

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:

1 SECTION 1. Chapter 119 of the General Laws is hereby amended by inserting after
2 section 23B the following section:-

3 Section 23C. (a) The department shall establish a foster parents’ bill of rights, which shall
4 be a policy governing the department’s relationship with, and responsibilities to, foster parents.
5 A copy of the foster parents’ bill of rights shall be made publicly available on the department’s
6 website and shall be provided by the department, and by private agencies contracted by the
7 department to provide foster care, to all: (i) prospective foster and pre-adoptive parents during
8 the application process; and (ii) kinship foster parents during the placement process.

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

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

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

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

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

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

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

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

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

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

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

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

62 (xii) The department shall inform a foster parent of other available financial supports and
63 services, including, but not limited to, Parents and Children Together rates, reimbursements for
64 1-time costs, childcare and respite. The department shall also provide a foster parent with and the
65 criteria for accessing financial supports and services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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