



A VOICE HEARD—LET KIDS BE KIDS

APRIL 2014



Florida Senate
Florida House of Representatives



Colleagues,

During the 2013 Legislative Session, we worked jointly to secure the passage of the *Quality Parenting for Children in Foster Care Act* also known as the “Let Kids Be Kids Bill.” This legislation was signed into law by Governor Rick Scott on April 11, 2013. The goal of the new law is to bring “normalcy” to the lives of thousands of children in foster care in Florida. It replaces the existing reporting and compliance system with a “reasonable prudent parent” standard. In the past, many rules and practices prevented dependent children and youth living in out-of-home care from leading normal lives. The focus on safety and security, while understandable, restricted caregivers from approving or disapproving a child’s participation in activities without prior consent from the Florida Department of Children and Families (DCF), the caseworker or the courts.

These restrictions “bubble-wrapped” foster children and prevented them from taking part in everyday activities with their peers. We strongly believe that children in foster care deserve to be treated like any other child and that this law will accomplish that. We also believe that the “Let Kids be Kids” Bill will lead to a better relationship between a foster child and his or her caregiver. With the passage of this bill, children in foster care will learn what it means to be part of a family and not part of a bureaucracy.

We thank Governor Rick Scott, Senate President Don Gaetz, House Speaker Will Weatherford and our legislative colleagues for their encouragement and support of the “Let Kids Be Kids” Bill. We also extend a special thank you to Florida Youth SHINE and their foster youth voices who educated all of us about what it means to be normal. Together we are changing lives.

Sincerely,

Handwritten signature of Nancy C. Detert in black ink.

Nancy C. Detert
Senator – District 38
Florida Senate

Sincerely,

Handwritten signature of Ben Albritton in black ink.

Ben Albritton
Representative – District 56
Florida House of Representatives

ACKNOWLEDGEMENTS

Early in 2014 Senate President Don Gaetz posed this question: “How do we know whether the laws we pass have the intended results?” The Guardian ad Litem (GAL) Program took this question to heart and decided that the program would determine whether the “Let Kids be Kids” bill passed in 2013 is allowing youth in foster care to have opportunities like any other youth in the community.

This report presents the findings of a survey of foster parents, Guardian ad Litem volunteers, and Florida Department of Children and Families (DCF) Regional Directors to determine the impact of this new law. The results show that “Let Kids be Kids” is a success about which Florida can be very proud.

Bill sponsors Senator Nancy Detert and Representative Ben Albritton listened to Guardian ad Litem volunteers, Foster Parents, members of Youth SHINE and other child advocates, as they crafted the law. House Speaker Will Weatherford and his wife, Courtney, an active Guardian ad Litem herself, were also committed to make the proposal a reality. The historic legislation became effective July 1, 2013. The impact of this law validates that we all do better when we listen to the children who are most affected.

We want to thank Governor Rick Scott who endorsed and signed the bill into law with a signing ceremony recognizing the youth, Trudy Petkovich, President of Florida State Foster/Adoptive Parent Association, foster parents and volunteers who advocated for it; Bonnie Marmor, a GAL volunteer who prepared and coordinated the survey and wrote this report; former DCF Secretary David Wilkins and his wife, Tanya, who actively advocated for this law through the Fostering Florida’s Future Committee; Carole Shauffer; Christina Spudeas, Executive Director of Florida’s Children First, and the many others on her team who have worked on the “quality parenting initiative,” and the children and youth in foster care who let it be known through our thousands of volunteers that they want to be just like all the other kids.



Alan F. Abramowitz
Executive Director
Florida Statewide Guardian ad Litem Office

The children and youth in the photos on the cover and throughout this report are dependent children to whom the Guardian ad Litem Program is appointed. The children photographed are real examples that these great laws have impacted their lives for the better.

EXECUTIVE SUMMARY

On July 1, 2013, Florida legislation fondly known as the “Let Kids be Kids” Law (Florida Statutes s.39.4091) became effective. This legislation was introduced by Senator Nancy Detert as SB 164 and by Representative Ben Albritton as HB 215. The final version of this law gives foster parents and identified caregivers in group homes the legal authority to allow children and youth in their care to participate in normal, age-appropriate activities using the “reasonable and prudent parent” standard of decision-making, without fear of civil liability. To assess the impact of the new law, foster parents and Guardian ad Litem (GAL) volunteers, as well as Regional Directors of the Florida Department of Children and Families (DCF), responded to a brief survey on the changes the law has brought about and any remaining obstacles to its implementation.

Findings indicate that implementation of the “Let Kids be Kids” Law is well underway and that it has:

- Substantially improved the lives of the children and youth as a result of their increased involvement in a wider variety of age-appropriate experiences; and
- Provided foster parents with the decision-making authority to create a normal home life for children in their care.

The two obstacles identified as the primary barriers to implementation are:

- Insufficient funds to support participation in outside activities; and
- Lack of reliable transportation for children and youth.

Overall, it is apparent from the survey respondents that the “Let Kids Be Kids” Law has not only very successfully achieved its intended purpose but also paves the way for additional positive changes in the dependency system. Thanks to the “Let Kids Be Kids” Law, children and youth in out-of-home care will increasingly find the support and opportunities essential to reaching their potential.

THE “LET KIDS BE KIDS” LAW...

A PATHWAY TO INDEPENDENCE AND NORMALCY

A common theme expressed by many of the dependent children and youth interviewed for the Guardian ad Litem 2012 annual report (*A Voice Heard: Building Trust and Hope*) was their longing for normalcy. Repeatedly, youth communicated their wish to “be like other kids.” Despite the disruption of their family relationships, friendships, and community connections because of circumstances beyond their control, these young people consistently articulated their desire - their need - to be normal. Especially for the children and youth living in licensed out-of-home facilities, the meaning of normalcy is clear: to be viewed and accepted as a member of their peer group. Normalcy includes having the opportunity to do what their friends do, participate in extracurricular activities, drive, date, go shopping, sleep overnight at a friend’s house and visit family members.

Senate Bill 1960 – Authority to Transport Children

This need for normalcy was partially fulfilled with the passage of SB 1960 in 2012. The legislation unanimously supported by both the Florida Senate and the Florida House of Representatives and fully endorsed by Governor Rick Scott, empowered Guardian ad Litem volunteers to transport children to promote social, extracurricular and enrichment activities. Although the authority to transport is optional, a growing number of Florida’s GAL volunteers have elected to become transportation-certified and now involve Florida’s dependent children and youth in experiences and opportunities previously unavailable to them. SB 1960 propelled dependent children forward on the road to normalcy.

House Bill 215 – New Guidelines for Normalcy

Despite the progress made as a result of SB 1960, a major impediment to normalcy still existed in 2013...the “safety and normalcy balance” standard of decision-making for licensed caregivers. Paradoxically, in the interest of safety, the ability of foster parents and group home operators was significantly diminished when it came to permitting dependent children to engage in normal childhood activities.

To quote Senator Nancy Detert in her testimony before the U.S. House of Representatives Committee on Ways and Means, Subcommittee on Human Resources on May 9, 2013:

“The foster care system has historically been focused on safety and concerns about liability and this has often created huge barriers to the normalcy of a child’s experiences growing-up. Liability issues are particularly acute in Florida because we have privatized the provision of foster care and other related services. As a result of the emphasis on safety and those liability concerns, children in care typically miss many rites of passage common to their peers.”

Thanks to the concerted efforts of Senator Detert, the Senate sponsor of SB 164, Representative Albritton, the House sponsor of HB 215, their legislative colleagues and more than 40 current and former foster youth willing to testify at hearings about the need for change, SB 215 was signed into law by Governor Rick Scott on April 11, 2013. The “Let Kids Be Kids” Law (Florida Statutes s.39.4091) replaces the safety and normalcy balance standard with the “reasonable and prudent parent” standard for decision-making and authorizes foster parents to permit a child’s participation in normal, age-appropriate activities. The law also facilitates the ability of the caregiver to approve activities for foster children with protection from liability.

Making a Difference - The Success of House Bill 215

HB 215 became effective on July 1, 2013; feedback about the impact of this legislation has been overwhelmingly positive. Foster parents and group home decision makers are voicing satisfaction with the autonomy that this law has given them; GAL volunteers are observing an unmistakable and encouraging difference in the children with whom they work; and, most importantly, the children and youth for whom this legislation was written are pursuing a wider range of activities and developing a stronger sense of “fitting in.” In response to the legislation, the GAL Program created a standard called *Participation in Childhood Activities*. The standard in its entirety states the following:

The GAL shall advocate to remove barriers that prevent children from participating in age-appropriate extracurricular, enrichment and social activities (normalcy) as required by Section 39.4091, Florida Statutes.

The GAL Program recognizes the importance of foster children being able to participate in activities just as any other child might. “Participation in these types of activities is important to the child’s well-being, not only emotionally, but in developing valuable life-coping skills.” Section 39.4091, Florida Statutes (2013). Section 39.4091, Florida Statutes, requires caregivers, rather than caseworkers, the Department or the Court, to make decisions regarding activities in which foster children may participate – removing obstacles and red-tape. The GAL Program is dedicated to working with the caregiver, the Department and the Court to ensure that barriers are overcome and caregivers are empowered to make decisions regarding activities promoting normalcy for the foster children in their care.

Identifying the Caregiver. Each group home or shelter must identify someone to be the “caregiver” for making decisions in accordance with Section 39.4091, Florida Statutes. A *person* must be identified as the caregiver, not a committee or an office. If a foster child is in a group home, the GAL should determine who the caregiver is that will be making decisions regarding activities for the foster child. The statute is written to ensure that group homes are **not** exempt from normalcy requirements. (See Section 39.4091(2)(b), Florida Statutes.)

Prior Approval Not Required. Neither the case worker nor the Department may require prior approval of the caregiver’s own assessment using a reasonable and prudent parent standard. If the caregiver, be it foster parent, relative caregiver, group home, shelter, or non-relative non-licensed caregiver, is not being permitted to make reasonable and prudent decisions for a child, the GAL must inform the CBC and the Department. (See Section 39.4091(1)(d), Florida Statutes.)

Pre-existing Court Orders. A caregiver’s decisions regarding normalcy activities cannot be contrary to a pre-existing court order. For example, if there is court ordered visitation with the child’s parents on Saturdays, a normalcy activity planned or approved by the caregiver would not trump or take precedence over an existing court order for Saturday visitation. If a court order

appears to be contrary to the reasonable and prudent parent standard, the GAL shall request a staffing with a CBI Attorney to determine the appropriate course of action.

Policies or Practices That Are Barriers. The GAL shall notify the Department if there is a policy or practice that is inconsistent with Section 39.4091, Florida Statutes. If, after notifying the Department of a barrier to normalcy, the Department does not take action, the GAL shall notify the Court that the Department has failed to take action.

If a policy or practice of a private agency providing out-of-home services is a barrier to normalcy for foster children, the GAL must work to remove that barrier. Examples of such barriers are rules like, “no child may have a cell phone or computer,” “no child can get a learner’s permit,” or “no child may play high school football,” etc. These are policies that would be contrary to Section 39.4091, Florida Statutes.

Caregiver Making the Decisions. Section 39.4091, Florida Statutes, requires a caregiver to make decisions regarding a foster child’s participation in childhood activities as any other “reasonably prudent parent” would make the same decisions. The GAL shall notify the Department if the caregiver is making normalcy decisions inconsistent with the reasonable and prudent parent standard.

Although caregivers may consult with case managers and others prior to making decisions regarding activities in which their foster children participate, it is ultimately the caregiver’s decision. The Department, therapist, CBC staff, the GAL, other caregivers, and case managers may offer advice to support the caregiver in making decisions as a reasonable prudent parent, however, they may not make the decisions for caregivers. The GAL should be continuously aware of *who* is making the decisions for foster children. If there are logistical or cost barriers to participation in activities the GAL can advocate for solutions, including support from other providers, non-profits, and community resources.

Advocating for children to participate in age-appropriate activities is consistent with the Program’s mission of representing the best interests of the children we serve.

THE FOCUS OF THIS REPORT

To obtain more detailed information about the impact of the law and identify any remaining obstacles to normalcy, this study was initiated by the Florida Guardian ad Litem Program. Foster parents, GAL volunteers throughout Florida, and DCF Regional Directors responded to a brief survey about the impact. More than 400 foster parents, GAL volunteers, and DCF Regional Directors responded to the survey questions. The GAL volunteers selected to participate in the survey work with foster youth and/or youth residing in group homes.

The following information summarizes the responses received.

1. Have foster parents been empowered by the “Let Kids Be Kids” Law to make “normalcy” decisions for the children and youth in their care without having to seek permission of their caseworker?

As reflected by those responding to this question, the answer was a resounding YES. Of the 157 foster parents replying to this question, 81.5% (128) answered yes and only 18.5 % (29) answered no.

2. Are the children and youth for whom you are a volunteer currently more involved in normal, age-appropriate activities?

Of the 248 replies received to this question, 135 (54.4%) of the GAL volunteers indicated that the youth with whom they work are participating in a greater number of normal or age-appropriate activities.



3. In what types of activities are children and youth who live in out-of-home licensed care facilities now participating as a direct result of the passage of the “Let Kids Be Kids” Law?

The chart on the next page contains data which reflect the rank order of activities in which dependent children and youth are most frequently participating, according to the responses of foster parents and GAL volunteers. It is interesting to note the similarity of activities in which this population is engaged now that they have the opportunity.

Rank Order	Foster Parents	GAL Volunteers for Foster Homes	GAL Volunteers for Group Homes
1	School Events*	School Events	School Events*
2	Family Vacations*	Family Vacations	Shopping with Friends*
3	School Trips	Sports	Sports
4	Sports	School Trips	School Trips
5	“Sleep-Overs”	Shopping with Friends	Family Vacations
6	Going to the Beach	Going to the Beach	School Clubs*
7	Baby-Sitting	“Sleep-Overs”	Going to the Beach*

*Denotes a tie between the two activities

A number of survey respondents took the opportunity to add additional activities in which young people living in foster or group homes are also participating thanks to the law. These included:

- Church Activities: services, camps, leadership groups, outings, plays, and nursery school;
- Family-Centered Activities: spending time with family members, family home visits and joining family for holidays;
- Community Activities: volunteer work, Boys and Girls Club, community service;
- Lessons and Classes: dance, horseback riding, voice, swim, taekwondo and karate; and
- Social Activities: play dates, visiting friends, going to the movies and attending birthday parties.

4. *What are some of the positive impacts that dependent children and youth are experiencing as a direct result of the implementation of the “Let Kids Be Kids” Law?*



Perhaps the most meaningful and illuminating way in which both foster parents and GAL volunteers described the powerful impact of the “Let Kids Be Kids” Law was that it is bringing about **“a sense of belonging.”** This phrase vividly captures how disconnected foster children and youth have often felt and communicates how their young lives are changing as they make new connections

with their foster families, their friends and the world around them.

- “It helps the children have a sense of belonging and not feel excluded.”
- “They don’t feel so singled out or different.”
- “They feel like other children.”
- “My child feels like a part of a family and not a system.”
- “It has helped them feel as though they are a part of a family and a group instead of just a piece of trash being tossed from one home to another until someone decides to love them.”

Interestingly, participation in a wider range of social and family activities also seems to be resulting in some “bonus benefits,” i.e., a difference in the child’s behavior and the way she or he views foster care.

- “Less anxiety and stress about placement. Better attitude overall about having to be in care.”
- “...reduction of anger issues.”
- “My youth has reduced her inclination to run away.”
- “The child I worked with used to view their foster placement as more of a jail sentence than a home. Being able to participate in activities with peers has changed that.”

Many of those responding to the survey made special note of how beneficial the “Let Kids Be Kids” Law has been in promoting the personal and emotional growth of the children they are fostering or with whom they are working. Specific mention was made of the development of social skills, including self-esteem, confidence, self-respect, a feeling of worth, decision-making ability, and pride.

As summarized by one GAL volunteer:

“Participation in normal/age-appropriate activities gives the children a feeling of being safe and nurtured which adds to their self-esteem and willingness to try new things and to have a decreased level of frustration because they are developing a sense of belonging to a stable environment. The children’s basic needs are being provided and, therefore, they are willing to reach to a high level of development.”

5. What has the implementation of the “Let Kids Be Kids” Law meant to foster parents?

It is evident from their survey responses that this legislation is also “letting parents be parents” by allowing them to:

- **Establish a normal family life:** Foster parents are no longer required to differentiate between their foster and biological children when planning family activities; they welcome the ability to include their foster child as a member of their family without having to ask permission or to get a court order to do so.
- **Expand the children’s life experiences:** Foster parents generously and willingly use their time and resources to introduce the children in their care to a variety of activities, including special vacations. Examples of their comments include:
 - “Nancy was shocked I took her with us on the trip. Jake had never been on a family vacation before, much less to Universal Studios. It made them feel part of the family.”
 - “We were able to take our child to Disney in Orlando for her 8th birthday. In her words, it was ‘the best day of her life.’”

- **Lead a less restricted life:** Throughout the survey, foster parents communicated their relief at having the authority to make parental decisions promptly and without the restrictions to which they were accustomed. Special mention was made several times of a particular source of frustration and dissatisfaction: the requirement to engage an “approved” substitute caregiver when it was necessary to leave the foster child for any period of time. Being able to ask neighbors and close friends, without having to arrange and wait for background checks has made the life of foster parents less complicated and stressful and less of a deterrent to being a foster parent. One foster parent said, “I was



able to work when the kids were sick because I could use my niece as a sitter and I was able to take an older child to band concert because I could leave the baby with my niece.” Another commented, “[The “Let Kids Be Kids” Law] is making it easier for us to have respite care and makes it easier for us to accept new children in our home and not burn out! As a result we have been able to take four children we would normally have said no to!”

6. Are licensed group homes complying with the relevant statutes of the “Let Kids Be Kids” Law?

To determine the progress group homes have made in assuring compliance with the law, DCF Regional Directors provided information in response to the following two questions:

- **Have group homes in your region appointed a staff member to be responsible for deciding whether the residential foster youth be allowed to participate in age-appropriate activities according to the “reasonable and prudent parent” standard? [39.4091(2)(b), Florida Statutes]**

The answers indicate that this legislative requirement is being met. Among the people individually charged with this responsibility or who are included in a “Team Approach” to decision-making are:

- Group home parents in facilities that utilize a parent model
- The Director or his/her designee
- Shift supervisor
- The Life Coach



Group home providers involve the Lead Agency and/or CBC Case Managers when questions or concerns arise about activities, the need for restrictions, the identification of a child’s interests and talents, or getting a child registered in extra-curricular activities.

- **How do you determine if the private agencies in your region which provide out-of-home services to dependent children have policies in place which are consistent with the new “Let Kids Be Kids” Law? [39.4091(3)(c), Florida Statutes]**

DCF and CBC oversight of the normalcy policies that group homes have instituted is thorough. Most commonly cited sources for this type of information include:

- Monitoring visits and practices, including review of Group Home Activity Logs.
- Relicensing visits, activities and procedures.
- Discussions with group home staff and interview with the youth and children.
- Reviews of Policy and Procedures Manuals.
- Spot checks of group homes.
- Normalcy training provided to group home staff.

7. Do any obstacles remain to full implementation of the “Let Kids Be Kids” Law?

- **Foster Parents’ Perspective:** Of the 103 (out of 205) replies to this question, **48 (or 46.6%)** respondents indicated they do not believe any obstacles remain. The remaining foster parents who voiced concerns cited:

- a. Issues with a case manager who may not fully understand the intent of the legislation.
 - b. Taking the child out of state even when emergencies arise.
 - c. Resistance of the biological parent to the child's participation in family vacations or other activities.
 - d. Limitations on normalcy for children in medical foster care.
- **Guardian ad Litem Volunteers' Perspective:** Five themes were most frequently voiced by the 150 GAL volunteers who responded to this question. Most of these issues were raised by volunteers working with children living in group homes:
 - a. Insufficient transportation available. *
 - b. Insufficient funding to support the children's participation in activities.*
 - c. Availability of group home staff to make decisions.
 - d. A child's behavioral problems may limit his or her participation in normal activities to a greater extent than other children.
 - e. Resistance of caregiver or foster parent to the child's participation in normal activities.
 - f. Resistance of biological parent to the child's participation in family vacations.

**Note: Most frequently cited concerns*
- **DCF Regional Directors' Perspective:** The Directors addressed some of the operational challenges being encountered by group home providers. Among these are:
 - a. Establishing policies and procedures associated for the use of and accessibility to social media.
 - b. Clarifying "normalcy" standards as related to out-of-county travel, out-of-state travel and background screening of respite providers and babysitters.
 - c. Facilitating the process by which a teen is able to secure driver education, a driver's license, and automobile insurance.
 - d. Securing the necessary signatures and documents (i.e., birth certificates and social security cards) from case management organizations to enable a child's participation in normal activities.

- e. Resolving conflicting views about normalcy between the group home provider and the dependency case manager.
- f. Ensuring that staff members fully understand the mandates of the law through ongoing training.



FINDINGS

Development of rules to implement the law is underway in the Florida Department of Children and Families. The rules should provide guidance on issues such as:

- a. Out-of-state travel and foster family vacations;
- b. The role of biological parents and foster parents in making routine normalcy decisions for children in out-of-home care;
- c. The requirement that the legislation applies to children in medical or therapeutic care as well as other out-of-home care settings;
- d. The engagement of alternate caregivers when necessary; and
- e. The use of social media.

RECOMMENDATIONS

1. With respect to the application of normalcy in medical foster homes, the legislation was intended to address normalcy in all out-of-home care settings. Children with complex medical needs have the same right as any other child to have as normal a life as possible given the constraints of their conditions.
2. Likewise, the use of social media is a normal childhood experience. Foster parents should be free to decide what is safe for their foster children and what is not permissible.
3. The formal name of the “Let Kids be Kids” Law is the “Quality Parenting for Children in Foster Care Act,” because children in foster care need parenting. Although the biological parents may have input into the child’s care while he or she is out-of-home, it is the caregivers who must make decisions in real-time as reasonable and prudent parents.

4. Ongoing education is needed for all out-of-home caregivers, Community Based Care (CBC) Case Managers, and GAL staff and volunteers about the provisions of the “Let Kids Be Kids” Bill.

5. There is a need to increase the number of youth in foster care who learn to drive and are able to obtain a driver’s license. This will enhance their ability to gain and hold employment and complete their education. The 2014 “Keys to Independence” bills filed by Senator Nancy Detert (SB 744) and Representative Ben Albritton (HB 977) would establish a pilot program to promote safe driving, driver education and insurance reimbursement for foster youth.

CONCLUSION

The results of this study confirm that the “Let Kids Be Kids” Law is indeed, “letting kids be kids.” The feedback from survey respondents supports the fact that foster parents and group home providers are empowered to use the “reasonable and prudent parent standard” to make decisions for the children in their care. From the survey data, it is evident that as a direct result of this legislation, foster youth and children are becoming involved in a wider array of family, school and community activities, that they are beginning to perceive themselves as “fitting in” and, consequently, are becoming more well-adjusted. An additional benefit is that parents are able to create a more normal family life for their foster children who, in turn, seem to be a primary factor in the improvement of their behavior and attitudes.

The passage of this law has been positive and the early results have been tangible for children and youth in foster care and their caregivers. It has given families and organizations that provide dependent care a means to provide these children and youth with a more satisfying present and a more optimistic future. While being removed from your family is traumatizing for a child, the “Let Kids Be Kids” Law is demonstrating there is no reason this separation also has to be stigmatizing.

In conclusion, some foster parents and GAL volunteers who participated in this study added personal notes expressing the value they place on the “Let Kids Be Kids” Law. Below are samples of their comments:

- “As a foster parent of 23 years, I think it is the best thing that has happened in foster care in ages!”
- “I’d like to see this in more states.”
- “I feel this was a wonderful decision.”
- “I view the law as entirely beneficial for all involved – children, foster families, case workers, and biological parents.”
- “I feel blessed to be a part of the change and to be able to make a difference.”
- “This is a bragging point for Florida. This is the best thing that Florida has done for our kids. Thanks!”