

1                                   **H. B. 2434**

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3                    (By Delegates Cowles, C. Miller, Stowers, Mahan,  
4                                   Hatfield and Hall)

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6                    [Introduced January 12, 2011; referred to the  
7                    Committee on the Judiciary.]

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10 A BILL to amend the Code of West Virginia, 1931, as amended, by  
11       adding thereto a new section, designated §49-2-12b, relating  
12       to establishing a bill of rights for foster parents.

13 *Be it enacted by the Legislature of West Virginia:*

14       That the Code of West Virginia, 1931, as amended, be amended  
15 by adding thereto a new section, designated §49-2-12b, to read as  
16 follows:

17 **ARTICLE 2.   STATE RESPONSIBILITIES FOR THE PROTECTION AND CARE OF**  
18                                   **CHILDREN.**

19 **§49-2-12b.   Foster Parent's Bill of Rights.**

20       (a) Legislative Findings -- Foster parents provide a critical  
21 service to the State of West Virginia caring for thousands of  
22 foster children every year, allowing the State of West Virginia  
23 substantial financial savings each year through providing loving  
24 homes enabling children to endure the hardship associated with  
25 separation from family at extremely low cost to the state. These

1 services come with tremendous sacrifice and selflessness,  
2 representing a commitment to make a meaningful difference during  
3 the most important years of a person's lifetime.

4 (b) The Department of Human Resources shall ensure that each  
5 foster parent shall have all of the following rights:

6 (1) The right to be treated with dignity, respect, trust,  
7 value and consideration as a primary provider of foster care and  
8 a member of the professional team caring for foster children.

9 (2) The right to receive information concerning the rights  
10 enumerated in this section.

11 (3) The right to a concise written explanation of their role  
12 as foster parents in partnership with children and their families,  
13 the department and other providers, the role of the department and  
14 the rights and role of the members of the birth family of a child  
15 in foster care.

16 (4) The right to training and support for the purpose of  
17 improving skills in providing daily care and meeting the needs of  
18 the child in foster care.

19 (5) The right to training, consultation and assistance in  
20 evaluating, identifying and accessing services to meet their needs  
21 related to their role as foster care providers. This includes, but  
22 is not limited to, all foster care policies, the Foster Parent  
23 Handbook and a mediation process.

24 (6) The right to provide input to the department in

1 identifying the types of resources and services that would meet the  
2 needs of children currently in their care and of their families,  
3 and advocate for the same without threat of reprisal.

4 (7) The right to information concerning behavioral problems,  
5 health history, educational status, cultural and family background  
6 and other issues relative to the child which are known to the  
7 department at the time the child is placed in foster care prior to  
8 the child's placement with a foster parent or parents. When the  
9 department knows this information after placement, the department  
10 shall make that information available to the foster parent as soon  
11 as practicable.

12 (8) The right to a written explanation of the plan concerning  
13 the placement of a child in the foster parent's home. For  
14 emergency placements where time does not allow prior preparation of  
15 the explanation, the department shall provide an explanation within  
16 seventy-two hours. Prior to placement, the department shall allow  
17 the foster parent to review a written summary of information  
18 concerning the child, including, but not limited to, assessments,  
19 evaluations and case plans and allow the foster parent to assist in  
20 determining if the child would be a proper placement for the  
21 prospective foster family. For emergency placements where time  
22 does not allow prior review of the information, the department  
23 shall provide the information within seventy-two hours of  
24 placement. Confidential information shall be kept confidential by

1 the foster parents.

2       (9) The right to a staff person representing the department on  
3 call twenty-four hours a day seven days a week, for the purpose of  
4 aiding the foster parent in receiving departmental assistance.

5       (10) The right to fair and equitable payments from the  
6 Department of Health and Human Services based on a system of daily  
7 board rates and other financial reimbursement as specified in a  
8 plan adopted by the department after consultation with foster  
9 parents, subject to the availability of funds.

10       (11) The right to accept or refuse placement within their  
11 home, or to request, upon reasonable notice to the department, the  
12 removal of a child from their home for good cause without threat of  
13 reprisal for acting on the good cause.

14       (12) The right to information of scheduled meetings and  
15 appointments concerning the foster child and permission for the  
16 foster parent to actively participate in and provide input to be  
17 used in the case planning and decision-making process regarding the  
18 child in foster care, including, but not limited to,  
19 multidisciplinary team meetings, foster care reviews, individual  
20 educational planning meetings and medical appointments.

21       (13) The right to request that a person or persons serve as  
22 volunteer advocate and to be present at all meetings with the  
23 department, including, but not limited to, individualized service  
24 planning, administrative hearings, the grievance/mediation process,

1 the adoption process and the allegation process where the foster  
2 parent is present. All communications received by the volunteer  
3 advocate shall be in strict confidence.

4 (14) The right to notice and an opportunity to be heard,  
5 including timely information concerning all court hearings. This  
6 notification may include, but is not limited to, notice of the date  
7 and time of the court hearing, the name of the judge or hearing  
8 officer assigned to the case, the guardian ad litem, the location  
9 of the hearing and the court docket number. The notification shall  
10 be made upon receipt of this information by the department.  
11 Although not a party to the case, the foster parent may attend  
12 court hearings at the discretion of the judge.

13 (15) The right to communication with professionals who work  
14 with the foster child, including, but not limited to, therapists,  
15 physicians and teachers who work directly with the child.

16 (16) The right to communicate with the child's birth family,  
17 other foster parents of the child and prospective and finalized  
18 adoptive parents of the child and without the threat of reprisal.

19 (17) The right to necessary information on an ongoing basis  
20 which is relevant to the care of the child, including timely  
21 information on changes in the case plan or termination of the  
22 placement and reasons for the changes or termination of placement  
23 to the foster parent except in the instances of immediate response  
24 of child protective service.

1       (18) The right to first consideration as the resource for a  
2 child in a foster parent's home who becomes free for adoption or  
3 another planned permanent living arrangement.

4       (19) The right to a period of respite upon the request of a  
5 foster parent. The foster parent shall provide reasonable notice  
6 of a request for respite.

7       (20) The right to information, in person and in writing, of  
8 any allegations of maltreatment of children in the home of the  
9 foster parent alleged to have been perpetrated by a member of the  
10 foster parent's household, the process for disposition of these  
11 allegations and any review process for reports of indicated child  
12 abuse and neglect upon receipt of the allegations. A written  
13 notification of any report in which a finding is not indicated on  
14 the county level shall be provided to a foster parent within five  
15 days of the findings.

16       (21) The right to copies of all information relative to their  
17 family and services contained in the personal foster home record.

18       (22) Except in emergencies, foster parents shall be given two  
19 weeks' advance notice and a written statement of the reasons before  
20 a child is removed from their care. When requesting removal of a  
21 child from their home, foster parents shall give two weeks' advance  
22 notice, consistent with division policy, to the child's caseworker,  
23 except in emergency situations. Recognizing the critical nature of  
24 attachment for children, if a child reenters the foster care system

1 and is not placed in a relative home, the child's former foster  
2 parents shall be given first consideration for placement of the  
3 child.

NOTE: The purpose of this bill is to provide a bill of rights  
for foster parents.

§49-2-12b is new; therefore it has been completely  
underscored.