

Letting Kids Be Kids: A Legislative Victory in Florida

by Christina Spudeas, Robin Rosenberg, and Andrea Cowart

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“We just want to do the same things as our friends! We just want to be normal!” is the battle cry of youth in foster care—backed by their caregivers—across the country. These youth want the chance to play sports, spend the night with friends, go on a class trip, or take a family vacation without the need for state approval or a court order. This year, Florida took a major step toward fixing this issue that plagues so many children in care. In April, the legislature unanimously enacted HB 215, a law intended to “let kids be kids,” as Governor Scott put it at the bill signing. A key factor in achieving this remarkable legislative victory was the role of current and former foster youth who were integral in generating support for the law.

What the Law Does

The bill creates a new section in the child welfare chapter of Florida statutes, which gives children the right to engage in age-appropriate childhood activities and grants caregivers (not caseworkers or courts) the authority and responsibility to decide which activities a child can engage in. The law also removes a caregiver’s liability for harm to children injured in an activity, so long as the caregiver acted reasonably.

The Right

The law specifically states, “Each child who comes into care under this chapter is entitled to participate in age-appropriate extracurricular, enrichment, and social activities.” This language is important for three rea-

sons: First, it’s mandatory. Second, it applies to children of all ages. Past efforts at achieving normalcy in Florida technically applied only to teens. Third, it applies to all children in out-of-home care—regardless of where they are placed. The previous rules allowing teens to participate in activities did not apply to unlicensed caregivers (relatives and non-relatives). The new law also ensures that children in group homes and other facilities get to participate in activities.

The Responsibility

Under the law, caregivers have the ability to approve activities without prior approval of courts or caseworkers. The law requires caregivers to “use a reasonable and prudent parent standard in determining whether to give permission for a child in out-of-home care to participate in extracurricular, enrichment, and social activities.” The law defines the standard, including six specific items the caregiver must consider:

1. Age, maturity, and developmental level
2. Potential risk factors and appropriateness of the activity
3. Best interest of the child
4. Importance of encouraging developmental growth
5. Importance of providing family-like living experience
6. Behavioral history of the child and ability to safely participate in the activity

Relief from Liability

The law states that caregivers are “not liable for harm caused to a child in care who participates in an activity approved by the caregiver provided that the caregiver acted as a reasonable and prudent parent.” This provision protects caregivers from being sued due to injuries and illness that result from a child’s participation in an age-appropriate activity.

Current and Former Foster Youth Started the Ball Rolling

Florida Youth SHINE (FYS), formed in 2005 by Florida’s Children First, has 12 chapters of current and former foster youth ages 14 to 23 from across the state. At local and state meetings, members inevitably discussed their lives in care. During these discussions over several years, it became clear that there was a disparity between kids in care and so-called “normal” kids. FYS members agreed they needed to address the way youth in foster care were restricted from activities that most parents would let their children do without a second thought.

Youth SHINE members held several brainstorming sessions to identify the issues and experiences they had most struggled with while in care. They quickly realized there were too many issues to tackle one by one, but a clear theme emerged—normalcy. What FYS members wanted was simply what children and teens in the general population have—the right to join a sports team, learn to drive, and live like young people.

Normalcy became the goal. It wasn’t that every youth should have the absolute right to do everything they want, but rather that, as in a traditional home, youth in care have the same reasonable opportunity to participate in normal, positive activities. Once they identified and defined the concept of normalcy, Youth SHINE members wanted to see the issue written into law. They knew agency guidelines would not be enough.

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Florida's Children First Drafted Legislation

Florida's Children First (FCF) took the list of issues identified by FYS and placed them into three categories: those that were already addressed by statute or rule, those that could be addressed if administrative rules were changed, and those for which a legislative change was necessary.

Using California's statute, which created a reasonable and prudent parent standard, staff drafted proposed language and submitted it to legislators. Legislators included the language in a 2011 bill that would have extended foster care beyond age 18. Unfortunately, that bill failed, as did the 2012 version of extended foster care, which also included the normalcy language.

Forces Converged in 2013

Several things happened in 2013 that resulted in legislative success. The Guardian Ad Litem (GAL) Program made normalcy a legislative priority. GAL Program Director Alan Abramowitz had previously served as the "Normalcy Czar" for the Department of Children and Families and made it his mission to see this bill

pass. As he explained, "There is no reason that foster parents and group homes should have to break the rules in order to give youth a normal life in foster care. This is really a call to action for all of us to state unequivocally that caregivers of children in foster care must have 'permission to parent' so that children can participate in age-appropriate extracurricular, enrichment and social activities."

The GAL Program drafted stand-alone legislative language that incorporated the reasonable and prudent parent standard and separated it from efforts to extend foster care. The bill incorporated concepts from the state's Quality Parenting Initiative, which focuses on recruiting and empowering foster parents to be high-quality caregivers. Abramowitz gathered input from many stakeholders and revised language to incorporate as many concerns as possible. He included Florida Youth SHINE in his efforts to seek passage of the bill, recognizing the impact that the voice of youth would have on its success.

The bill also found champions in Senator Nancy Detert and Representative Ben Albritton, but all parties agree that it was the work of Florida Youth SHINE that made passage a reality.

Youth Educated Members of the Legislature

Since they knew and understood the normalcy concept and consequences personally, Florida Youth SHINE members took on the responsibility of educating legislators. Few people were against the concept of a normal life for foster youth, although some were concerned about liability. At the same time, though, very few legislators or members of the public were even aware of this issue. To shed light on the need for change, Youth SHINE members shared their personal experiences of being able to, or in most cases not being able to, experience normal activities, rites of passage, and milestones.

As one FYS member explained, a trip to her family's vacation home in Georgia with horses and a boat on a lake required staffing and a court order. Although they got the order, her foster parents were still told the young woman should not ride the horses or go on the boat. Another, who is a high school sprinter, explained why he couldn't travel with his track team to finals: "My caseworker didn't schedule the court appearance in time and I wasn't able to get the court order to attend and it was really devastating because we made nationals that year."

Other young people told stories of needing state approval to go to the beach, have a sleepover, or join a soccer, football, or cheerleading team. One young woman wanted to go to prom with her 18-year-old boyfriend. He had to be fingerprinted, and she had to seek approval at numerous levels. Sadly, their efforts were unsuccessful and they were not able to attend.

FYS used its numbers and its members' knowledge to push this little bill that will mean such a big change for youth in care. If the subject of normalcy was a topic anywhere in the Capitol, a Youth SHINE member was there. Multiple members testified at every committee meeting for the normalcy bill. Members spread the word



Angel

A friendly, caring, motivated young woman, Angel will turn 16 this month. She enjoys arts and crafts (especially scrapbooking), fashion, singing, and dancing. Angel loves to read, and her caseworker says she is reading a different book each time they see each other (the last one was *To Kill a Mockingbird*). Angel's favorite food is macaroni and cheese, but she also has a bit of a sweet tooth! In her ninth grade class she received some educational support, but Angel is doing so well that she'll be in a regular 10th grade class in the fall. She likes all her classes and hopes to be a teacher in the future.

Angel would do great with older siblings or as an only child. She loves animals and hopes her adoptive family will have pets. Angel needs a patient family who can help her transition from the foster family she is very attached to. To learn more, contact Ilona Frederick at Children Awaiting Parents: 585-232-5110/888-835-8802 or ilona@capbook.org. ♦

in their local communities by arranging for countless articles and media pieces on the issue, each time sharing their personal experiences and highlighting the importance of the bill. Six members also had the opportunity to be guests on an hour-long National Public Radio program in Tallahassee.

Finally, during the annual trip to the capitol during Children's Week, youth had the opportunity to personally thank supporters of the bill and to be part of the ceremony as the governor signed the bill into law. As Representative Albritton said at the signing, "Today is the beginning of a new day. It's the beginning of a new freedom and a new opportunity for kids to be able to live their lives to the maximum like they're supposed to be able to do."

Lessons Learned

Providers' fear that a child in foster care could get injured or hurt while participating in a childhood activity has a basis in reality. Children do get hurt when they play in the yard, when they take part in sports, when they ride their bikes. Millions of parents across America have taken a trip to the emergency room or doctor's office when their child was injured while doing something all children do. Families have bandages and salve in their cupboards just because they know kids can get hurt. Senator Detert explained, "We spent so much time writing rules to make these kids safe, that what we ended up doing is bubble-wrapping these kids."

The fear of harm must be balanced by the fact that every child needs to have play and activities as part of their lives. Children must learn to play with others, be part of a team, and develop friendships. As Governor Scott noted, "As a father and now grandfather, I know how important it is for children to experience things outside of the home, develop relationships and learn skills that are imperative for developing independence...." All this and so much more would be lost if we continued to keep children "safe" and inactive.

There was no better way to get this point across to the lawmakers than to have children and youth tell them how much they missed while spending time in foster care, or how many rules their good caregivers had to ignore to allow them to have normal childhood experiences. Florida Youth SHINE became that voice. It was the voice of these youth that led to a unanimous vote on the law in both the House and Senate.

Children and youth are the focus of the child welfare system, but far too often they are excluded from issues concerning policy or practices that affect their lives. Decision makers frequently forget that children and youth are the experts who know all too well what problems they face when they are uprooted from their homes and placed in the homes or programs of strangers. They know what they need to have more stability. They understand what other children in care are feeling. All you have to do is ask them, and you will learn more than you can imagine.

The bill's sponsor, Senator Detert, emphasized this when she testified in May before the U.S. House of Representatives' hearing Letting Kids be Kids: Balancing Safety with Opportunity for Foster Youth.* She said:

I learned early in my legislative career that if you want to make good law, you listen to the people whose lives are going to be affected by that law and if you want to know what's going on in the foster care system you ask the kids who are in the system and the young adults who have aged out of the system.

Florida Youth Achieve A Second Victory

In addition to the passage of the normalcy bill, this spring the Florida legislature passed SB 1036, which will allow some foster youth to stay in care past age 18. The bill, called the Nancy C. Detert Common Sense and Compassion Independent Living Act, lets youth stay in care until they complete high school or receive their GED. Those who leave care can choose to return. The bill also provides support to youth as and after they leave care. For example, one provision provides for counselors to help foster youth at college.

Foster Youth SHINE members were vocal in their support of the bill and instrumental in its passage. As Brandon Burke noted at a committee hearing, "Now when you turn 18, you are not thrown out into the world to fend for yourself. We are now given the option to stay in our foster or group homes and allowed to grow as people and become more mature before dealing with the real world."

Learn more at <http://www.floridaschildrenfirst.org/?p=5385>. ♦

In Florida, we are fortunate to have a group of older teens and young adults known as Florida Youth SHINE.... One of their goals is to share their stories and experiences in order to improve the system of care for those children currently in care and for those who have yet to enter care.... During this past legislative session, more than 40 members met with 60 legislators and testified at 14 committee meetings in order to support legislation that will affect the lives of over 19,000 children and young adults.

There is no doubt that Florida Youth SHINE played a key role in helping get the normalcy legislation passed. Without their voices, it is unlikely legislators would have understood the significant positive impact this law will have on all children in foster care. We encourage others to take this lesson to heart—so that we all listen to the voice of youth as we shape policies and practices that affect them. ♦

*Listen to the House hearing at <http://tinyurl.com/mogvxv3>; PDFs of witness statements are at <http://tinyurl.com/ksy5afh>.