

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 AND YOUNGBLOOD, MARCH 17, 2010

REFERRED TO COMMITTEE ON CHILDREN AND YOUTH, MARCH 17, 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;

15 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 under section 405 of the act of June 24, 1937
9 (P.L.2017, No.396), known as the County Institution District
10 Law, and supervised by the Department of Public Welfare under
11 Article IX of the act of June 13, 1967 (P.L.31, No.21), known as
12 the Public Welfare Code.

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

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

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

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 foster care.

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

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

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

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

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

22 (5) Proper nourishment.

23 (6) Clothing that is clean, seasonal and age and gender
24 appropriate.

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

29 (8) Information related to a treatment plan under
30 paragraph (7), including, but not limited to, medication and

1 medication options and the opportunity to communicate a
2 preference regarding a treatment plan, medication or
3 medication options. If a child objects to a treatment plan,
4 his or her objection shall be noted in the child's case
5 record.

6 (9) Consent to medical and mental health treatment
7 consistent with the requirements of 55 Pa. Code § 3130.91
8 (relating to consent to treatment).

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

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

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

21 (13) Education stability and an appropriate education
22 consistent with the laws of this Commonwealth, including the
23 opportunity to participate in extracurricular, cultural and
24 personal enrichment activities that are reasonably available
25 and accommodated and consistent with the child's age and
26 developmental level.

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

30 (15) The ability to receive appropriate life skills

1 training and independent living services to prepare the child
2 for the transition to adulthood, as consistent with Federal
3 and State laws.

4 (16) Notice of and the ability to attend court hearings
5 relating to the child's case and to have the opportunity to
6 be heard.

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

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

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

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

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

30 (22) A permanency plan and transition plan developed in

1 conjunction with the child, and reviewed with the child, that
2 provides the child with:

3 (i) Safety.

4 (ii) Stability.

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

10 (iv) Connections with reliable adults.

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

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

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

21 Section 4. Grievance policy and procedure.

22 (a) Model grievance policy and procedure.--The department
23 shall develop a model grievance policy and procedure for use by
24 county and private agencies consistent with the requirements of
25 55 Pa. Code §§ 3130.88 (relating to children's grievances) and
26 3680.48 (relating to children's grievances) and incorporating
27 the provisions of section 3. The model grievance policy and
28 procedure shall be made available to all county and private
29 agencies for their use within 30 days of the effective date of
30 this act.

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

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

7 (a) Notice to child.--

8 (1) For a child who is placed in foster care on or after
9 the effective date of this act, a county or private agency
10 shall explain the requirements for children in substitute
11 care set forth under section 3 as part of the explanation of
12 the agency's grievance policy and procedure. A notation shall
13 be made in the child's record to affirm that the child is
14 aware of the requirements for children in foster care under
15 section 3. The explanation of the grievance policy and
16 procedure shall be consistent with the requirements of 55 Pa.
17 Code §§ 3130.88 (relating to children's grievances) and
18 3680.48 (relating to children's grievances).

19 (2) For a child who was in placement prior to the
20 effective date of this act and has already been provided with
21 an explanation of a county or private agency's grievance
22 policy and procedure, a county or private agency shall
23 explain the agency's new grievance policy and procedure that
24 incorporates the requirements for children in foster care
25 under section 3. A second notation shall be made in the
26 child's record to affirm that the child is aware of the new
27 grievance policy and procedure and the requirements for
28 children in foster care set forth under section 3. The
29 explanation of the grievance policy and procedure shall be
30 consistent with the requirements of 55 Pa. Code §§ 3130.88

1 and 3680.48.

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

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

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

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

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

21 Section 6. Private actions.

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

24 Section 7. Effective date.

25 This act shall take effect in 120 days.