SENATE DOCKET, NO. 1432 FILED ON: 1/17/2019

SENATE . . . . . No. 30

The Commonwealth of Massachusetts

PRESENTED BY:

Joanne M. Comerford

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:	
Joanne M. Comerford	*Hampshire, Franklin and Worcester*	
Bruce E. Tarr	*First Essex and Middlesex*	*1/30/2019*
Mindy Domb	*3rd Hampshire*	*1/31/2019*
Sal N. DiDomenico	*Middlesex and Suffolk*	*2/1/2019*
Carmine Lawrence Gentile	*13th Middlesex*	*9/23/2019*

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SENATE . . . . . No. 30

By Ms. Comerford, a 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. Children, Families and Persons with Disabilities.

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:

SECTION 1: Chapter 119 of the General Laws is hereby amended by inserting after section 23B the following section:- Section 23C. Foster Parents Bill of Rights

(a) The Commonwealth of Massachusetts recognizes that children in its custody deserve safe and nurturing placements, which promote healing and support the child's culture, background and trauma history. Foster parents and preadoptive parents play an integral and vital role in the Commonwealth’s effort to care for children removed from their homes. The Commonwealth acknowledges the need for foster parents to be active and participating members in this effort. In recognition of the important role of foster parents, the department shall promulgate a policy governing its relationship with and responsibilities to those serving the Commonwealth as foster parents. This policy shall be collectively known as the Foster Parents Bill of Rights and shall be provided by the department and private agencies contracted by the Department to provide foster care, to all prospective foster and pre-adoptive parents during the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

members confidential, except as required by law.

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

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

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

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

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

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

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

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

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

The Task Force shall be chaired by the Commissioner of the Department of Children and Families or their designee. Members of the Task Force shall include The Child Advocate or their designee, the House Chair of the Joint Committee on Children Families and Persons with Disabilities or their designee, the Senate Chair of the Joint Committee on Children Families and Persons with Disabilities or their designee the Executive Director of the MSPCC or their designee, the Executive Director of the Children's League of Massachusetts or their designee, a

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

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

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

result of a review or investigation.

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

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

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

1. The child's age, maturity, and developmental level

2. The potential risk factors and the appropriateness of the extracurricular, enrichment, and social activity.

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

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

5. The importance of providing the child with the most family-like living experience possible.

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