

CHILDREN IN FOSTER CARE ACT - ENACTMENT
Act of Nov. 23, 2010, P.L. 1264, No. 119
AN ACT

Cl. 67

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

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

Section 1. Short title.

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

Section 2. Definitions.

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

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

(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 the Department of Public Welfare.

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

"Resource family." A family that is approved to provide temporary foster or kinship care for a child who needs out-of-home placement and that may eventually provide permanency for the child, including as an adoptive family.

"Unreasonable restraint." Controlling behavior or restricting movement through the application of physical, mechanical or chemical intervention. Restraint may not be used for coercion or punishment. Emergency safety interventions required to prevent harm to self or others where less

restrictive alternatives have failed shall not constitute unreasonable restraint.

Compiler's Note: The short title of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, referred to in this section, was amended by the act of December 28, 2015 (P.L.500, No.92). The amended short title is now the Human Services Code.

Compiler's Note: The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Section 3. Children in foster care.

Children in foster care shall be provided with the following:

- (1) Treatment with fairness, dignity and respect.
- (2) Freedom from discrimination because of race, color, religion, disability, national origin, age or gender.
- (3) Freedom from harassment, corporal punishment, unreasonable restraint and physical, sexual, emotional and other abuse.
- (4) The ability to live in the least restrictive, most family-like setting that is safe, healthy and comfortable and meets the child's needs.
- (5) Proper nourishment.
- (6) Clothing that is clean, seasonal and age and gender appropriate.
- (7) Access to medical, dental, vision, mental health, behavioral health and drug and alcohol abuse and addiction services consistent with the laws of this Commonwealth and for which the child qualifies.
- (8) Information related to services under paragraph (7), including, but not limited to, medication and medication options and the opportunity to communicate a preference regarding a treatment plan, medication or medication options. If a child objects to a treatment plan, his or her objection shall be noted in the child's case record.
- (9) Opportunity to consent to medical and mental health treatment consistent with applicable law.
- (10) Permission to visit and have contact with family members, including siblings, as frequently as possible, consistent with the family service plan and the child's permanency plan, unless prohibited by court order, but no less than that prescribed by statute or regulation.
- (11) The contact information of the child's guardian ad litem, attorney, court-appointed special advocate and members of the integrated services planning team and the opportunity to contact those persons.
- (12) An environment that maintains and reflects the child's culture as may be reasonably accommodated.
- (13) Education stability and an appropriate education consistent with the laws of this Commonwealth, including the opportunity to participate in extracurricular, cultural and personal enrichment activities that are reasonably available 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 court.

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

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

(i) Safety.

(ii) Stability.

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

(iv) Connections with reliable adults.

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

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

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

Section 4. Grievance policy and procedure.

(a) Model grievance policy and procedure.--The department shall develop a model grievance policy and procedure for use by county and private agencies consistent with regulatory requirements and incorporating the provisions of section 3. The model grievance policy and procedure shall be made available to all county and private agencies for their use within 30 days of the effective date of this act.

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

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

(a) Notice to child.--

(1) For a child who is placed in foster care on or after the effective date of this act, a county or private agency shall explain the requirements for children in substitute care set forth under section 3 as part of the explanation of the agency's grievance policy and procedure. A notation shall be made in the child's record to affirm that the child is aware of the grievance policy and procedure and the requirements for children in foster care under section 3, and a copy of the grievance policy and procedure and the requirements under section 3 shall be provided to the child. The explanation of the grievance policy and procedure shall be consistent with regulatory requirements.

(2) For a child who was in placement prior to the effective date of this act and has already been provided with an explanation of a county or private agency's grievance policy and procedure, a county or private agency shall explain the agency's new grievance policy and procedure that incorporates the requirements for children in foster care under section 3. A second notation shall be made in the child's record to affirm that the child is aware of the new grievance policy and procedure and the requirements for children in foster care set forth under section 3, and a copy of the grievance policy and procedure and the requirements under section 3 shall be provided to the child. The explanation of the grievance policy and procedure shall be consistent with regulatory requirements.

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

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

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

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

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

Section 6. Private actions.

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

Section 7. Effective date.

This act shall take effect in 120 days.