

SENATE No. 107

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 bill of rights for children in foster care.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	
<i>Nick Collins</i>	<i>First Suffolk</i>	<i>2/12/2025</i>
<i>Lydia Edwards</i>	<i>Third Suffolk</i>	<i>5/21/2025</i>

SENATE No. 107

By Ms. Comerford, a petition (accompanied by bill, Senate, No. 107) of Joanne M. Comerford and Nick Collins for legislation to establish a bill of rights for children in foster care. Children, Families and Persons with Disabilities.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 68 OF 2023-2024.]

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:

1 SECTION 1. Chapter 119 of the General Laws, as appearing in the 2022 Official Edition,
2 is hereby amended by inserting after section 23C the following section:-

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

5 “Child” means any child, youth or young adult who is under the custody, care or
6 responsibility of the department.

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

10 “Department” means the Department of Children and Families.

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

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

27 (d) Each child has the following rights:

28 (1) Safety and Security:

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

31 (ii) Each child has the right not to be discriminated against, physically hurt or harassed by
32 department staff, foster parents, the child's attorney or service providers on the basis of religion,
33 race, color, creed, gender, gender identity, gender expression, sexual orientation, national origin,
34 age, disability, culture, language or ethnicity.

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

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

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

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

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

49 (viii) Each child has the right not to be placed, housed or detained in a secure department
50 of youth services placement based on the department of children and families' inability to

51 provide an available and appropriate foster placement. The department shall not advocate for bail
52 of any amount for children in its care or custody.

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

63 (2) Connections to Family, Community and Identity:

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

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

71 (iii) Each child has the right to be placed according to the child's gender identity and
72 referred to by the name and gender pronouns preferred by the child. A child's sexual orientation

73 and gender identity and expression shall remain private unless the child permits the information
74 to be disclosed, the disclosure is required to protect the child's health and safety, or disclosure is
75 compelled by law or a court order.

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

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

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

92 (vii) Each child has the right to other forms of parental contact, including but not limited
93 to mail, phone calls, videoconferences, email and texts if they have their own phone and if not

94 harmful to the safety or well-being of the child. All placements, including congregate care
95 programs, shall facilitate access to virtual forms of contact.

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

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

104 (3) Health Care and Accessibility:

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

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

112 (iii) Each child has the right to out-of-home placements that are accessible for any
113 disabilities the child may have and to any necessary reasonable accommodations. Reasonable
114 accommodation(s) will be provided in a timely manner and in such a way as to protect the

115 privacy of the child. Each child also has a right to discuss any disabilities with the department
116 and request adaptive equipment, auxiliary aids or services.

117 (4) Education, Employment and Social Connections:

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

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

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

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

131 (v) Each child has the right to be informed of and supported in accessing all available
132 services through the department, including but not limited to educational, vocational and
133 employment services, assistance in acquiring life skills, educational assistance including but not
134 limited to tuition and fee waivers for post-secondary education, financial support, housing
135 support, assistance with credit reports and resolving inaccuracies, training and career guidance to

136 accomplish personal goals and prepare for the future, employment supports available to children
137 in care and adaptive equipment or auxiliary aids and supports.

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

141 (5) Resources and Supports:

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

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

156 (iii) Each child has the right to be informed, in a developmentally appropriate way, of the
157 meaning of all documents that they are asked to sign by the department and/or its

158 agents/contractors/providers including the Voluntary Agreement for Placement and documents
159 of similar importance. A child shall have their attorney present whenever asked to sign any
160 documents by the department or its agents/contractors/providers, or the document shall be
161 provided in a timely fashion to the child's attorney to give an opportunity for review in advance
162 of presenting it for signature.

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

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

177 (vi) Each child has the right to department-provided adequate notice of all court hearings.
178 To the extent possible, the notice shall include the date, time and location of the hearing. The

179 department shall ensure the child understands the child’s right to attend court hearings and speak
180 to the judge regarding any decision that may have an impact on the child’s life.

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

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

202 assigned attorney. Each child, child's parent and foster parent shall be informed, when
203 appropriate, by the department that the child can contact the child's attorney, and of the
204 processes to file a complaint regarding the child's attorney and to request a change of attorney
205 for the child. The department shall notify the child's attorney of each child's placement address
206 and phone number no later than 24 hours after the time of placement or placement change.

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

212 (x) Each child, and their attorney, has the right to be informed if the department applies
213 for any benefits on behalf of the child, including but not limited to benefits under Title XVI of
214 the Social Security Act, also referred to as "Supplemental Security Income;" benefits under Title
215 II of the Social Security Act, also referred to as "Retirement, Survivors or Disability Benefits,"
216 and if the department applies to be the representative payee for such benefits. The department
217 shall preserve all of such funds received in an interest-bearing account belonging to the child so
218 the funds are available for the child's benefit and use while they are in care, and the child's use
219 when they turn 18. The department shall not use such funds for the customary costs of foster
220 care, nor shall it use such funds to pay the costs of items which would ordinarily be funded by
221 another source. If necessary, the department shall preserve said funds in an ABL (Achieving a
222 Better Life Experience) account authorized by Section 529A of the Internal Revenue Code of
223 1986, or another trust account for the child determined not to interfere with SSI or asset
224 limitations for any other benefit program. Each child, and their attorney, shall have the right to

225 be informed by the department if they stop receiving said benefits, or are no longer eligible to
226 receive them.

227 (6) Transition Age Youth

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

241 (ii) Each child, who turns 18 while in the custody of the department, has the right to
242 continue under the responsibility of the department and receive young adult services until turning
243 23, pursuant to federal requirements. Each child has the right to be offered a Voluntary
244 Placement Agreement by the department in the month prior to their turning 18 years old. The
245 Voluntary Placement Agreement shall be developed together with the child during permanency
246 and transition planning. Each child has the right to be made aware of this right and any federal

247 requirements governing services for transition age youth throughout the transition planning
248 process.

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

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

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

261 (vi) Each child has the right not to be made homeless or redirected to shelter by the
262 department upon said child turning age 18. The department shall have the responsibility of
263 identifying any and all appropriate housing opportunities to said youth, and each child shall be
264 informed of and supported with any housing opportunities through the department or other
265 outside available resources upon the youth's discharge or re-entry to the department's
266 responsibility at age 18. The department shall not discharge youth due to the youth receiving
267 services from other state agencies including but not limited to the department of mental health,

268 the department of disability services, the department of transitional assistance, or the department
269 of youth services, and shall not discharge youth on the basis of an arrest without a conviction.

270 (7) Remedies

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

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

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

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

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

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

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