, and protection

- To have a full risk, health, educational, medical, and psychological screening, and, if needed, assessment and testing upon entry into foster care;
- To be referred to and receive services, including necessary medical, emotional, psychological, psychiatric, and educational evaluations and treatment, as soon as practicable after identification of the need for such services;
- To have a clean and safe living environment, free of infestations and contaminants, and the ability to enter the child's housing at any time during the child's placement;

³ R.C. 2151.317(A)(5), (9), (13) to (16).

⁴ R.C. 2151.317(A)(6), (17), and (18).

- To be placed away from other children known to pose a threat of harm to the child, either because of the child's own risk factors or the other child's;
- To be free from physical, verbal, and emotional abuse and inhumane treatment;
- To protection from all forms of sexual exploitation;
- To protection from discrimination or harassment on the basis of race, sex, gender, gender identity, sexual orientation, disability, religion, color, or national origin.⁵

Caregivers

- To be placed in a home where the foster caregiver or kinship caregiver is aware of and understands the child's history, needs, and risk factors.⁶

Education

- To receive all of the following:
 - A free and appropriate education;
 - Minimal disruption to the child's education and retention in the child's home school, if appropriate;
 - All special educational services, including, where appropriate, the appointment of a parent surrogate;
 - The sharing of all necessary information between the school board and the public children services agency (PCSA) or private child placing agency (PCPA), including information on attendance and educational progress.
- To control and to earn the child's own money, open a savings account, be provided guidance on how to save money, and spend money, as is appropriate for the child's age and development, and, for youth 14 and older, address these money, savings, and spending rights as a part of the youth independent living plan Department of Job and Family Services (ODJFS) rules.⁷

Dispute resolution

- To be able to raise grievances with the PCSA, PCPA, or ODJFS over the care the child is receiving from the child's caregivers, caseworkers, or other service providers;
- To be heard by the court at all review hearings;

⁵ R.C. 2151.317(A)(1), (7), (8), (10), (11), (29), and (31).

⁶ R.C. 2151.317(A)(12).

⁷ R.C. 2151.317(A)(19) and (28).

- To have a guardian ad litem appointed to represent, within reason, the child's best interests and to provide the child's guardian ad litem with immediate and unlimited access to the child;
- To have all the child's records available for review by the child's guardian ad litem if the guardian ad litem deems such review necessary;
- To organize as a group for the purposes of ensuring that all the children in foster care receive the services and living conditions to which they are entitled and to provide support for one another while in the custody of the state.⁸

Access to programs, food, and clothing

- To be afforded prompt access to all available state and federal programs;
- To have access to food in accordance with ODJFS rules and to have other special considerations regarding food that are requested as a result of trauma included in the child's service plan;
- To have clothing that is appropriate for the child's age and gender identity and to participate and provide input regarding the selection of the child's clothing.⁹

Access to list of foster child rights

- To receive a copy of the rights established in the bill and to have the rights fully explained upon placement in the custody of the state.¹⁰

Funding not guaranteed

The bill specifies that none of the rights listed above are to be construed as requiring either:

- The delivery of any particular service or level of service in excess of existing appropriations; or
- The expenditure of funds to meet the rights established above, except funds specifically appropriated for that purpose.¹¹

Foster Youth Bill of Rights under ODJFS rules

Current law requires ODJFS to adopt rules to establish and enforce a Foster Youth Bill of Rights for individuals who are in the temporary or permanent custody of a PCSA or a planned permanent living arrangement or in the Title IV-E eligible care and placement responsibility of a

⁸ R.C. 2151.317(A)(20) to (24).

⁹ R.C. 2151.317(A)(25) to (27).

¹⁰ R.C. 2151.317(A)(2).

¹¹ R.C. 2151.317(B).

juvenile court or other governmental agency that provides Title IV-E reimbursable placement services and who are subject to out-of-home care or placed with a kinship caregiver.

Existing law also provides that any rights established by ODJFS rule regarding the Foster Youth Bill of Rights do not create grounds for a civil action against ODJFS, the recommending agency, or the custodial agency.¹²

HISTORY

Action	Date
Introduced	10-20-21

S0254-I-134

¹² R.C. 2151.316, not in the bill.