

**HOUSE . . . . . No. 113**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Tricia Farley-Bouvier and Joseph D. McKenna***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

**An Act establishing a foster parents bill of rights.**

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>	<i>1/4/2019</i>
<i>Joseph D. McKenna</i>	<i>18th Worcester</i>	<i>1/18/2019</i>
<i>Aaron Vega</i>	<i>5th Hampden</i>	<i>1/17/2019</i>
<i>Donald R. Berthiaume, Jr.</i>	<i>5th Worcester</i>	<i>1/30/2019</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>	<i>1/17/2019</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>	<i>1/31/2019</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>1/25/2019</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>1/29/2019</i>
<i>David F. DeCoste</i>	<i>5th Plymouth</i>	<i>1/24/2019</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>2/1/2019</i>
<i>Denise C. Garlick</i>	<i>13th Norfolk</i>	<i>1/31/2019</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>	<i>1/18/2019</i>
<i>Carlos González</i>	<i>10th Hampden</i>	<i>1/30/2019</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>1/29/2019</i>
<i>Stephan Hay</i>	<i>3rd Worcester</i>	<i>1/22/2019</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>1/30/2019</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/24/2019</i>
<i>Kathleen R. LaNatra</i>	<i>12th Plymouth</i>	<i>1/31/2019</i>

<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>1/23/2019</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>	<i>1/30/2019</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>1/24/2019</i>
<i>Shaunna L. O'Connell</i>	<i>3rd Bristol</i>	<i>2/1/2019</i>
<i>David Allen Robertson</i>	<i>19th Middlesex</i>	<i>2/1/2019</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>1/31/2019</i>
<i>Chynah Tyler</i>	<i>7th Suffolk</i>	<i>2/1/2019</i>
<i>Bud L. Williams</i>	<i>11th Hampden</i>	<i>1/30/2019</i>

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By Representatives Farley-Bouvier of Pittsfield and McKenna of Webster, a petition (accompanied by bill, House, No. 113) of Tricia Farley-Bouvier, Joseph D. McKenna and others for legislation to establish a bill of rights for foster parents. Children, Families and Persons with Disabilities.

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-First General Court  
(2019-2020)**  
\_\_\_\_\_

An Act establishing a foster parents bill of rights.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1: Chapter 119 of the General Laws is hereby amended by inserting after  
2 section 23B the following section:- Section 23C. Foster Parents Bill of Rights (a) The  
3 Commonwealth of Massachusetts recognizes that children in its custody deserve safe and  
4 nurturing placements, which promote healing and support the child's culture, background and  
5 trauma history. Foster parents and preadoptive parents play an integral and vital role in the  
6 Commonwealth's effort to care for children removed from their homes. The Commonwealth  
7 acknowledges the need for foster parents to be active and participating members in this effort. In  
8 recognition of the important role of foster parents, the department shall promulgate a policy  
9 governing its relationship with and responsibilities to those serving the Commonwealth as foster  
10 parents. This policy shall be collectively known as the Foster Parents Bill of Rights and shall be  
11 provided by the department and private agencies contracted by the Department to provide foster  
12 care, to all prospective foster and pre-adoptive parents during the application process and to

13 kinship foster parents during the placement process. All current foster, pre-adoptive and kinship  
14 parents shall be provided with a copy of the Foster Parent’s Bill of Rights within six months of  
15 the effective date of this Act. (b) The Foster Parents Bill of Rights shall contain, at a minimum,  
16 the following:

17 1) A foster parent shall be treated with dignity, respect, privacy and consideration.

18 2) A foster parent shall not be discriminated against on the basis of religion, race, color,  
19 Creed, sex, sexual orientation, national origin, age or physical handicap.

20 3) A foster parent shall be offered standardized pre-service training and ongoing training  
21 at appropriate intervals to meet the needs of the child, to improve foster parents' skills,  
22 and update foster parents of any relevant changes in policies and procedures of the department  
23 and any changes in applicable law.

24 4) As allowable under state and federal law, a foster parent shall receive from the  
25 department prior to placement, all available pertinent information about the child’s,  
26 physical health, behavioral health, trauma history, history of high risk behavior and education  
27 needs as relevant to the care of the child. The Department shall communicate all such additional  
28 information that becomes known to them during the time of placement in a timely fashion.

29 5) When the department determines that contact between the current and previous foster  
30 parent promotes the child’s best interest, the department shall provide the current foster parent  
31 with names and phone numbers of the previous foster parents, if the previous foster parents have  
32 authorized such release.

33           6) A foster parent shall have reasonable access to a social worker and family resource  
34           worker as well as access to a 24-hour emergency hotline to assist with any urgent needs.

35           7) A foster parent shall be provided with a written copy of department action plans  
36           regarding the child in the foster parent's home, other than those parts of the plan containing  
37           information that is confidential as to a parent under federal or state law, and be afforded an  
38           opportunity to discuss such plan with the social worker, as well as reasonable notification of any  
39           changes to that plan.

40           8) A foster parent shall be informed of foster care reviews and appropriate meetings  
41           regarding the child in their home and be provided an opportunity to actively participate in said  
42           meetings, except as to those parts of foster care reviews or meetings that involve information that  
43           is confidential as to a parent under federal or state law. If there is a clinical conference which is  
44           inappropriate for a foster parent to attend, a foster parent will have the ability to provide input to  
45           the department before a final decision is made.”

46           9) A foster parent shall be provided with advance notice of all court hearings, consistent  
47           with federal and state statute, regarding the child in their home. Such notice shall include  
48           the date, time and location of the hearing. A foster parent who is unable to attend a court hearing  
49           shall have the ability to provide input to the department’s legal representative prior to the  
50           hearing.

51           10) A foster parent may communicate with professionals who work with the child in their  
52           home for the purpose of supporting the needs of the foster child. Such professionals  
53           include therapists, physicians, and teachers.

54 11) A foster parent shall receive information about the range and frequency of payments  
55 the foster parent may be eligible to receive, including daily reimbursement and quarterly  
56 clothing, birthday, and holiday payments and shall receive notification of any delays in  
57 such payments as soon as such delay becomes known to the Department.

58 12) A foster parent shall be informed of other available financial supports and services  
59 including, PACT, reimbursements for onetime costs, child care and respite and the  
60 criteria for accessing said supports and services.

61 13) A foster parent may refuse placement of a child in their home. Understanding the  
62 trauma that occurs in moving a child, a foster parent may request, upon reasonable notice,  
63 the removal of a child from their home.

64 14) A foster parent shall be given advance notice, whenever possible, when a child is to  
65 be removed from their home.

66 15) A foster parent may participate with department staff to plan supervised or  
67 unsupervised visitation, including arranging supervision of visits by the foster parent, if  
68 appropriate, and other contact between the child and the child's biological family, consistent with  
69 the wellbeing of the child and family's plan for visitation. The department shall make  
70 appropriate efforts to accommodate the foster parent's schedule in arranging for visits and other  
71 contact between the child and the child's family

72 16) The department shall keep information regarding the foster parent and household

73 members confidential, except as required by law.

74 17) A non-kin foster parent shall have the opportunity to be considered as the first choice  
75 as an adoptive parent or legal guardian for a child whose goal has been changed to  
76 adoption or guardianship if no kin is available.

77 18) A foster parent shall be permitted to make routine decisions about the foster child's  
78 daily activities and shall be permitted to continue practicing their own family values and  
79 routines, excluding physical discipline, while respecting the foster child's culture,  
80 background, trauma history and preferences.

81 19) Foster parents shall be provided with periodic respite from their role.

82 20) Foster parent shall be provided with the content of their record, upon request,  
83 including any assessment or evaluations completed on the foster home.

84 21) Foster parents may request a review of department decisions, including filing for a  
85 grievance or requesting a Fair Hearing. Foster parents shall be provided with the most up  
86 to date information on these procedures and timelines which shall be included with the Foster  
87 Parent Bill of Rights.

88 22) Foster parents shall be provided with information about the process and time lines for  
89 investigation and resolution of a complaint made against them including complaints made  
90 pursuant to M.G.L. Chapter 119 § 51A and their rights to receive and provide information and

91 during the review or investigation and the potential consequences of a supported complaint  
92 review or an investigation.

93 23) Foster parents shall be free from retaliation for asserting their rights including but not  
94 limited to issuing or filing a complaint with the Commissioner of Department of Children and  
95 Families, the Department of Children and Families Ombudsman, or the Office of the Child  
96 Advocate. The Department shall take immediate action to remedy any action taken against a  
97 foster parent in retaliation for exercising their rights under this section

98 SECTION 2: The Department shall establish a Task Force for the purpose of reviewing  
99 and revising procedures for handling complaints against foster parents including  
100 complaints of  
101 abuse and neglect filed pursuant to M.G.L. Chapter 119 § 51A.

102 The Task Force shall be chaired by the Commissioner of the Department of Children and  
103 Families or their designee. Members of the Task Force shall include The Child Advocate  
104 or their

105 designee, the House Chair of the Joint Committee on Children Families and Persons with  
106 Disabilities or their designee, the Senate Chair of the Joint Committee on Children  
107 Families and

108 Persons with Disabilities or their designee the Executive Director of the MSPCC or their  
109 designee, the Executive Director of the Children’s League of Massachusetts or their designee, a

110 representative of the Massachusetts Association for Families, a representative of the  
111 Committee for Public Counsel Services, three foster parents to be selected  
112 by the Commissioner of the Department of Children and Families one of whom shall be a  
113 Departmental foster parent one of whom shall be an intensive foster care provider and  
114 one of  
115 whom shall be a kinship foster parent. The Task Force may consult with others as  
116 necessary to  
117 achieve its purpose.

118 The task force shall make recommendations for procedures for reviewing complaints  
119 against foster parents including those made pursuant to M.G.L. Chapter 119 § 51A. The  
120 Task  
121 Force shall prioritize development of processes which protect the health and safety of  
122 children  
123 and, to the extent possible, protect foster parents from the negative consequences of an  
124 unsupported allegation.

125 Recommendations shall include processes and timelines for: notifying a foster parent of a  
126 complaint, sharing information, conducting and concluding the review or investigation,  
127 informing foster parents of their rights during a review or investigation and rights to  
128 appeal the

129 result of a review or investigation.

130 The Task Force shall report its recommendations to the Governor, and the Clerks of the  
131 House of Representatives and the Senate no later than November 1, 2019.

132 The Department shall implement the recommendations of the Task Force no later than  
133 February 1, 2020.

134 Section 3: Foster parents must use a reasonable and prudent parenting standard in  
135 making decisions about the daily routines of children placed in their homes including  
136 determining whether to allow a child to participate in extracurricular, enrichment, and social  
137 activities. The “reasonable and prudent parent standard” is characterized by careful and sensible  
138 parental decisions that maintain the child’s health, safety, and best interests while at the same  
139 time encouraging the child’s emotional and developmental growth. Reasonable and prudent  
140 decisions shall consider the following factors:

- 141 1. The child’s age, maturity, and developmental level
- 142 2. The potential risk factors and the appropriateness of the extracurricular, enrichment,  
143 and social activity.
- 144 3. The best interest of the child based on information known by the caregiver.
- 145 4. The importance of encouraging the child’s emotional and developmental growth.
- 146 5. The importance of providing the child with the most family-like living experience  
147 possible.

148           6. The behavioral history of the child and the child's ability to safely participate in the  
149 proposed activity, as with any other child.