

SUBJECT: Establishing the Foster Children's Bill of Rights

COMMITTEE: Human Services — committee substitute recommended

VOTE: 8 ayes — Rose, S. King, J. Davis, Eissler, Herrero, Hughes, Naishtat,
Parker

0 nays

1 absent — Pierson

SENATE VOTE: On final passage, April 19 — 30-0

WITNESSES: *(On House companion bill, HB 1752 by Rodriguez:)*
For — Richard LaVallo, Advocacy Inc.; Carol Grimm, CASA of Central Texas; *(Registered, but did not testify: John Breeding, Texans for Safe Education; Lauren DeWitt, The Citizens Commission on Human Rights; Jack Downey, The Children's Shelter; Madeline McClure, TexProtects/The Texas Association for the Protection of Children; Jason Sabo, United Way of Texas; Johana Scot, Parent Guidance Center; Jodie Smith, Texans Care for Children; Lee Spiller, Citizens Commission on Human Rights; and eight individuals)*

Against — I. William R. Cox, Lighthouse Family Network

On — Conni Barker, DePelchin Children's Center; Joe Gagen, Texas CASA, Inc.; *(Registered, but did not testify: Andrea Sparks, Texas CASA)*

DIGEST: CSSB 805 would establish a Foster Children's Bill of Rights. The Foster Children's Bill of Rights would be a list of 50 specific rights for children in foster care, to the extent that those rights were provided by state or federal law. The list would include rights related to:

- protections for a foster child's health and safety;
- freedom from abuse and discrimination;
- receipt of adequate food, clothing, and health care;
- freedom from unreasonable restraint or confinement;

- placement in foster care with the child's siblings, or access to the child's siblings and family members;
- privacy rights;
- the ability to contact foster care professionals, including caseworkers, attorneys, judges, and advocates;
- the right to contact family members unless prohibited by court order or determined to be not in the child's best interests;
- the right to attend religious services of the child's choice;
- the right to legal representation;
- the ability to interact with persons outside the foster care system, including teachers, church members, mentors, and friends;
- the right to receive a money allowance and maintain a bank account;
- participation in the child's service and permanency plan;
- the right to receive appropriate information about the child's foster parent or foster care provider;
- the right to attend school and participate in sports and other extracurricular and social activities;
- the right to work and develop job skills;
- access to college and postsecondary education vocational options;
- access to the child's social security card, identification card, birth certificate, and other personal documents upon the child's 18th birthday; and
- access to information on how to file a confidential complaint regarding a violation of the child's rights and the right to file such a complaint.

The bill would specify that no right conferred under the bill could be construed to require a foster parent or foster care provider to take an action that would impair the health or safety of a child. Any action inconsistent with the Foster Children's Bill of Rights would have to be included in the permanency progress report or placement review report filed with a court.

The Department of Family and Protective Services (DFPS) would have to provide a written copy of the Foster Children's Bill of Rights to each child placed in foster care in each child's primary language. DFPS also would inform a child of the rights provided by the Foster Children's Bill of Rights orally or in a manner that a hearing or visually impaired child could understand.

At the child's option, a child could sign a document acknowledging the child's understanding of the Foster Children's Bill of Rights, which would be placed in the child's case file. A foster home or foster care facility would be required to provide a copy of the Foster Children's Bill of Rights to a child on the child's request.

The bill would direct DFPS to promote the participation of current and former foster children in educating other foster children about the Foster Children's Bill of Rights.

The executive director of the Health and Human Services Commission and DFPS would have to ensure that foster care rules and policies were consistent with the Foster Children's Bill of Rights and could adopt rules and policies that provided greater protection than those included in the bill of rights.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

**SUPPORTERS
SAY:**

By codifying in statute a comprehensive bill of rights for foster children, CSSB 805 would ensure that young people who were a part of the foster care system in Texas were aware of their protections under the law. This would enable these children to advocate effectively on their own behalf and provide guidance for court-appointed special advocates and other foster care professionals.

The rights included in CSSB 805 are taken from various sections of the Texas Administrative Code, the Texas Family Code, federal law, and other sources. The bill would compile these rights and protections in one place in the Family Code and make them available and understandable so that foster children could know the legal rights they were afforded.

All of the rights afforded to foster children under CSSB 805 would be reasonable and appropriate for any child, and foster children deserve these protections. Children in the foster care system have experienced trying and often traumatic experiences. The Foster Children's Bill of Rights would let these children know that they could benefit from reasonable protections, such as the right to privacy, freedom from abuse and harassment, the ability to access medical care, the right to file a

confidential complaint regarding treatment, and the ability to engage with foster care professionals and the legal system.

The bill would prevent inappropriate use of a right conferred under CSSB 805 by stating that no right conferred under the bill would require a foster parent or foster care provider to take an action that would impair the health or safety of a child. In this manner, a foster parent could reasonably restrict a right to the extent necessary to prevent harm to a child's health or safety. Further, the bill specifically would state that the rights conferred in the bill were done so "to the extent provided by state or federal law or policy," ensuring that the rights would reflect different policies under state and federal law to allow for different levels of care based on a child's needs.

**OPPONENTS
SAY:**

Some of the rights included under CSSB 805 would be too broad and could add to the difficulty that foster care providers face when caring for children in their custody. If a child could justify inappropriate behavior by pointing to a right included in the Foster Children's Bill of Rights, SB 805 could have the unintended consequence of undermining the authority of a foster care provider.

**OTHER
OPPONENTS
SAY:**

CSSB 805 is unnecessary because all of the rights included in CSSB 805 currently exist in other areas of statute or code. Foster care providers in the vast majority of cases present a foster child with a list of the child's rights and ask the child to sign documentation verifying that the child understands those rights.

NOTES:

The House committee substitute added a provision to the Senate-passed version of the bill that it was the policy of this state that, to the extent provided by state or federal law or policy, a child in foster care had the rights provided for in the Foster Children's Bill of Rights.