HOUSE DOCKET, NO. 3680 FILED ON: 1/17/2025

HOUSE . . . . . No. 235

The Commonwealth of Massachusetts

PRESENTED BY:

Michael J. Finn

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 bill of rights for children in foster care.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Michael J. Finn	*6th Hampden*	*1/17/2025*
Joanne M. Comerford	*Hampshire, Franklin and Worcester*	*1/28/2025*
Sean Garballey	*23rd Middlesex*	*6/3/2025*
Natalie M. Higgins	*4th Worcester*	*6/3/2025*
Christopher J. Worrell	*5th Suffolk*	*7/9/2025*
Russell E. Holmes	*6th Suffolk*	*7/9/2025*
Amy Mah Sangiolo	*11th Middlesex*	*7/9/2025*
Danillo A. Sena	*37th Middlesex*	*7/9/2025*

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HOUSE . . . . . No. 235

By Representative Finn of West Springfield, a petition (accompanied by bill, House, No. 235) of Michael J. Finn and Joanne M. Comerford relative to establishing a bill of rights for children in foster care. Children, Families and Persons with Disabilities.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Fourth General Court
(2025-2026)

An Act establishing a bill of rights for children in foster care.

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, as appearing in the 2022 Official Edition, is hereby amended by inserting after section 23C the following section:-

Section 23D. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Child" means any child, youth or young adult who is under the custody, care or responsibility of the department.

"Child-specific family" means a family that includes a non-relative (i) who is significant in a particular child's life, or (ii) to whom the child and/or parent(s) ascribe the role of family based on cultural and affectional ties or individual family values.

"Department" means the Department of Children and Families.

(b) The department shall present a document listing the rights enumerated in subsection (d) to the parent(s) of each child in its care, the foster parent(s) of each child in its care and each child in its care, or where developmentally appropriate, the child's attorney, when the child enters care and at other times the department deems appropriate. Within 3 months of the effective date of this statute, the department shall create a simple and plain language version of these rights as they are enumerated below so that they are accessible and easily understood by children and youth in care. This simple and plain language version shall be created with the participation of lived experience community members. The department shall explain these rights to the child in a developmentally appropriate way when the child enters the department's care. The department shall ensure the document is translated into the language spoken by the child, the child's parent and the foster parent(s). The document shall be posted in all congregate care facilities in a public space where all residents have access, prominently on its website and in all area offices. The department shall present the document for continual use to the child's attorney and parent(s) and display the document prominently on its website and in all area offices.

(c) The department shall amend any regulations or policies that may conflict with this section in a timely fashion.

(d) Each child has the following rights:

(1) Safety and Security:

(i) Each child shall be treated with dignity, respect and consideration, and has the right to have their privacy respected.

(ii) Each child has the right not to be discriminated against, physically hurt or harassed by department staff, foster parents, the child's attorney or service providers on the basis of religion,

race, color, creed, gender, gender identity, gender expression, sexual orientation, national origin, age, disability, culture, language or ethnicity.

(iii) Each child has the right to a placement that is gender-affirming and free from physical, psychological, sexual, emotional or other abuse, neglect or exploitation.

(iv) Each child has the right to access personal possessions, personal space and privacy with allowance for safety.

(v) Each child has the right to autonomy of all pictures, taken by any individual, of themselves as appropriate.

(vi) Each child has the right to access sufficient healthy food, clothing, personal care products and items that preserve and promote the child's family's religion and culture and that of the child’s family and the child’s gender-identity as well as the child’s specific hair and body needs.

(vii) Each child has the right to be placed in a safe and nurturing environment and receive appropriate care and treatment in the least restrictive setting available that can meet the child’s needs and addresses their trauma history. The environment shall include the child’s culture, religion and identity as nearly as possible to the home of origin.

(viii) Each child has the right not to be placed, housed or detained in a secure department of youth services placement based on the department of children and families’ inability to provide an available and appropriate foster placement. The department shall not advocate for bail of any amount for children in its care or custody.

(ix) Each child has the right to developmentally appropriate information about a foster family or program prior to being placed whenever possible and, whenever possible and appropriate, shall have an opportunity to meet the foster parent or program staff before placement occurs. If the foster placement is only able to accommodate the child for a limited time, the child shall be notified of the anticipated duration of the child's stay with that foster placement. The child shall be informed of a placement change and the reason(s) for the change at least 5 days in advance whenever possible. When a change is made in an emergency circumstance, the child shall be given as much notice as possible. The child's attorney shall be notified simultaneously. The child's belongings shall be packed with care and the child shall be allowed to bring their essential belongings and comfort items with them.

(2) Connections to Family, Community and Identity:

(i) Each child has the right to know, understand, learn about and develop the child's racial, cultural, linguistic, gender, religious and ethnic identity, including but not limited to clothing, hair, other cultural expressions of identity and body care and to a placement that will provide or maintain the connections necessary to preserve and promote the child's identities.

(ii) To the best of the department's ability, each child has the right to preserve and maintain all languages the child entered care speaking and to reside in a placement that provides or facilitates appropriate language access.

(iii) Each child has the right to be placed according to the child's gender identity and referred to by the name and gender pronouns preferred by the child. A child's sexual orientation and gender identity and expression shall remain private unless the child permits the information

to be disclosed, the disclosure is required to protect the child's health and safety, or disclosure is compelled by law or a court order.

(iv) Each child has the right to a placement identified and located through due diligence and that prioritizes the child's parents, relatives and child-specific family, using full and fair consideration, as potential placement providers. The child's parents shall be considered first, then relatives and then child-specific family.

(v) Each child has the right to prioritization of placement with the child's siblings or half-siblings in all settings and permanency plans, including but not limited to foster care, congregate care, and adoption, unless the joint placement is contrary to the safety or well-being of any of the siblings. The department shall work to address barriers to placing siblings together, including the recruitment and retention of foster and adoptive parents able to parent sibling groups. The department shall ensure that the child be placed in as close proximity as possible to siblings if unable to be placed in the same setting, and shall facilitate frequent and meaningful contact regardless of geographic barriers, if it is not harmful to the safety and well-being of each sibling.

(vi) Each child has the right to family time of a duration and frequency and in a setting that (A) is consistent with the developmental or clinical needs of the child and (B) promotes and preserves their connections with their family. Family time shall take place in person or outside of a department office whenever possible.

(vii) Each child has the right to other forms of parental contact, including but not limited to mail, phone calls, videoconferences, email and texts if they have their own phone and if not harmful to the safety or well-being of the child. All placements, including congregate care programs, shall facilitate access to virtual forms of contact.

(viii) Each child has the right to assistance to maintain positive contact with other family members and significant other positive relationships in the child's life, including but not limited to teachers, friends and community individuals.

(ix) Each child has the right to be treated as a family member in a foster family and, whenever possible, be included in a foster family's activities, holidays and traditions taking into consideration factors that include but are not limited to the child's age and trauma history. Each child shall have the opportunity to be included in the daily activities of the family to maintain the most normal daily routine and environment as possible.

(3) Health Care and Accessibility:

(i) Each child has the right to access appropriate, timely and gender-affirming medical, reproductive, dental, vision, mental and behavioral health services regularly and more often as needed.

(ii) Each child has the right to discuss any questions or concerns the child has relating to medication or other physical, mental or behavioral health treatment with the department and with a healthcare provider and to understand the medications and/or treatment provided, its purposes and side effects in a developmentally appropriate way.

(iii) Each child has the right to out-of-home placements that are accessible for any disabilities the child may have and to any necessary reasonable accommodations. Reasonable accommodation(s) will be provided in a timely manner and in such a way as to protect the privacy of the child. Each child also has a right to discuss any disabilities with the department and request adaptive equipment, auxiliary aids or services.

(4) Education, Employment and Social Connections:

(i) Each child has the right to attend school regularly, to educational stability, to educational supports and to an education that meets their needs under federal and state law.

(ii) Each child has the right for the department to prioritize school stability by (A) placing children as close to home as possible and, (B) maintaining the child at their school of origin unless it is found, in a Best Interest Determination (BID) meeting pursuant to federal law, not to be in their best interest to do so.

(iii) Each child has the right to participate in developmentally appropriate school, extracurricular, enrichment, religious, cultural, linguistic, ethnic and social activities and to have any placement provider use the reasonable and prudent parenting standard when making decisions regarding participation in such activities.

(iv) Each child has the right to achieve developmentally and religiously appropriate, age-related milestones, including but not limited to obtaining a driver's license, opening bank accounts, birthday celebrations, religious ceremonies or graduations.

(v) Each child has the right to be informed of and supported in accessing all available services through the department, including but not limited to educational, vocational and employment services, assistance in acquiring life skills, educational assistance including but not limited to tuition and fee waivers for post-secondary education, financial support, housing support, assistance with credit reports and resolving inaccuracies, training and career guidance to accomplish personal goals and prepare for the future, employment supports available to children in care and adaptive equipment or auxiliary aids and supports.

(vii) Each child has the right to developmentally appropriate education on financial preparedness, job readiness, appropriate use of social media, education options, healthy relationships, physical, mental, sexual and reproductive health.

(5) Resources and Supports:

(i) Each child has the right to reasonable access to a caseworker who can make case plan decisions and shall include the opportunity for the child to have private conversations regarding any questions, grievances or concerns. Reasonable access shall include the department's social worker and supervisor's office telephone numbers and email addresses as well as, at a minimum, monthly visits by the department. The department shall also provide the child an emergency contact number for a department staff member who can make decisions and take action with respect to the child during non-business hours.

(ii) Each child has the right to participate as developmentally appropriate in the development and review of the action plans and family time and visitation plans, their Individualized Education Program and Best Interest Determination and shall be consulted as the department formulates or updates said items. Children aged 14 and older shall also be presented with the action or service plan for their review, written feedback and signature. A child has the right to request that their foster parent(s) participate at foster care reviews and to object to their participation if a child does not want them to attend.

(iii) Each child has the right to be informed, in a developmentally appropriate way, of the meaning of all documents that they are asked to sign by the department and/or its agents/contractors/providers including the Voluntary Agreement for Placement and documents of similar importance. A child shall have their attorney present whenever asked to sign any

documents by the department or its agents/contractors/providers, or the document shall be provided in a timely fashion to the child's attorney to give an opportunity for review in advance of presenting it for signature.

(iv) Each child has the right to be informed in a developmentally appropriate way of the reason(s) the department became involved with the child's family, why the child came into care and why the child is still in care. The department shall offer support through the review process to address any possible trauma caused by a child's access to their case files. Upon turning 18, the youth will have the right to access their case files, barring any confidential or legally privileged information.

(v) Each child aged 14 or older has the right to be included in foster care review meetings, permanency hearings and lead agency team meetings except for those parts that involve information that is confidential regarding a previous or future adoptive, kinship or foster parent under federal or state law, and unless documented by court order that participation would be detrimental to the child. The department shall provide that child the ability to offer input to the department before a final decision is made with respect to determining or changing placement or permanency. If the child is unable to attend in person, by phone or video, the child shall have the right to submit a written statement to be considered at the meeting or hearing.

(vi) Each child has the right to department-provided adequate notice of all court hearings. To the extent possible, the notice shall include the date, time and location of the hearing. The department shall ensure the child understands the child's right to attend court hearings and speak to the judge regarding any decision that may have an impact on the child's life.

(vii) Each child has the right to access their medical, dental and educational records held by the department as well as their personal documents, including but not limited to social security card, birth certificate, health insurance information, state identification card, driver's license, passport, and documentation related to their immigration status, including work authorization in a developmentally appropriate way. When a child leaves the care of the department, they shall be given copies of medical, dental and educational records held by the department and original copies of all personal documents. If a minor who is aging out of care and is seeking to change their name and/or gender marker on relevant legal documents to affirm their gender identity, before the child ages out of care, the department must ensure that all relevant legal documents, including birth certificate, social security card, state identification card, driver's license, passport and immigration documentation are updated and corrected before the child departs care. This shall also apply to children in the permanent custody of the department whose parents have had their rights terminated. The department must further provide contact information for providers who are currently providing care for the child. The department shall begin planning to return the documents to the child at least 30 days before the child leaves care to be able to give the documents to the child on the day of the child's departure. As soon as a child in the department's care is eligible the department must assist the child in obtaining a state identification card if the child does not have one and wants one.

(viii) Each child has the right to an attorney when the department seeks custody of the child and to meaningful contact with said attorney including at foster care reviews. Each child shall be informed, when appropriate, by the department of the name and phone numbers of the assigned attorney. Each child, child's parent and foster parent shall be informed, when appropriate, by the department that the child can contact the child's attorney, and of the

processes to file a complaint regarding the child's attorney and to request a change of attorney for the child. The department shall notify the child's attorney of each child's placement address and phone number no later than 24 hours after the time of placement or placement change.

(ix) Each child has the right to department-provided notice of the clothing, birthday, holiday and emergency payments to foster parents and placement providers for children in placement and that the child has the right to have those payments used to meet the child's needs. A child over the age of 14 who has a bank account may receive direct payment from the department through their attorney or the department upon request.

(x) Each child, and their attorney, has the right to be informed if the department applies for any benefits on behalf of the child, including but not limited to benefits under Title XVI of the Social Security Act, also referred to as "Supplemental Security Income;" benefits under Title II of the Social Security Act, also referred to as "Retirement, Survivors or Disability Benefits," and if the department applies to be the representative payee for such benefits. The department shall preserve all of such funds received in an interest-bearing account belonging to the child so the funds are available for the child's benefit and use while they are in care, and the child's use when they turn 18. The department shall not use such funds for the customary costs of foster care, nor shall it use such funds to pay the costs of items which would ordinarily be funded by another source. If necessary, the department shall preserve said funds in an ABLE (Achieving a Better Life Experience) account authorized by Section 529A of the Internal Revenue Code of 1986, or another trust account for the child determined not to interfere with SSI or asset limitations for any other benefit program. Each child, and their attorney, shall have the right to be informed by the department if they stop receiving said benefits, or are no longer eligible to receive them.

(6) Transition Age Youth

(i) Each child, age 14 or older, has the right to collaborate with the department to plan their transition from foster care to adulthood. Transition planning should cover all areas needed for a youth to be stable and successful as an adult, including but not limited to, planning for visits and/or contact with parents and siblings; building relationships with other caring adults, particularly with life-long connections; making an education plan including post-secondary education; finding vocational, employment and career counseling and placement; securing stable housing; developing expertise in daily living skills; maintaining physical, reproductive and mental health care and health insurance; learning how to access community resources and public benefits and services; connecting with other state agencies; developing financial skills including but not limited to, understanding budgeting and money management as well as checking and savings accounts; and receiving, understanding and correcting, if applicable, the child's consumer credit report. The department shall provide all associated services and supports necessary for such planning.

(ii) Each child, who turns 18 while in the custody of the department, has the right to continue under the responsibility of the department and receive young adult services until turning 23, pursuant to federal requirements. Each child has the right to be offered a Voluntary Placement Agreement by the department in the month prior to their turning 18 years old. The Voluntary Placement Agreement shall be developed together with the child during permanency and transition planning. Each child has the right to be made aware of this right and any federal requirements governing services for transition age youth throughout the transition planning process.

(iii) Each child has the right to a transition plan at least one year prior to turning 18 years old crafted by the department at the direction of the transition age youth, regardless whether they will continue under the responsibility of the department upon turning 18, that includes personalized, detailed, tangible, available and clear options for resources for meeting their basic needs including, but not limited to, housing, education and vocational supports which fulfill the requirements of 42 U.S.C. s.675 (5)(H), as amended.

(iv) Each child aged 18 and older, who has chosen to remain under the responsibility of the department has the right to engage and re-engage with the department under a Voluntary Placement Agreement at any time for any reason.

(v) Each child has the right to all department-identified, appropriate housing opportunities available to a youth turning 18, a young adult leaving the care of the department after the age of 18 and a youth who re-enters the department.

(vi) Each child has the right not to be made homeless or redirected to shelter by the department upon said child turning age 18. The department shall have the responsibility of identifying any and all appropriate housing opportunities to said youth, and each child shall be informed of and supported with any housing opportunities through the department or other outside available resources upon the youth's discharge or re-entry to the department's responsibility at age 18. The department shall not discharge youth due to the youth receiving services from other state agencies including but not limited to the department of mental health, the department of disability services, the department of transitional assistance, or the department of youth services, and shall not discharge youth on the basis of an arrest without a conviction.

(7) Remedies

(i) Each child has the right to have these rights enforced. The department shall not retaliate against or punish a child for asserting their rights.

Nothing in this section shall be construed to diminish the rights, privileges, or remedies of any person under any other federal or state law.

(ii) Each child has the right to department-provided contact information for the ombudsperson, the office of the child advocate and the court when they enter the care and custody of the department and upon request. If it is developmentally inappropriate to provide the child with such information, a child's attorney may be provided with this contact information.

(iii) Each child has the right, if the child, the child's parent, the child's attorney, the child's social worker or the child's foster parent or placement provider believes any of the above rights have been violated, to discuss the alleged violation with the department, file a complaint with the department's ombudsman, file a complaint with the office of the child advocate, and those with appropriate standing, may request a fair hearing or petition the Juvenile or Probate and Family Court for a determination and enforcement of these rights. The department shall not retaliate against or punish a child, a child's parent, an attorney, a social worker, a foster parent or placement provider for asserting this right. If the department, ombudsman, the office of the child advocate or the court determines the child's rights have been violated, the department shall resolve the violation as soon as practicable and make corrections so that the violation does not occur again.

(e) The rights enumerated in subsection (d) shall be obligations of the department.

(f) The rights enumerated in subsection (d) are not an exhaustive list of rights to which children under the custody, care or responsibility of the department are entitled and should not be read to limit the rights of children, or the responsibilities of the department in any way.

(g) The commissioner of the department of children and families, in consultation with the office of the child advocate, shall submit an annual report to the house and senate committees on ways and means, the joint committee on children, families and persons with disabilities and the house and senate clerks' offices on the number and types of complaints or alleged violations received pursuant to this act, as well as the nature of the complaints and/or alleged violations.