

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 AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 11, 2007

AN ACT

1 Providing for ~~certain duties of county and private agencies and~~ <—
2 ~~resource families regarding~~ PRINCIPLES CONCERNING children in <—
3 substitute care and 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. PURPOSE. <—

10 THE PURPOSE OF THIS ACT IS TO SET FORTH A COMPREHENSIVE SET
11 OF PRINCIPLES FOR CHILDREN IN SUBSTITUTE CARE TO ENSURE THAT
12 THEY ARE TREATED WITH COMPASSION, DIGNITY AND RESPECT.

13 Section ~~2~~ 3. Definitions. <—

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

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

3 (1) has not reached 18 years of age and is in placement;
4 or

5 (2) is in placement after reaching 18 years of age and
6 while engaged in a course of instruction or treatment
7 requests the court to retain jurisdiction until the course of
8 instruction or treatment is completed, but in no event shall
9 the court maintain jurisdiction after the individual reaches
10 21 years of age.

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

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

23 "Private agency." A children and youth social service agency
24 subject to the requirements of 55 Pa. Code Ch. 3680 (relating to
25 administration and operation of a children and youth social
26 service agency).

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

30 "Resource family." A family that provides temporary foster

1 or kinship care for a child who needs out-of-home placement and
2 that may eventually provide permanency for the child, including
3 as an adoptive family.

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

11 ~~Section 3. Children in substitute care.~~ <—

12 ~~County and private agencies and resource families shall~~
13 ~~provide the following to a child in substitute care:~~

14 SECTION 4. PROTECTIONS FOR CHILDREN IN SUBSTITUTE CARE. <—

15 CHILDREN IN SUBSTITUTE CARE SHALL RECEIVE THE FOLLOWING
16 PROTECTIONS:

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

18 ~~(2) Freedom from discrimination because of race, color,~~ <—
19 ~~religion, disability, sexual orientation, national origin,~~
20 ~~age or gender.~~

21 (2) PROTECTION FROM ANY CONDUCT PROHIBITED BY ANY <—
22 APPLICABLE PROVISION OF THE CONSTITUTION OF THE UNITED STATES
23 OR THE CONSTITUTION OF PENNSYLVANIA OR ANY APPLICABLE
24 PROVISION OF ANY STATUTE OF THE UNITED STATES OR THE
25 COMMONWEALTH.

26 (3) Freedom from harassment, corporal punishment,
27 unreasonable restraint and physical, sexual, emotional and
28 other abuse.

29 (4) The ability to live in the least restrictive, most
30 family-like setting that is safe, healthy, comfortable and

1 meets the child's needs.

2 (5) Proper nourishment.

3 (6) Clothing that is clean, seasonal and age and gender
4 appropriate.

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

9 ~~(8) Freedom from unreasonable searches of personal~~ <—
10 ~~belongings and mail, including electronic mail, and freedom~~
11 ~~to make and receive confidential telephone calls as~~
12 ~~reasonable under the circumstances unless otherwise provided~~
13 ~~by law or when there is reason to believe that the child may~~
14 ~~be in danger of being harmed by an individual communicating~~
15 ~~with the child through postal mail, electronic mail or~~
16 ~~telephone calls.~~

17 ~~(9)~~ (8) Permission to visit and have contact with family <—
18 members, including siblings, as frequently as possible
19 consistent with the family service plan and the child's
20 permanency plan, unless prohibited by court order, but no
21 less than that prescribed by regulation in effect on the
22 effective date of this paragraph.

23 ~~(10)~~ (9) The ability to contact the child's guardian ad <—
24 litem, attorney or court-appointed special advocate and
25 members of the integrated children's services planning team.

26 ~~(11)~~ (10) An environment that maintains and reflects the <—
27 child's culture as may be reasonably accommodated.

28 ~~(12)~~ (11) Education stability and an appropriate <—
29 education consistent with the laws of this Commonwealth,
30 including the opportunity to participate in extracurricular

1 and cultural and personal enrichment activities that are
2 reasonably available and accommodated and consistent with the
3 child's age and developmental level.

4 ~~(13)~~ (12) The ability to work and develop job skills at <—
5 an age-appropriate level, consistent with the laws of this
6 Commonwealth and as may be reasonably accommodated.

7 ~~(14)~~ (13) The ability to receive appropriate life skills <—
8 training and independent living services to prepare the child
9 for the transition to adulthood, as consistent with Federal
10 laws and the laws of this Commonwealth.

11 ~~(15)~~ (14) Notification of and ability to attend court <—
12 hearings relating to the child's case and to have the
13 opportunity to be heard.

14 ~~(16)~~ (15) Information about the family service plan and <—
15 child's permanency plan and review those plans with the
16 child, who shall have an opportunity to review and contribute
17 to them, if the child is at least 14 years of age.

18 ~~(17)~~ (16) Confidentiality maintained consistent with the <—
19 laws of this Commonwealth.

20 ~~(18)~~ (17) First consideration for placement with <—
21 relatives, including siblings. In the absence of relatives,
22 to have any kinship resource be considered as the preferred
23 placement resource if such placement is consistent with the
24 best interest of the child and the needs of other children in
25 the kinship residence.

26 ~~(19)~~ (18) Consideration of any previous resource family <—
27 as the preferred placement resource, if relative and kinship
28 resources are unavailable and the placement resource is
29 consistent with the best interest of the child.

30 ~~(20) If the child has a child of his or her own,~~ <—

1 ~~assurance of the child's right to exercise parental and~~
2 ~~decision making authority over his or her own child and to~~
3 ~~reside with the child, unless prohibited by order of court.~~

4 ~~(21) Notification of the child's ability to file a~~
5 ~~grievance regarding the violation of the responsibilities~~
6 ~~under this act to be free from harassment and retaliation~~
7 ~~regarding that action.~~

8 ~~(22) The grievance policy by the children and youth~~

9 (19) IF THE CHILD IN SUBSTITUTE CARE HAS A CHILD OF HIS <—
10 OR HER OWN, AND THAT CHILD HAS BEEN PLACED IN THE SAME
11 RESOURCE FAMILY WITH THE PARENT, THE CHILD IN SUBSTITUTE CARE
12 MAY EXERCISE PARENTAL AND DECISION-MAKING AUTHORITY OVER HIS
13 OR HER OWN CHILD, SO LONG AS SAFETY CONCERNS ARE NOT AN
14 ISSUE, UNLESS DETERMINED OTHERWISE BY THE JUVENILE COURT.

15 (20) THE ABILITY TO FILE A GRIEVANCE REGARDING A DENIAL
16 OF THE PROTECTIONS PROVIDED UNDER THIS SECTION.

17 (21) RECEIPT OF INFORMATION ABOUT THE GRIEVANCE POLICY
18 FROM THE CHILDREN AND YOUTH agency.

19 ~~(23)~~ (22) Permission 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.

23 ~~(24)~~ (23) A permanency and transition plan developed in <—
24 conjunction with the child that provides the child with:

25 (i) Safety.

26 (ii) Stability.

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

1 treatment.

2 (iv) Connections with reliable adults.

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

7 ~~Section 4. Copy of responsibilities to be provided.~~ <—

8 ~~(a) Notification.~~

9 SECTION 5. COPY OF LIST OF PROTECTIONS TO BE PROVIDED. <—

10 A county agency or private agency shall provide a copy of the
11 ~~duties of county and private agencies and resource parents~~ <—
12 ~~required by law and regulation~~ LIST OF PROTECTIONS PROVIDED <—
13 UNDER SECTION 4 to each child in substitute care and each
14 resource family and shall post a copy AT THE AGENCY in areas <—
15 frequented by youth.

16 ~~(b) Prohibition. County and private agencies and resource~~ <—
17 ~~parents shall not use a duty under section 3 as a punishment or~~
18 ~~reward.~~

19 Section ~~5~~ 6. Enforcement. <—

20 (a) Juvenile Act.--This act shall ONLY be enforceable in a <—
21 proceeding under 42 Pa.C.S. Ch. 63 (relating to juvenile
22 matters).

23 (b) Private actions.--This act does not establish a private
24 cause of action ~~for monetary damages.~~ <—

25 Section 10. Effective date.

26 This act shall take effect in 60 days.