

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 511 Session of 2005

INTRODUCED BY MUNDY, BEBKO-JONES, BLACKWELL, CALTAGIRONE, CAPPELLI, CORRIGAN, CRAHALLA, FREEMAN, GOODMAN, GRUITZA, JOSEPHS, PRESTON, SEMMEL, TANGRETTI, TIGUE, WALKO, BELFANTI, DALEY, CURRY, STABACK, THOMAS, PISTELLA, YOUNGBLOOD, FRANKEL, SHAPIRO AND STETLER, FEBRUARY 14, 2005

AS REPORTED FROM COMMITTEE ON CHILDREN AND YOUTH, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 7, 2006

AN ACT

1 ~~Providing for certain rights of foster children.~~ <—
2 PROVIDING FOR CERTAIN DUTIES OF COUNTY AND PRIVATE AGENCIES AND <—
3 RESOURCE PARENTS REGARDING CHILDREN IN SUBSTITUTE CARE.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the ~~Foster~~ <—
8 ~~Children Rights~~ CHILDREN IN SUBSTITUTE CARE Act. <—

9 Section 2. Definitions.

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

13 "CHILD IN SUBSTITUTE CARE." AN INDIVIDUAL WHO WAS <—
14 ADJUDICATED DEPENDENT BEFORE REACHING 18 YEARS OF AGE AND WHO:

15 (1) HAS NOT REACHED 18 YEARS OF AGE AND IS IN PLACEMENT;

16 OR

1 (2) IS IN PLACEMENT AFTER REACHING 18 YEARS OF AGE AND
2 WHILE ENGAGED IN A COURSE OF INSTRUCTION OR TREATMENT
3 REQUESTS THE COURT TO RETAIN JURISDICTION UNTIL THE COURSE OF
4 INSTRUCTION OR TREATMENT IS COMPLETED,
5 BUT IN NO EVENT SHALL THE INDIVIDUAL REMAIN IN A COURSE OF
6 INSTRUCTION OR TREATMENT AFTER REACHING 21 YEARS OF AGE.

7 "County agency." A county children and youth social service
8 agency established pursuant to section 405 of the act of June
9 24, 1937 (P.L.2017, No.396), known as the County Institution
10 District Law, or its successor, and supervised by the Department
11 of Welfare under Article IX of the act of June 13, 1967 (P.L.31,
12 No.21), known as the Public Welfare Code.

13 ~~"Foster parent." An individual responsible for providing~~ <—
14 ~~foster family care to a child placed by a foster family care~~
15 ~~agency.~~

16 ~~"Members of children and youth services team." The term~~
17 ~~includes caseworkers, court appointed special advocates and~~
18 ~~guardians ad litem.~~

19 ~~"Private agency." A children and youth social service agency~~
20 ~~subject to the requirements of 55 Pa. Code Ch. 3680 (relating to~~
21 ~~administration and operation of a children and youth social~~
22 ~~service agency).~~

23 ~~Section 3. Rights of foster children.~~

24 ~~A foster child has the following rights:~~

25 ~~(1) To be treated with fairness, dignity and respect and~~
26 ~~to not be discriminated against because of race, color,~~
27 ~~religion, disability, sexual orientation, national origin,~~
28 ~~age or gender.~~

29 ~~(2) To be free from harassment, corporal punishment,~~
30 ~~unreasonable restraint and physical, sexual, emotional and~~

1 ~~other abuse.~~

2 ~~(3) To live in a safe, healthy and comfortable home.~~

3 ~~(4) To be properly nourished and clothed with clothing~~
4 ~~that is clean, seasonal and age and gender appropriate.~~

5 ~~(5) To receive medical, dental, vision, mental health,~~
6 ~~behavioral health and drug and alcohol abuse and addiction~~
7 ~~services that respond to the child's needs.~~

8 ~~(6) To be free from unreasonable searches of personal~~
9 ~~belongings and mail, including electronic mail, and to be~~
10 ~~free to make and receive confidential telephone calls as~~
11 ~~reasonable under the circumstances unless otherwise provided~~
12 ~~by law.~~

13 ~~(7) Provided that the child is given contact information~~
14 ~~and a means of communication, to be permitted to visit with~~
15 ~~and contact family members consistent with the family service~~
16 ~~plan, unless otherwise prohibited by court order and to~~
17 ~~contact the child's attorney and members of the child's~~
18 ~~children and youth services team.~~

19 ~~(8) To be permitted to participate in religious~~
20 ~~observances and activities and attend religious services of~~
21 ~~the child's preference or the religion of the child's family~~
22 ~~of origin or culture as may be reasonably accommodated, or to~~
23 ~~refrain from such religious practices.~~

24 ~~(9) To maintain and reflect the child's culture as may~~
25 ~~be reasonably accommodated.~~

26 ~~(10) To receive an appropriate education consistent with~~
27 ~~the laws of this Commonwealth, including the right to have~~
28 ~~the opportunity to participate in extracurricular, cultural~~
29 ~~and personal enrichment activities that are reasonably~~
30 ~~available and accommodated and consistent with the child's~~

1 ~~age and developmental level.~~

2 ~~(11) To work and develop job skills at an age~~
3 ~~appropriate level, consistent with the laws of this~~
4 ~~Commonwealth and as may be reasonably accommodated and to~~
5 ~~receive appropriate life skills training to prepare for~~
6 ~~independent living.~~

7 ~~(12) To attend court hearings relating to the child's~~
8 ~~case and to have the opportunity to be heard.~~

9 ~~(13) To be permitted to contribute to and receive~~
10 ~~information about the family service plan, including changes~~
11 ~~to the plan, and to review the case plan itself if the child~~
12 ~~is at least 14 years of age.~~

13 ~~(14) To have confidentiality maintained consistent with~~
14 ~~the laws of this Commonwealth.~~

15 ~~(15) To have any kinship resource or previous foster~~
16 ~~parent of the child be considered as the preferred placement~~
17 ~~resource if such placement is consistent with the best~~
18 ~~interest of the child and the needs of other children in the~~
19 ~~kinship residence or foster parent's home.~~

20 ~~(16) If the child has a child of his own to be permitted~~
21 ~~to exercise parental and decision making authority over his~~
22 ~~own child and to reside with his own child if appropriate and~~
23 ~~as may be reasonably accommodated unless prohibited by order~~
24 ~~of court.~~

25 ~~(17) To have the opportunity to contact the Department~~
26 ~~of Public Welfare confidentially and to make complaints~~
27 ~~regarding alleged violations of the child's rights and to be~~
28 ~~free from harassment and retaliation regarding such actions.~~

29 ~~Section 4. Copy of rights to be provided.~~

30 ~~A county agency or private agency shall provide a copy of the~~

1 ~~rights enumerated in this act to each foster child and foster~~
2 ~~parent to whom they provide services.~~

3 "MEMBERS OF AN INTEGRATED CHILDREN'S SERVICES PLANNING TEAM." ←
4 THE TERM INCLUDES THE PUBLIC AND PRIVATE CHILDREN AND YOUTH
5 CASEWORKER, JUVENILE PROBATION OFFICER, MENTAL HEALTH
6 CASEWORKER, MENTAL RETARDATION CASEWORKER AND ANY OTHER
7 INDIVIDUAL WHO IS CONSIDERED TO BE A PART OF A SERVICE PLANNING
8 TEAM SPECIFIC TO A CHILD.

9 "PRIVATE AGENCY." A CHILDREN AND YOUTH SOCIAL SERVICE AGENCY
10 SUBJECT TO THE REQUIREMENTS OF 55 PA. CODE CH. 3680 (RELATING TO
11 ADMINISTRATION AND OPERATION OF A CHILDREN AND YOUTH SOCIAL
12 SERVICE AGENCY).

13 "RELATIVE." AN INDIVIDUAL WHO IS AT LEAST 21 YEARS OF AGE
14 AND RELATED WITHIN THE THIRD DEGREE OF CONSANGUINITY OR AFFINITY
15 TO THE PARENT OR STEPPARENT OF A CHILD.

16 "RESOURCE FAMILY." A FAMILY THAT PROVIDES TEMPORARY FOSTER
17 OR KINSHIP CARE FOR A CHILD WHO NEEDS OUT-OF-HOME PLACEMENT AND
18 THAT MAY EVENTUALLY PROVIDE PERMANENCY FOR THE CHILD, INCLUDING
19 AS AN ADOPTIVE FAMILY.

20 "UNREASONABLE RESTRAINT." CONTROLLING BEHAVIOR OR
21 RESTRICTING MOVEMENT THROUGH THE APPLICATION OF PHYSICAL,
22 MECHANICAL OR CHEMICAL INTERVENTION NOT USED FOR COERCION OR
23 PUNISHMENT, EXCEPT FOR SITUATIONS REQUIRING EMERGENCY SAFETY
24 INTERVENTIONS TO PREVENT HARM TO SELF OR TO OTHERS WHERE LESS
25 RESTRICTIVE ALTERNATIVES HAVE FAILED.

26 SECTION 3. CHILDREN IN SUBSTITUTE CARE.

27 COUNTY AND PRIVATE AGENCIES AND RESOURCE PARENTS SHALL
28 PROVIDE THE FOLLOWING TO A CHILD IN SUBSTITUTE CARE:

29 (1) TREATMENT WITH FAIRNESS, DIGNITY AND RESPECT AND
30 FREEDOM FROM DISCRIMINATION BECAUSE OF RACE, COLOR, RELIGION,

1 DISABILITY, SEXUAL ORIENTATION, NATIONAL ORIGIN, AGE OR
2 GENDER.

3 (2) FREEDOM FROM HARASSMENT, CORPORAL PUNISHMENT,
4 UNREASONABLE RESTRAINT AND PHYSICAL, SEXUAL, EMOTIONAL AND
5 OTHER ABUSE.

6 (3) ABILITY TO LIVE IN THE LEAST RESTRICTIVE, MOST
7 FAMILY-LIKE SETTING THAT IS SAFE, HEALTHY, COMFORTABLE AND
8 MEETS THE CHILD'S NEEDS.

9 (4) PROPER NOURISHMENT AND CLOTHING THAT IS CLEAN,
10 SEASONAL AND AGE AND GENDER APPROPRIATE.

11 (5) MEDICAL, DENTAL, VISION, MENTAL HEALTH, BEHAVIORAL
12 HEALTH AND DRUG AND ALCOHOL ABUSE AND ADDICTION SERVICES
13 CONSISTENT WITH THE LAWS OF THE COMMONWEALTH AND FOR WHICH
14 THE CHILD QUALIFIES.

15 (6) FREEDOM FROM UNREASONABLE SEARCHES OF PERSONAL
16 BELONGINGS AND MAIL, INCLUDING ELECTRONIC MAIL, AND FREEDOM
17 TO MAKE AND RECEIVE CONFIDENTIAL TELEPHONE CALLS AS
18 REASONABLE UNDER THE CIRCUMSTANCES UNLESS OTHERWISE PROVIDED
19 BY LAW OR WHEN THERE IS REASON TO BELIEVE THAT THE CHILD MAY
20 BE IN DANGER OF BEING HARMED BY AN INDIVIDUAL COMMUNICATING
21 WITH THE CHILD THROUGH POSTAL MAIL, ELECTRONIC MAIL OR
22 TELEPHONE CALLS.

23 (7) PERMISSION TO VISIT AND HAVE CONTACT WITH FAMILY
24 MEMBERS, INCLUDING SIBLINGS, AS FREQUENTLY AS POSSIBLE
25 CONSISTENT WITH THE FAMILY SERVICE PLAN AND THE CHILD'S
26 PERMANENCY PLAN, UNLESS PROHIBITED BY COURT ORDER.

27 (8) ABILITY TO CONTACT THE CHILD'S GUARDIAN AD LITEM,
28 ATTORNEY OR COURT-APPOINTED SPECIAL ADVOCATE AND MEMBERS OF
29 THE INTEGRATED CHILDREN'S SERVICES PLANNING TEAM.

30 (9) MAINTAIN AND REFLECT THE CHILD'S CULTURE AS MAY BE

1 REASONABLY ACCOMMODATED.

2 (10) AN APPROPRIATE EDUCATION CONSISTENT WITH THE LAWS
3 OF THIS COMMONWEALTH, INCLUDING THE OPPORTUNITY TO
4 PARTICIPATE IN CULTURALLY APPROPRIATE EXTRACURRICULAR AND
5 CULTURAL AND PERSONAL ENRICHMENT ACTIVITIES THAT ARE
6 REASONABLY AVAILABLE AND ACCOMMODATED AND CONSISTENT WITH THE
7 CHILD'S AGE AND DEVELOPMENTAL LEVEL.

8 (11) ABILITY TO WORK AND DEVELOP JOB SKILLS AT AN AGE-
9 APPROPRIATE LEVEL, CONSISTENT WITH THE LAWS OF THIS
10 COMMONWEALTH AND AS MAY BE REASONABLY ACCOMMODATED.

11 (12) ABILITY TO RECEIVE APPROPRIATE LIFE SKILLS TRAINING
12 TO PREPARE FOR INDEPENDENT LIVING AS CONSISTENT WITH THE LAWS
13 OF THIS COMMONWEALTH.

14 (13) NOTIFICATION OF AND ABILITY TO ATTEND COURT
15 HEARINGS RELATING TO THE CHILD'S CASE AND TO HAVE THE
16 OPPORTUNITY TO BE HEARD.

17 (14) CONTRIBUTE AND RECEIVE INFORMATION ABOUT THE FAMILY
18 SERVICE PLAN AND CHILD'S PERMANENCY PLAN AND REVIEW THOSE
19 PLANS IF THE CHILD IS AT LEAST 14 YEARS OF AGE.

20 (15) CONFIDENTIALITY MAINTAINED CONSISTENT WITH THE LAWS
21 OF THIS COMMONWEALTH.

22 (16) PROVIDE FIRST CONSIDERATION TO PLACEMENT WITH
23 RELATIVES, INCLUDING SIBLINGS. IN THE ABSENCE OF RELATIVES,
24 TO HAVE ANY KINSHIP RESOURCE BE CONSIDERED AS THE PREFERRED
25 PLACEMENT RESOURCE IF SUCH PLACEMENT IS CONSISTENT WITH THE
26 BEST INTEREST OF THE CHILD AND THE NEEDS OF OTHER CHILDREN IN
27 THE KINSHIP RESIDENCE.

28 (17) CONSIDER ANY PREVIOUS RESOURCE FAMILY AS THE
29 PREFERRED PLACEMENT RESOURCE, IF RELATIVE AND KINSHIP
30 RESOURCES ARE UNAVAILABLE AND THE PLACEMENT RESOURCE IS

1 CONSISTENT WITH THE BEST INTEREST OF THE CHILD.

2 (18) IF THE CHILD HAS A CHILD OF HIS OWN, PERMISSION TO
3 EXERCISE PARENTAL AND DECISION-MAKING AUTHORITY OVER HIS OWN
4 CHILD AND TO RESIDE WITH HIS OWN CHILD IF APPROPRIATE AND AS
5 MAY BE REASONABLY ACCOMMODATED UNLESS PROHIBITED BY ORDER OF
6 COURT.

7 (19) THE OPPORTUNITY TO CONTACT THE DEPARTMENT OF PUBLIC
8 WELFARE CONFIDENTIALLY AND TO MAKE COMPLAINTS REGARDING
9 ALLEGED VIOLATIONS OF THE CHILD'S RIGHTS AND TO BE FREE FROM
10 HARASSMENT AND RETALIATION REGARDING SUCH ACTIONS.

11 (20) PERMISSION TO PARTICIPATE IN RELIGIOUS OBSERVANCES
12 AND ACTIVITIES AND ATTEND RELIGIOUS SERVICES OF THE CHILD'S
13 PREFERENCE OR THE RELIGION OF THE CHILD'S FAMILY OF ORIGIN OR
14 CULTURE AS MAY BE REASONABLY ACCOMMODATED.

15 SECTION 4. COPY OF RESPONSIBILITIES TO BE PROVIDED.

16 A COUNTY AGENCY OR PRIVATE AGENCY SHALL PROVIDE A COPY OF THE
17 DUTIES OF COUNTY AND PRIVATE AGENCIES AND RESOURCE PARENTS
18 REQUIRED BY LAW AND REGULATION TO EACH CHILD IN SUBSTITUTE CARE
19 AND RESOURCE FAMILY TO WHOM THEY PROVIDE SERVICES.

20 Section 5. Effective date.

21 This act shall take effect in 60 days.