

Resources on:

Rights of Children in Foster Care

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## **Rights of Children in Foster Care**

The idea of a bill of rights for children in foster care is not a new one. The following was prepared in 1973 and ratified in Philadelphia (Source: National Foster Parent Association, <http://nfpainc.org/BoardBook/BB2.html#2-5>)

### **Bill of Rights for Children in Foster Care**

Even more than for other children, society has a responsibility along with parents for the well-being of children in foster care. Citizens are responsible for acting to insure their welfare.

Every child in foster care is endowed with the rights inherently belonging to all children. In addition, because of the temporary or permanent separation from and loss of parents and other family members, the child requires special safeguards, resources, and care.

**EVERY CHILD IN FOSTER CARE HAS THE INHERENT RIGHT:**

....to be cherished by a family of his own, either his family helped by readily available services and supports to reassume his care, or an adoptive family or by plan, a continuing foster family.

....to be nurtured by foster parents who have been selected to meet his individual needs, and who are provided services and supports, including specialized education, so that they can grow in their ability to enable the child to reach his potential.

....to receive sensitive, continuing help in understanding and accepting the reasons for his own family's inability to take care of him, and in developing confidence in his own self worth.

....to receive continuing loving care and respect as a unique human being...a child growing in trust in himself and others.

....to grow up in freedom and dignity in a neighborhood of people who accept him with understanding, respect and friendship.

....to receive help in overcoming deprivation or whatever distortion in his emotional, physical, intellectual, social and spiritual growth may have resulted from his early experiences.

....to receive education, training, and career guidance to prepare for a useful and satisfying life.

....to receive preparation for citizenship and parenthood through interaction with foster parents and other adults who are consistent role model.

....to be represented by an attorney at law in administrative or judicial proceedings with access to fair hearings and court review of decisions, so that his best interests are safeguarded.

....to receive a high quality of child welfare services, including involvement of the natural parents and his own involvement in major decisions that affect his life.

## **California**

In 2001, California enacted the following bill of rights along with a provision to its Health and Safety Code requiring that foster care providers must give every school-age child and his/her authorized representative an age-appropriate orientation and an explanation of the child's rights. Furthermore, any facility licensed to care for six or more children in foster care must post those rights in the form of posters provided by the State Foster Care Ombudsperson (Section 1530.91). The rights are listed in the Welfare and Institutions Code (Section 16001.9) as:

1. To live in a safe, healthy, and comfortable home where he or she is treated with respect.
2. To be free from physical, sexual, emotional, or other abuse, or corporal punishment.
3. To receive adequate and healthy food, adequate clothing, and, for youth in group homes, an allowance.
4. To receive medical, dental, vision, and mental health services.
5. To be free of the administration of medication or chemical substances, unless authorized by a physician.
6. To contact family members, unless prohibited by court order, and social workers, attorneys, foster youth advocates and supporters, Court Appointed Special Advocates (CASA), and probation officers.
7. To visit and contact brothers and sisters, unless prohibited by court order.
8. To contact the Community Care Licensing Division of the State Department of Social Services or the State Foster Care Ombudsperson regarding violations of rights, to speak to representatives of these offices confidentially, and to be free from threats or punishment for making complaints.

9. To make and receive confidential telephone calls and send and receive unopened mail, unless prohibited by court order.
10. To attend religious services and activities of his or her choice.
11. To maintain an emancipation bank account and manage personal income, consistent with the child's age and developmental level, unless prohibited by the case plan.
12. To not be locked in any room, building, or facility premises, unless placed in a community treatment facility.
13. To attend school and participate in extracurricular, cultural, and personal enrichment activities, consistent with the child's age and developmental level.
14. To work and develop job skills at an age-appropriate level that is consistent with state law.
15. To have social contacts with people outside of the foster care system, such as teachers, church members, mentors, and friends.
16. To attend Independent Living Program classes and activities if he or she meets age requirements.
17. To attend court hearings and speak to the judge.
18. To have storage space for private use.
19. To review his or her own case plan if he or she is over 12 years of age and to receive information about his or her out-of-home placement and case plan, including being told of changes to the plan.
20. To be free from unreasonable searches of personal belongings.
21. To confidentiality of all juvenile court records consistent with existing law.

California legislation can be found at <http://www.leginfo.ca.gov/>

California Ombudsman for Foster Care

Phone: 1-877-846-1602

Email: [fosteryouthhelp@dss.ca.gov](mailto:fosteryouthhelp@dss.ca.gov).

Website: <http://www.fosteryouthhelp.ca.gov/>

## **Florida**

Section 39.4085 of Florida Statute provides the following rights for children in "shelter or foster care:"

1. To receive a copy of this act and have it fully explained to them when they are placed in the custody of the department.
2. To enjoy individual dignity, liberty, pursuit of happiness, and the protection of their civil and legal rights as persons in the custody of the state.
3. To have their privacy protected, have their personal belongings secure and transported with them, and, unless otherwise ordered by the court, have

uncensored communication, including receiving and sending unopened communications and having access to a telephone.

4. To have personnel providing services who are sufficiently qualified and experienced to assess the risk children face prior to removal from their homes and to meet the needs of the children once they are in the custody of the department.
5. To remain in the custody of their parents or legal custodians unless and until there has been a determination by a qualified person exercising competent professional judgment that removal is necessary to protect their physical, mental, or emotional health or safety.
6. To have a full risk, health, educational, medical and psychological screening and, if needed, assessment and testing upon adjudication into foster care; and to have their photograph and fingerprints included in their case management file.
7. To be referred to and receive services, including necessary medical, emotional, psychological, psychiatric, and educational evaluations and treatment, as soon as practicable after identification of the need for such services by the screening and assessment process.
8. To be placed in a home with no more than one other child, unless they are part of a sibling group.
9. To be placed away from other children known to pose a threat of harm to them, either because of their own risk factors or those of the other child.
10. To be placed in a home where the shelter or foster caregiver is aware of and understands the child's history, needs, and risk factors.
11. To be the subject of a plan developed by the counselor and the shelter or foster caregiver to deal with identified behaviors that may present a risk to the child or others.
12. To be involved and incorporated, where appropriate, in the development of the case plan, to have a case plan which will address their specific needs, and to object to any of the provisions of the case plan.
13. To receive meaningful case management and planning that will quickly return the child to his or her family or move the child on to other forms of permanency.
14. To receive regular communication with a caseworker, at least once a month, which shall include meeting with the child alone and conferring with the shelter or foster caregiver.
15. To enjoy regular visitation, at least once a week, with their siblings unless the court orders otherwise.
16. To enjoy regular visitation with their parents, at least once a month, unless the court orders otherwise.
17. To receive a free and appropriate education; minimal disruption to their education and retention in their home school, if appropriate; referral to the

child study team; all special educational services, including, where appropriate, the appointment of a parent surrogate; the sharing of all necessary information between the school board and the department, including information on attendance and educational progress.

18. To be able to raise grievances with the department over the care they are receiving from their caregivers, caseworkers, or other service providers.
19. To be heard by the court, if appropriate, at all review hearings.
20. To have a guardian ad litem appointed to represent, within reason, their best interests and, where appropriate, an attorney ad litem appointed to represent their legal interests; the guardian ad litem and attorney ad litem shall have immediate and unlimited access to the children they represent.
21. To have all their records available for review by their guardian ad litem and attorney ad litem if they deem such review necessary.
22. To organize as a group for purposes of ensuring that they receive the services and living conditions to which they are entitled and to provide support for one another while in the custody of the department.
23. To be afforded prompt access to all available state and federal programs, including, but not limited to: Early Periodic Screening, Diagnosis, and Testing (EPSDT) services, developmental services programs, Medicare and supplemental security income, Children's Medical Services, and programs for severely emotionally disturbed children.

Florida Statutes are available online at <http://www.leg.state.fl.us/Statutes/>

## **Maine**

The Maine Youth Advisory Team includes a list of rights and responsibilities in its Handbook.

1. To be protected from physical, emotional and sexual abuse and/or neglect.
2. To be placed in a substitute care setting that can best meet your needs.
3. To be told why you came into foster care and why you're still in foster care.
4. To be placed with siblings if it's possible and the Department believes it's in your best interest.
5. To visit and talk with biological parents, siblings, relatives, and other individuals important to you unless restricted by the court and/or DHS, or if you don't want to. Many factors are taken into consideration about visits.
6. To learn about and participate in administrative case reviews, court reviews and case planning conferences. You can attend these reviews and conferences or have input by writing or calling your caseworker.
7. To receive honest information about the decisions the Department is making that affect your life.
8. To be listened to, respected and heard; and to listen to, respect and hear others.

9. To have visits and talk privately with your caseworker at least once every three months.
10. To be able to talk with an adult you trust about any type of abuse or neglect by your biological parents, foster parents, other caregivers or any other person.
11. To work with your social worker and care provider to make rules and to responsibly follow them.
12. To help make a visitation plan.
13. To keep scheduled appointments or if you need to cancel, call ahead of time.
14. To get regular medical, dental and eye exams.
15. To be placed in the least restrictive setting that will meet your needs.
16. To participate in school, religious, cultural and other activities.
17. To have all information in your individual and family case kept confidential.
18. To go to school.
19. To have privacy and respect others' privacy.
20. To write a formal complaint to the Department about the services you are unhappy with.
21. To have a permanent plan for placement within twelve months of coming into custody, and to take part in developing and committing yourself to this plan.

## **New Jersey**

New Jersey Revised Statute §9:6B-4 lists the following rights for children placed outside their home:

1. To placement outside his home only after the applicable department has made every reasonable effort, including the provision or arrangement of financial or other assistance and services as necessary, to enable the child to remain in his home;
2. To the best efforts of the applicable department, including the provision or arrangement of financial or other assistance and services as necessary, to place the child with a relative;
3. To the best efforts of the applicable department, including the provision or arrangement of financial or other assistance and services as necessary, to place the child in an appropriate setting in his own community;
4. To the best efforts of the applicable department to place the child in the same setting with the child's sibling if the sibling is also being placed outside his home;
5. To visit with the child's parents or legal guardian immediately after the child has been placed outside his home and on a regular basis thereafter, and to otherwise maintain contact with the child's parents or legal guardian, and to receive assistance from the applicable department to facilitate that

contact, including the provision or arrangement of transportation as necessary;

6. To visit with the child's sibling on a regular basis and to otherwise maintain contact with the child's sibling if the child was separated from his sibling upon placement outside his home, including the provision or arrangement of transportation as necessary;
7. To placement in the least restrictive setting appropriate to the child's needs and conducive to the health and safety of the child;
8. To be free from physical or psychological abuse and from repeated changes in placement before the permanent placement or return home of the child;
9. To have regular contact with any caseworker assigned to the child's case who is employed by the applicable department or any agency or organization with which the applicable department contracts to provide services and the opportunity, as appropriate to the age of the child, to participate in the planning and regular review of the child's case, and to be informed on a timely basis of changes in any placement plan which is prepared pursuant to law or regulation and the reasons therefor in terms and language appropriate to the child's ability to understand;
10. To have a placement plan, as required by law or regulation, that reflects the child's best interests and is designed to facilitate the permanent placement or return home of the child in a timely manner that is appropriate to the needs of the child;
11. To services of a high quality that are designed to maintain and advance the child's mental and physical well-being;
12. To be represented in the planning and regular review of the child's case, including the placement and development of, or revisions to, any placement plan which is required by law or regulation and the provision of services to the child, the child's parents or legal guardian and the temporary caretaker, by a person other than the child's parent or legal guardian or temporary caretaker who will advocate for the best interests of the child and the enforcement of the rights established pursuant to this act, which person may be the caseworker, as appropriate, or a person appointed by the court for this purpose;
13. To receive an educational program which will maximize the child's potential;
14. To receive adequate, safe and appropriate food, clothing and housing;
15. To receive adequate and appropriate medical care; and
16. To be free from unwarranted physical restraint and isolation.

## **New York**

Lawyers for Children, a New York City organization, publishes an online booklet, "Your Rights in Foster Care." In it is a list of the following rights: (Source: <http://www.lawyersforchildren.org/>)

Foster parents must:

- arrange for kids to go to school
- not leave kids under 10 alone without a competent adult
- not care for more than 2 infants (under 2 years) except if the infants are siblings
- give good quality food, at regular hours, in sufficient quantity and size, letting kids eat at the table with the family
- keep clothing clean and repaired; get kids sufficient quantity of clothing, season appropriate, of style and quality not to distinguish them from other kids in the community
- give kids a brush, a comb, a toothbrush, towels, and storage space
- provide a lighted study area
- respect biological parents' religious preference
- cooperate with agency about the discharge plan (e.g., visiting) and inform agency about child's progress
- give child support, recognition, and attention in atmosphere of acceptance, kindness, and understanding
- let agency into home to investigate complaints
- tell agency about changes in foster family status
- cooperate with regular biweekly visit or communication with siblings or half siblings placed apart
- agree to redisclose HIV information only to approved people, accompanied with standard notice
- provide proper medical and dental care.

## **South Carolina**

Nexuskids, an interdisciplinary effort from the Children's Law Office of the University of South Carolina School of Law, maintains a website containing a bill or rights written by GOALL (Go Out And Learn Life), the Youth Advisory Council created to help the Department of Social Services improve its independent living programs. (Source: <http://www.nexuskids.org/FC%20Bill%20of%20Rights.htm>)

I have the right to:

1. Be treated as a normal and important human being.
2. Be cared for with love and affection.
3. Be provided adequate food, shelter and clothing.
4. Be heard and involved with the decisions of my life.

5. Be informed about and have involvement with my birth family and siblings, including the right to reject visits or contacts.
6. Complete information and direct answers to my questions about choices, services and decisions.
7. Reasonable access to my caseworker or a person in the agency who can make decisions on my behalf.
8. Express my opinion and have it treated respectfully.
9. Request the support and services that I need.
10. Individualized care and attention based on my unique skills and goals.
11. Ongoing contact with significant people in my life such as teachers, friends, my personal supports and relatives.
12. Access to my case record to help me meet my goals.
13. Personal property, personal space and my privacy.
14. Be notified of changes that affect my permanence, safety, stability or well-being.
15. Practice my own religion.
16. Know what is expected of me in my foster placement.
17. Be cared for without regard to race, sex, religion and disability.
18. Caretakers who are interested in me and will support my involvement in social and school activities.
19. Have goals.
20. A plan for my future and the support I need to accomplish it.

## **Vermont**

The Children's Bill of Rights protects the legal and civil rights of all children in state care. It provides in part (source: Rhode Island Department of Children, Youth & Families, Youth Advisory Board; [http://www.dcyf.state.ri.us/questions/quest\\_youth.shtml](http://www.dcyf.state.ri.us/questions/quest_youth.shtml)):

- No child in DCYF care shall be deprived of any personal property or civil rights without due process.
- Each child shall receive humane and dignified treatment with full respect for his or her personal dignity and right to privacy.
- Each child may communicate with any individual, group or agency, consistent with the child's treatment plan.
- Regarding children in secure facilities, DCYF shall specify when restraint and seclusion may be used, and when and how communication by mail or phone may be restricted.
- Each child in a secure facility may receive visitors, including his or her attorney, guardian ad litem, special advocate, Child Advocate, physicians, mental health professionals, and members of the clergy.

- A child is entitled to a free and appropriate education immediately upon being placed.
- Child victims as witnesses are afforded statutory protections.
- A child cannot be denied drug treatment solely because of DCYF placement.
- Violations of the Children's Bill of Rights are handled exclusively by
- the Family Court.
- The Children's Bill of Rights must be posted in a conspicuous place in all secure facilities and /or residential placement facilities.

### **Canada**

The National Youth in Care Network publishes *The Real Deal*, a booklet of rights, resources and opportunities for youth in and from care in Ontario. The booklet is available online at <http://www.hri.ca/realdeal/>