

SENATE No. 2395

The Commonwealth of Massachusetts

—————
In the One Hundred and Ninety-First General Court
(2019-2020)
—————

Senate, November 6, 2019

The committee on Children, Families and Persons with Disabilities , to whom was referred the petition (accompanied by bill, Senate, No. 30) of Joanne M. Comerford, Bruce E. Tarr, Mindy Domb and Sal N. DiDomenico for legislation to establish a Foster Parents' Bill of Rights.,- reports the accompanying bill (Senate, No. 2395).

For the committee,
Sonia Chang-Diaz

SENATE No. 2395

The Commonwealth of Massachusetts

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 Chapter 119 of the General Laws is hereby amended by inserting after section 23B the
2 following section:-

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

14 All current foster, pre-adoptive and kinship parents shall be provided with a copy of the Foster
15 Parent's Bill of Rights.

16 (b) The Foster Parents Bill of Rights shall contain, at a minimum, the following
17 statements:

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

19 (2) A foster parent shall not be discriminated against on the basis of religion, race, color,
20 creed, sex, sexual orientation, gender identity, gender expression, national origin, age or physical
21 ability.

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

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

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

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

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

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

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

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

55 (11) A foster parent shall receive information about the range and frequency of payments
56 the foster parent may be eligible to receive, including, but not limited to, daily reimbursement

57 and quarterly clothing, birthday, and holiday payments and shall receive notification of any
58 delays in such payments as soon as such delay becomes known to the department.

59 (12) A foster parent shall be informed of other available financial supports and services
60 including, but not limited to, Parent and Child Together (PACT) rates, reimbursements for
61 onetime costs, child care and respite and the criteria for accessing said supports and services.

62 (13) A foster parent may decline placement of a child in their home. Understanding the
63 trauma that occurs in moving a child, a foster parent may request the removal of a child from
64 their home.

65 (14) A foster parent shall be given advance notice, to the extent reasonably possible,
66 when a child is to be removed from their home.

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

73 (16) The department shall keep information regarding the foster parent and household
74 members confidential, except as required by law.

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

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

82 (19) Foster parents must use a reasonable and prudent parenting standard when making
83 decisions about the daily routines of children placed in their homes including determining
84 whether to allow a child to participate in extracurricular, enrichment, and social activities. The
85 "reasonable and prudent parent standard" is characterized by careful and sensible parental
86 decisions that maintain the child's health, safety, and best interests while at the same time
87 encouraging the child's emotional and developmental growth. Reasonable and prudent decisions
88 may consider relevant factors including the following:

89 a. The child's age, maturity, and developmental level.

90 b. The potential risk factors, appropriateness, and benefits of the extracurricular,
91 enrichment, and social activity.

92 c. The best interest of the child based on information known by the caregiver.

93 d. The importance of encouraging the child's emotional and developmental growth.

94 e. The importance of providing the child with the most family-like living experience
95 possible.

96 f. The behavioral health of the child and the child's ability to safely participate in the
97 proposed activity, as with any other child.

98 (20) Foster parents, upon request, shall be provided with periodic respite from their role.

99 (21) Foster parents shall be provided with the content of their record, upon request,
100 including any assessment or evaluations completed on the foster home.

101 (22) Foster parents may request a review of department decisions, including filing for a
102 grievance or requesting a Fair Hearing in compliance with the department's regulations. Foster
103 parents shall be provided with information on these procedures and timelines with the Foster
104 Parent's Bill of Rights.

105 (23) Foster parents shall be provided with information about the process and time lines
106 for investigation and resolution of a report made against them pursuant to section 51A of chapter
107 119 and their rights to receive and provide information during the review or investigation and the
108 potential consequences of a supported complaint review or an investigation.

109 (24) Foster parents shall be free from retaliation for asserting their rights including but
110 not limited to issuing or filing a complaint with the commissioner of department of children and
111 families, the Department of Children and Families Ombudsman, or the Office of the Child
112 Advocate. The department shall take immediate action to remedy any action taken against a
113 foster parent in retaliation for exercising their rights under this section.