

HOUSE No. 4162

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, November 4, 2019.

The committee on Children, Families and Persons with Disabilities, to whom were referred the petition (accompanied by bill, House, No. 106) of David F. DeCoste and others relative to a foster parents bill of rights, and the petition (accompanied by bill, House, No. 113) of Tricia Farley-Bouvier, Joseph D. McKenna and others for legislation to establish a bill of rights for foster parents, reports recommending that the accompanying bill (House, No. 4162) ought to pass.

For the committee,

KAY KHAN.

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**In the One Hundred and Ninety-First General Court
(2019-2020)**

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:- Section 23C. (a) The Commonwealth of Massachusetts
3 recognizes that children in its custody deserve safe and nurturing placements, which promote
4 healing and support the child's culture, background and trauma history. Foster parents and pre-
5 adoptive parents play an integral and vital role in the Commonwealth's effort to care for children
6 removed from their homes. The Commonwealth acknowledges the need for foster parents to be
7 active and participating members in this effort. In recognition of the important role of foster
8 parents, the department of children and families shall promulgate a policy governing its
9 relationship with and responsibilities to those serving the Commonwealth as foster parents. This
10 policy shall be collectively known as the Foster Parent's Bill of Rights and shall be provided by
11 the department and private agencies contracted by the department to provide foster care, to all
12 prospective foster and pre-adoptive parents during the application process and to kinship foster

13 parents during the placement process. All current foster, pre-adoptive and kinship parents shall
14 be provided with a copy of the Foster Parent's Bill of Rights.

15 (b) The Foster Parents Bill of Rights shall contain, at a minimum, the following
16 statements:

17 (1) A foster parent shall be treated with dignity, respect, privacy and consideration.

18 (2) A foster parent shall not be discriminated against on the basis of religion, race, color,
19 creed, sex, sexual orientation, gender identity, gender expression, national origin, age or physical
20 ability.

21 (3) A foster parent shall be offered standardized pre-service training and ongoing training
22 at appropriate intervals to meet the needs of the child, to improve foster parents' skills, and
23 update foster parents of any relevant changes in policies and procedures of the department and
24 any changes in applicable law.

25 (4) As allowable under state and federal law, a foster parent shall receive from the
26 department prior to placement, all available pertinent information about the child's, physical
27 health, behavioral health, trauma history, history of high risk behavior and education needs as
28 relevant to the care of the child. The department shall communicate all such additional
29 information that becomes known to them during the time of placement in a timely fashion.

30 (5) When the department determines that contact between the current and previous foster
31 parent promotes the child's best interest, the department shall provide the current foster parent
32 with names and phone numbers of the previous foster parents, if the previous foster parents have
33 authorized such release.

34 (6) A foster parent shall have reasonable access to a social worker and family resource
35 worker as well as access to a 24-hour emergency hotline to assist with any urgent needs.

36 (7) A foster parent shall be provided with a written copy of department action plans
37 regarding the child in the foster parent's home, other than those parts of the plan containing
38 information that is confidential as to a parent under federal or state law, and be afforded an
39 opportunity to discuss such plan with the social worker, as well as reasonable notification of any
40 changes to that plan.

41 (8) A foster parent shall be informed of foster care reviews and appropriate meetings
42 regarding the child in their home and be provided an opportunity to actively participate in these
43 meetings, except as to those parts of foster care reviews or meetings that involve information that
44 is confidential as to a parent under federal or state law. If there is a clinical conference which is
45 inappropriate for a foster parent to attend, before a final decision is made a foster parent will
46 have the ability to provide input to the department.

47 (9) A foster parent shall be provided with advance notice of all court hearings, consistent
48 with federal and state statute, regarding the child in their home. Such notice shall include the
49 date, time and location of the hearing. A foster parent who is unable to attend a court hearing
50 shall have the ability to provide a written statement to the department prior to the hearing.

51 (10) A foster parent may communicate with professionals who work with the child in
52 their home for the purpose of supporting the needs of the foster child. Such professionals include
53 therapists, physicians, and teachers.

54 (11) A foster parent shall receive information about the range and frequency of payments
55 the foster parent may be eligible to receive, including, but not limited to, daily reimbursement

56 and quarterly clothing, birthday, and holiday payments and shall receive notification of any
57 delays in such payments as soon as such delay becomes known to the department.

58 (12) A foster parent shall be informed of other available financial supports and services
59 including, but not limited to, Parent and Child Together (PACT) rates, reimbursements for
60 onetime costs, child care and respite and the criteria for accessing said supports and services.

61 (13) A foster parent may decline placement of a child in their home. Understanding the
62 trauma that occurs in moving a child, a foster parent may request the removal of a child from
63 their home.

64 (14) A foster parent shall be given advance notice, to the extent reasonably possible,
65 when a child is to be removed from their home.

66 (15) A foster parent may participate with department staff to plan supervised or
67 unsupervised visitation, including arranging supervision of visits by the foster parent, if
68 appropriate, and other contact between the child and the child's biological family, consistent with
69 the wellbeing of the child and family's plan for visitation. The department shall make
70 appropriate efforts to accommodate the foster parent's schedule in arranging for visits and other
71 contact between the child and the child's family

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

74 (17) A non-kin foster parent shall have the opportunity to be considered as the first
75 choice as an adoptive parent or legal guardian for a child whose goal has been changed to
76 adoption or guardianship if no kin is available.

77 (18) A foster parent shall be permitted to make routine decisions about the foster child's
78 daily activities and shall be permitted to continue practicing their own family values and
79 routines, excluding physical discipline, while respecting the foster child's culture, religion,
80 background, trauma history and preferences.

81 (19) Foster parents must use a reasonable and prudent parenting standard when making
82 decisions about the daily routines of children placed in their homes including determining
83 whether to allow a child to participate in extracurricular, enrichment, and social activities. The
84 "reasonable and prudent parent standard" is characterized by careful and sensible parental
85 decisions that maintain the child's health, safety, and best interests while at the same time
86 encouraging the child's emotional and developmental growth. Reasonable and prudent decisions
87 may consider relevant factors including the following:

- 88 a. The child's age, maturity, and developmental level.
- 89 b. The potential risk factors, appropriateness, and benefits of the extracurricular,
90 enrichment, and social activity.
- 91 c. The best interest of the child based on information known by the caregiver.
- 92 d. The importance of encouraging the child's emotional and developmental growth.
- 93 e. The importance of providing the child with the most family-like living experience
94 possible.
- 95 f. The behavioral health of the child and the child's ability to safely participate in the
96 proposed activity, as with any other child.

97 (20) Foster parents, upon request, shall be provided with periodic respite from their role.

98 (21) Foster parents shall be provided with the content of their record, upon request,
99 including any assessment or evaluations completed on the foster home.

100 (22) Foster parents may request a review of department decisions, including filing for a
101 grievance or requesting a Fair Hearing in compliance with the department's regulations. Foster
102 parents shall be provided with information on these procedures and timelines with the Foster
103 Parent's Bill of Rights.

104 (23) Foster parents shall be provided with information about the process and time lines
105 for investigation and resolution of a report made against them pursuant to section 51A of chapter
106 119 and their rights to receive and provide information during the review or investigation and the
107 potential consequences of a supported complaint review or an investigation.

108 (24) Foster parents shall be free from retaliation for asserting their rights including but
109 not limited to issuing or filing a complaint with the commissioner of department of children and
110 families, the Department of Children and Families Ombudsman, or the Office of the Child
111 Advocate. The department shall take immediate action to remedy any action taken against a
112 foster parent in retaliation for exercising their rights under this section.