

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2338 Session of
2010

INTRODUCED BY MUNDY, EACHUS, TRUE, BELFANTI, BRADFORD, BRIGGS,
CALTAGIRONE, CARROLL, CURRY, CUTLER, DALEY, DePASQUALE,
DeWEESE, FRANKEL, HARKINS, HICKERNELL, HOUGHTON, JOHNSON,
JOSEPHS, KULA, MAHONEY, MANN, McILVAINE SMITH, MURPHY, MURT,
PALLONE, PARKER, PASHINSKI, PAYTON, PETRI, PRESTON,
SAMUELSON, SANTONI, SHAPIRO, SIPTROTH, K. SMITH, STABACK,
STURLA, WAGNER, WILLIAMS, YOUNGBLOOD, GINGRICH, MANDERINO AND
BISHOP, MARCH 17, 2010

AS REPORTED FROM COMMITTEE ON CHILDREN AND YOUTH, HOUSE OF
REPRESENTATIVES, AS AMENDED, APRIL 21, 2010

AN ACT

1 Providing for requirements for children in foster care and for
2 grievance policy and procedure.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Children in
7 Foster Care Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Child in foster care." An individual who was adjudicated
13 dependent before reaching 18 years of age and who:

14 (1) has not reached 18 years of age and is in placement;

or

(2) is in placement after reaching 18 years of age and while engaged in a course of instruction or treatment requests the court to retain jurisdiction until the course of instruction or treatment is completed, but in no event shall the court maintain jurisdiction after the individual reaches 21 years of age.

"CORPORAL PUNISHMENT." A FORM OF PHYSICAL DISCIPLINE IN WHICH AN INDIVIDUAL IS SPANKED, PADDLED OR HIT ON ANY PART OF THE BODY WITH A HAND OR INSTRUMENT.

"County agency." A county children and youth social service agency established under section 405 of the act of June 24, 1937 (P.L.2017, No.396), known as the County Institution District Law, and supervised by the Department of Public Welfare under Article IX of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

"Department." The Department of Public Welfare of the Commonwealth.

"Members of an integrated children's services planning team." The term includes a public or private children and youth caseworker, juvenile probation officer, mental health caseworker, mental retardation caseworker and any other individual who is considered to be a part of a services planning team specific to a child.

"Parent." A biological parent, adoptive parent or legal guardian.

"Private agency." A children and youth social service agency subject to the REGULATORY requirements of ~~55 Pa. Code Ch. 3680~~ ~~(relating to administration and operation of a children and youth social service agency)~~ THE DEPARTMENT OF PUBLIC WELFARE.

1 "Relative." An individual who is at least 21 years of age
2 and related within the third degree of consanguinity or affinity
3 to the parent or stepparent of a child.

4 "Resource family." A family that ~~provides~~ IS APPROVED TO
5 PROVIDE temporary foster or kinship care for a child who needs
6 out-of-home placement and that may eventually provide permanency
7 for the child, including as an adoptive family.

8 "Unreasonable restraint." Controlling behavior or
9 restricting movement through the application of physical,
10 mechanical or chemical intervention. Restraint may not be used
11 for coercion or punishment. Emergency safety interventions
12 required to prevent harm to self or others where less
13 restrictive alternatives have failed shall not constitute
14 unreasonable restraint.

15 Section 3. Children in foster care.

16 Children in foster care shall be provided with the following:

17 (1) Treatment with fairness, dignity and respect.

18 (2) Freedom from discrimination because of race, color,
19 religion, disability, national origin, age or gender.

20 (3) Freedom from harassment, corporal punishment,
21 unreasonable restraint and physical, sexual, emotional and
22 other abuse.

23 (4) The ability to live in the least restrictive, most
24 family-like setting that is safe, healthy, comfortable and
25 meets the child's needs.

26 (5) Proper nourishment.

27 (6) Clothing that is clean, seasonal and age and gender
28 appropriate.

29 (7) Access to medical, dental, vision, mental health,
30 behavioral health and drug and alcohol abuse and addiction

1 services consistent with the laws of this Commonwealth and
2 for which the child qualifies.

3 (8) Information related to ~~a treatment plan~~ SERVICES ←
4 under paragraph (7), including, but not limited to,
5 medication and medication options and the opportunity to
6 communicate a preference regarding a treatment plan,
7 medication or medication options. If a child objects to a
8 treatment plan, his or her objection shall be noted in the
9 child's case record.

10 (9) ~~Consent~~ OPPORTUNITY TO CONSENT to medical and mental ←
11 health treatment consistent with ~~the requirements of 55 Pa.~~ ←
12 ~~Code § 3130.91 (relating to consent to treatment)~~ APPLICABLE ←
13 LAW.

14 (10) Permission to visit and have contact with family
15 members, including siblings, as frequently as possible,
16 consistent with the family service plan and the child's
17 permanency plan, unless prohibited by court order, but no
18 less than that prescribed by STATUTE OR regulation ~~in effect~~ ←
19 ~~on the effective date of this paragraph.~~

20 (11) The contact information of the child's guardian ad
21 litem, attorney, court-appointed special advocate and members
22 of the integrated services planning team and the opportunity
23 to contact those persons.

24 (12) An environment that maintains and reflects the
25 child's culture as may be reasonably accommodated.

26 (13) Education stability and an appropriate education
27 consistent with the laws of this Commonwealth, including the
28 opportunity to participate in extracurricular, cultural and
29 personal enrichment activities that are reasonably available
30 and accommodated and consistent with the child's age and

developmental level.

(14) The opportunity to work and develop job skills at an age-appropriate level, consistent with the laws of this Commonwealth and as may be reasonably accommodated.

(15) The ability to receive appropriate life skills training and independent living services to prepare the child for the transition to adulthood, as consistent with Federal and State laws.

(16) Notice of and the ability to attend court hearings relating to the child's case and to have the opportunity to be heard CONSISTENT WITH 42 PA.C.S. CH. 63 (RELATING TO JUVENILE MATTERS).

(17) Confidentiality consistent with the laws of this Commonwealth.

(18) First consideration for placement with relatives, including siblings. In the absence of relatives, to have any kinship resource be considered as the preferred placement resource if the placement is consistent with the best interest of the child and the needs of other children in the kinship residence.

(19) Consideration of any previous resource family as the preferred placement resource, if relative and kinship resources are unavailable and the placement resource is consistent with the best interest of the child.

(20) If the child in foster care has a child of his or her own, and that child has been placed in the same resource family with the parent, the child in foster care may exercise parental and decision-making authority over his or her own child, so long as there are no safety concerns on the part of the county child welfare agency or determined by the juvenile



1 court.

2 (21) Permission to participate in religious observances
3 and activities and attend religious services of the child's
4 preference or the religion of the child's family of origin or
5 culture as may be reasonably accommodated.

6 (22) A permanency plan and transition plan developed in
7 conjunction with the child, and reviewed with the child, that
8 provides the child with:

9 (i) Safety.

10 (ii) Stability.

11 (iii) Permanence and well-being, including stable
12 and safe housing, opportunities for postsecondary
13 education and training and employment and a stable source
14 of income, health insurance and a plan for future
15 treatment.

16 (iv) Connections with reliable adults.

17 (23) Notification that the child may request to remain
18 under the court's jurisdiction under paragraph (3) of the
19 definition of "child" under 42 Pa.C.S. § 6302 (relating to
20 definitions).

21 (24) The grievance policy and procedure from a county
22 agency or private agency and in accordance with section 4.

23 (25) The ability to file a grievance related to any of
24 the provisions under this section to the appropriate official
25 overseeing the child's care in accordance with a county or
26 private agency's grievance policy and procedure.

27 Section 4. Grievance policy and procedure.

28 (a) Model grievance policy and procedure.--The department
29 shall develop a model grievance policy and procedure for use by
30 county and private agencies consistent with ~~the~~ REGULATORY



1 requirements of ~~55 Pa. Code §§ 3130.88 (relating to children's~~ ←
2 ~~grievances) and 3680.48 (relating to children's grievances)~~ and
3 incorporating the provisions of section 3. The model grievance
4 policy and procedure shall be made available to all county and
5 private agencies for their use within 30 days of the effective
6 date of this act.

7 (b) County or private agency option.--Each county or private
8 agency shall adopt the model grievance policy and procedure, or
9 revise its current grievance policy and procedure to include the
10 provisions of section 3, no later than 45 days after the
11 effective date of this act.

12 Section 5. Notice of requirements for children in foster care.

13 (a) Notice to child.--

14 (1) For a child who is placed in foster care on or after
15 the effective date of this act, a county or private agency
16 shall explain the requirements for children in substitute
17 care set forth under section 3 as part of the explanation of
18 the agency's grievance policy and procedure. A notation shall
19 be made in the child's record to affirm that the child is
20 aware of THE GRIEVANCE POLICY AND PROCEDURE AND the ←
21 requirements for children in foster care under section 3, AND ←
22 A COPY OF THE GRIEVANCE POLICY AND PROCEDURE AND THE
23 REQUIREMENTS UNDER SECTION 3 SHALL BE PROVIDED TO THE CHILD.

24 The explanation of the grievance policy and procedure shall
25 be consistent with ~~the REGULATORY requirements of 55 Pa. Code~~ ←
26 ~~§§ 3130.88 (relating to children's grievances) and 3680.48~~
27 ~~(relating to children's grievances).~~

28 (2) For a child who was in placement prior to the
29 effective date of this act and has already been provided with
30 an explanation of a county or private agency's grievance

1 policy and procedure, a county or private agency shall
2 explain the agency's new grievance policy and procedure that
3 incorporates the requirements for children in foster care
4 under section 3. A second notation shall be made in the
5 child's record to affirm that the child is aware of the new
6 grievance policy and procedure and the requirements for
7 children in foster care set forth under section 3, AND A COPY ←
8 OF THE GRIEVANCE POLICY AND PROCEDURE AND THE REQUIREMENTS
9 UNDER SECTION 3 SHALL BE PROVIDED TO THE CHILD. The
10 explanation of the grievance policy and procedure shall be
11 consistent with the REGULATORY requirements of 55 Pa. Code §§ ←
12 ~~3130.88 and 3680.48.~~

13 (b) Notice to child's parents and resource family.--

14 (1) A child's parents shall be provided with a copy of
15 the requirements for children in foster care under section 3
16 by the appropriate county or private agency within 30 days of
17 the child's being put in placement.

18 (2) For a parent whose child was in placement prior to
19 the effective date of this act, a county or private agency
20 shall provide a copy of the requirements for children in
21 foster care under section 3 within 30 days of the effective
22 date of this act.

23 (3) A resource family shall be provided with a copy of
24 the requirements for children in foster care under section 3
25 by the appropriate county or private agency upon approval as
26 a resource family.

27 (4) For a resource family that was approved by a county
28 or private agency prior to the effective date of this act, a
29 county or private agency shall provide a copy of the
30 requirements for children in foster care under section 3

1 within 30 days of the effective date of this act.

2 Section 6. Private actions.

3 This act does not establish a private cause of action for
4 violation of any provision of this act.

5 Section 7. Effective date.

6 This act shall take effect in 120 days.