

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 302 Session of 2007

INTRODUCED BY MUNDY, BELFANTI, CALTAGIRONE, CARROLL, COHEN, DERMODY, FRANKEL, FREEMAN, GOODMAN, JAMES, JOSEPHS, LEACH, MAHONEY, MANN, PALLONE, PARKER, SOLOBAY, STABACK, THOMAS, YOUNGBLOOD, CURRY, DALEY, SIPTROTH AND GALLOWAY, FEBRUARY 7, 2007

AS RE-REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 5, 2007

AN ACT

1 Providing for certain duties of county and private agencies and
2 resource families regarding children in substitute care AND <—
3 FOR ENFORCEMENT.

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 Children in
8 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, but in no event shall
5 the court maintain jurisdiction after the individual reaches
6 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 "Members of an integrated children's services planning team."
14 The term includes the public and private children and youth
15 caseworker, juvenile probation officer, mental health
16 caseworker, mental retardation caseworker and any other
17 individual who is considered to be a part of a service planning
18 team specific to a child.

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

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

30 "Unreasonable restraint." Controlling behavior or

1 restricting movement through the application of physical,
2 mechanical or chemical intervention. Restraint may not be used
3 for coercion or punishment. Emergency safety interventions
4 required to prevent harm to self or others where less
5 restrictive alternatives have failed shall not constitute
6 unreasonable restraint.

7 Section 3. Children in substitute care.

8 County and private agencies and resource families shall
9 provide the following to a child in substitute care:

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

11 (2) Freedom from discrimination because of race, color,
12 religion, disability, sexual orientation, national origin,
13 age or gender.

14 (3) Freedom from harassment, corporal punishment,
15 unreasonable restraint and physical, sexual, emotional and
16 other abuse.

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

20 (5) Proper nourishment.

21 (6) Clothing that is clean, seasonal and age and gender
22 appropriate.

23 (7) Access to medical, dental, vision, mental health,
24 behavioral health and drug and alcohol abuse and addiction
25 services consistent with the laws of this Commonwealth and
26 for which the child qualifies.

27 (8) Freedom from unreasonable searches of personal
28 belongings and mail, including electronic mail, and freedom
29 to make and receive confidential telephone calls as
30 reasonable under the circumstances unless otherwise provided

1 by law or when there is reason to believe that the child may
2 be in danger of being harmed by an individual communicating
3 with the child through postal mail, electronic mail or
4 telephone calls.

5 (9) Permission to visit and have contact with family
6 members, including siblings, as frequently as possible
7 consistent with the family service plan and the child's
8 permanency plan, unless prohibited by court order, but no
9 less than that prescribed by regulation in effect on the
10 effective date of this paragraph.

11 (10) The ability to contact the child's guardian ad
12 litem, attorney or court-appointed special advocate and
13 members of the integrated children's services planning team.

14 (11) An environment that maintains and reflects the
15 child's culture as may be reasonably accommodated.

16 (12) Education stability and an appropriate education
17 consistent with the laws of this Commonwealth, including the
18 opportunity to participate in ~~culturally appropriate~~ ←
19 extracurricular and cultural and personal enrichment
20 activities that are reasonably available and accommodated and
21 consistent with the child's age and developmental level.

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

25 (14) The ability to receive appropriate life skills
26 training and independent living services to prepare the child
27 for the transition to adulthood, as consistent with Federal
28 laws and the laws of this Commonwealth.

29 (15) Notification of and ability to attend court
30 hearings relating to the child's case and to have the

1 opportunity to be heard.

2 (16) Information about the family service plan and
3 child's permanency plan and review those plans with the
4 child, who shall have an opportunity to review and contribute
5 to them, if the child is at least 14 years of age.

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

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

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

18 (20) If the child has a child of his or her own,
19 assurance of the child's right to exercise parental and
20 decision-making authority over his or her own child and to
21 reside with the child, unless prohibited by order of court.

22 (21) Notification of the child's ability to file a
23 grievance regarding the violation of the responsibilities
24 under this act to be free from harassment and retaliation
25 regarding that action.

26 (22) The grievance policy by the children and youth
27 agency.

28 (23) Permission to participate in religious observances
29 and activities and attend religious services of the child's
30 preference or the religion of the child's family of origin or

1 culture as may be reasonably accommodated.

2 (24) A permanency and transition plan developed in
3 conjunction with the child that provides the child with:

4 (i) Safety.

5 (ii) Stability.

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

11 (iv) Connections with reliable adults.

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

16 Section 4. Copy of responsibilities to be provided.

17 (a) Notification.--A county agency or private agency shall
18 provide a copy of the duties of county and private agencies and
19 resource parents required by law and regulation to each child in
20 substitute care and each resource family and shall post a copy
21 in areas frequented by youth.

22 (b) Prohibition.--County and private agencies and resource
23 parents shall not use a duty under section 3 as a punishment or
24 reward.

25 SECTION 5. ENFORCEMENT.

26 (A) JUVENILE ACT.--THIS ACT SHALL BE ENFORCEABLE IN A
27 PROCEEDING UNDER 42 PA.C.S. CH. 63 (RELATING TO JUVENILE
28 MATTERS).

29 (B) PRIVATE ACTIONS.--THIS ACT DOES NOT ESTABLISH A PRIVATE
30 CAUSE OF ACTION FOR MONETARY DAMAGES.

1 Section 10. Effective date.

2 This act shall take effect in 60 days.