SENATE DOCKET, NO. 640 FILED ON: 2/3/2021

SENATE . . . . . No. 87

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*	
Vanna Howard	*17th Middlesex*	*3/8/2021*
Diana DiZoglio	*First Essex*	*9/9/2021*

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SENATE . . . . . No. 87

By Ms. Comerford, a petition (accompanied by bill, Senate, No. 87) of Joanne M. Comerford and Vanna Howard for legislation to establish a Foster Parents' Bill of Rights. Children, Families and Persons with Disabilities.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *30* OF 2019-2020.]

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 commonwealth 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.

(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, gender or gender identity, sexual orientation, national origin, age or disability.

(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 the foster parent's 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 release of the information.

(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 law, regarding the child in their home. The 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, including therapists, physicians, and teachers, who work with the child in their home for the purpose of supporting the needs of the foster child.

(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, but not limited to, Parents and Children Together compensation, reimbursements for one-time costs, child care and respite and the criteria for accessing 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) A foster parent shall be provided with periodic respite from their role.

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

(21) A foster parent 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) A 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 section 51A of chapter 119, 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) A foster parent shall be free from retaliation for asserting their rights, including, but not limited to, issuing or filing a complaint with the commissioner or ombudsman of the department, 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.

(b) A foster parent shall 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; and

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

SECTION 2. All current foster, pre-adoptive and kinship parents shall be provided with a copy of the Foster Parents Bill of Rights within 6 months of the effective date of this act.

SECTION 3. 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 under section 51A of chapter 119.

The Task Force shall be chaired by the commissioner. Members of the Task Force shall include the Child Advocate or designee, the chairs of the committee on children families and persons with disabilities or their designees, the Executive Director of the Massachusetts Society for the Prevention of Cruelty to Children 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, 1 of whom shall be a departmental foster parent, 1 of whom shall be an intensive foster care provider and 1 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 under section 51A of chapter 119. 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, the clerks of the house of representatives and the senate and the chairs of the committee on children, families and persons with disabilities no later than July 1, 2022.

The department shall implement the recommendations of the Task Force no later than December 21, 2022.