FILED ON: 6/30/2022

SENATE . . . . . No. 2980

Senate, June 30, 2022 -- Text of the Senate Bill establishing a Foster Parents' Bill of Rights (being the text of Senate, No. 2954, printed as amended)

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

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. (a) The department shall establish a foster parents' bill of rights, which shall be a policy governing the department's relationship with, and responsibilities to, foster parents. A copy of the foster parents' bill of rights shall be made publicly available on the department's website and shall be provided by the department, and by private agencies contracted by the department to provide foster care, to all: (i) prospective foster and pre-adoptive parents during the application process; and (ii) kinship foster parents during the placement process.

(b) The foster parents' bill of rights shall include information on the rights of foster parents and responsibilities of the department. The foster parents' bill of rights shall at a minimum provide that:

(i) a foster parent shall be treated with dignity, respect, privacy and consideration; and

(ii) a foster parent shall not be discriminated against on the basis of religion, race, color, creed, gender, gender identity, sexual orientation, national origin, age or disability.

(iii) The department shall provide information on, and available opportunities for, pre-service training for foster parents pursuant to subsection (d).

(iv) To the extent possible under state and federal law, the department shall provide a foster parent with information about the foster child prior to placement, including, but not limited to: (i) the physical and behavioral health history of the foster child; (ii) any history of trauma experienced by the foster child; (iii) any history of high-risk behavior of the foster child; (iv) the education needs of the foster child; and (v) information about the daily routine of the foster child. The department shall inform a foster parent of any additional information that becomes known to them during the time of placement in a timely fashion.

(v) The department shall provide a current foster parent with the name and phone number of a previous foster parent if: (i) the department determines that contact between the current foster parent and previous foster parent would promote the foster child's best interest; and (ii) the previous foster parent has authorized release of such information.

(vi) The department shall provide a foster parent reasonable access to a social worker and family resource worker and shall maintain and staff a 24-hour emergency hotline in case of emergency when the department offices are closed. The department shall provide the emergency hotline number to all current foster parents; provided, however, that if the emergency hotline number is changed, the department shall provide the new number to all current foster parents within 1 month of the change of number.

(vii) The department shall provide a foster parent with a copy of department action plans regarding the foster child in the foster parent's home, other than those parts of the plan containing information that is confidential regarding a previous or future adoptive, kinship or foster parent under federal or state law, and shall afford a foster parent the opportunity to discuss the plan with a social worker; provided, however, that the department shall provide reasonable notification to the foster parent of any change to a department action plan regarding the foster child in their home.

(viii) The department shall provide adequate notice to a foster parent of foster care reviews and appropriate meetings regarding the foster child in the foster parent’s home and shall provide an opportunity for the foster parent to actively participate in such meetings, except as to those parts of foster care reviews or meetings that involve information that is confidential regarding a previous or future adoptive, kinship or foster parent under federal or state law. If there is a clinical conference that is inappropriate for a foster parent to attend, the department shall provide the foster parent the ability to offer input to the department before a final decision is made.

(ix) The department shall provide adequate notice to a foster parent of all court hearings, consistent with federal and state law, regarding the foster child in their home and a list of legal services that may be available to foster parents. To the extent possible, the notice shall include the date, time and location of the hearing. A foster parent who is unable to attend a court hearing may provide a written statement to the department prior to the hearing.

(x) A foster parent may communicate with professionals, including, but not limited to, therapists, physicians and teachers, who work with the foster child in their home for the purpose of supporting the needs of the foster child.

(xi) The department shall provide information to a foster parent on the range and frequency of payments the foster parent may be eligible to receive, including, but not limited to, daily stipends, respite care payments, quarterly clothing allowances and birthday and holiday payments The department shall notify a foster parent of any delays in such payment as soon as such delay becomes known to the department.

(xii) The department shall inform a foster parent of other available financial supports and services, including, but not limited to, Parents and Children Together rates, reimbursements for 1-time costs, childcare and respite. The department shall also provide a foster parent with and the criteria for accessing financial supports and services.

(xiii) A foster parent may decline placement of a foster child in their home and may request the removal of a foster child from their home.

(xiv) To the extent possible, the department shall provide adequate notice to a foster parent when a foster child is to be removed from their home.

(xv) Prior to a foster child leaving a foster home, the department may provide the opportunity for the foster parent to provide notes that may assist future foster parents in the care or daily routine of the foster child. The department may include this information in the case file of the foster child and may make it accessible, upon request, to future foster parents, consistent with applicable state and federal privacy laws.

(xvi) The department shall consult with the foster parent in the planning of supervised and unsupervised visitation with the foster child's family. The department shall make appropriate efforts to accommodate the foster parent's schedule in arranging for visits and other contact between the foster child and the foster child's family.

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

(xviii) If the department demonstrates, to the satisfaction of the court, that it has exercised due diligence in identifying and locating kin of a foster child, has given full and fair consideration to all potential kin and has determined that no kin is able to meet the needs of the foster child, the department may advocate for a non-kin foster parent to be considered as an adoptive parent or legal guardian for a foster child whose goal has been changed to adoption or guardianship.

(xix) A foster parent may make routine decisions about the foster child's daily activities and may continue practicing the foster parent's own family values and routines, excluding physical discipline, while respecting the foster child's culture, background, trauma history and preferences.

(xx) The department shall provide a foster parent not less than 10 days of paid respite care per year.

(xxi) Upon request, a foster parent shall be provided with the content of their record, including any assessment or evaluations completed on the foster home.

(xxii) Upon request, a foster parent may review department decisions relating to the foster child while in the care of the foster parent including, but not limited to, a grievance or fair hearing request filed by the foster parent in compliance with the department's regulations. The department shall provide information, to a foster parent upon approval as a foster parent, on the procedures and timelines for requesting and reviewing department decisions.

(xxiii) The department shall provide a foster parent with information about the process and timelines for investigation and resolution of a report made against a foster parent pursuant to section 51A, the rights of a foster parent to receive and provide information during the review or investigation of such report and the potential consequences of a supported complaint, review or investigation.

(xxiv) The department shall not retaliate against a foster parent for asserting their rights, including, but not limited to, issuing or filing a complaint with the commissioner, the department's office of the ombudsman or the office of the child advocate. The department shall take immediate action to remedy any action taken in retaliation against a foster parent for exercising their rights under this section.

(d) The department shall develop and provide a standardized pre-service training for foster parents, including, but not limited to, training on: (i) developmentally appropriate communication; (ii) positive discipline; (iii) child guidance; (iv) building self-esteem in children; and (v) federally-mandated pre-service and ongoing training on the reasonable and prudent parent standard. The department shall inform foster parents on any relevant change to department policy or procedure and any applicable change in the law.

(e) A foster parent shall use the reasonable and prudent parent standard when making decisions about the daily routines of a foster child placed in their home, including when determining whether to allow a foster child to participate in extracurricular, enrichment and social activities. The standard shall be characterized by careful and sensible parental decisions that maintain the health, safety and best interests of a child and encourage the emotional and developmental growth of the child. For purposes of this subsection, whether a decision meets the reasonable and prudent foster parent standard shall include an assessment of: (i) the foster child's age, maturity and developmental level; (ii) the potential risk factors and the appropriateness of the extracurricular, enrichment and social activity; (iii) the best interest of the foster child based on information known by the foster parent; (iv) the importance of encouraging the foster child's emotional and developmental growth; (v) the importance of providing the foster child with the most family-like living experience possible; (vi) the child's mental and behavioral health; (vii) the behavioral history of the foster child and the foster child's ability to safely participate in the proposed activity, as with any other foster child; (viii) any special needs of the foster child and accommodations the foster child may require in order to safely and fully participate in the proposed activity; and (ix) other relevant factors that may affect the child's safety and well-being.

SECTION 2. Notwithstanding any general or special law to the contrary, the commissioner of children and families, who shall serve as chair, the secretary of administration and finance and the director of the office of the child advocate shall study the adequacy and suitability of payments to foster parents including, but not limited to, examining payments in other states and relevant costs. The study and recommendations shall be submitted to the clerks

of the senate and house of representatives and the joint committee on children, families and persons with disabilities not later than 120 days after the effective date of this act.

SECTION 3. Not later than 6 months after the effective date of this act, the department shall establish the foster parents' bill of rights required under section 23C of chapter 119 of the General Laws, make the foster parents' bill of rights publicly available on the department's website and provide a copy of the foster parents' bill of rights to all current foster, pre-adoptive and kinship parents.