

H. B. 2264

(By Delegate Cowles)

[Introduced January 23, 2015; referred to the
Committee on the Judiciary.]

**FISCAL
NOTE**

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

Be it enacted by the Legislature of West Virginia:

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

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

§49-2-12b. Foster Parent’s Bill of Rights.

(a) Legislative Findings -- Foster parents provide a critical service to the State of West
Virginia caring for thousands of foster children every year, allowing the State of West Virginia
substantial financial savings each year through providing loving homes enabling children to endure
the hardship associated with separation from family, at extremely low cost to the state. These
services come with tremendous sacrifice and selflessness, representing a commitment to make a

1 meaningful difference during the most important years of a person's lifetime.

2 (b) The Department of Health and Human Resources shall ensure that each foster parent has
3 all of the following rights:

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

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

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

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

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

15 (6) The right to provide input to the department in identifying the types of resources and
16 services that would meet the needs of children currently in their care and of their families, and
17 advocate for the same without threat of reprisal.

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

1 (8) The right to a written explanation of the plan concerning the placement of a child in the
2 foster parent's home. For emergency placements where time does not allow prior preparation of the
3 explanation, the department shall provide an explanation within seventy-two hours. Prior to
4 placement, the department shall allow the foster parent to review a written summary of information
5 concerning the child including, but not limited to, assessments, evaluations and case plans and allow
6 the foster parent to assist in determining if the child would be a proper placement for the prospective
7 foster family. For emergency placements where time does not allow prior review of the information,
8 the department shall provide the information within seventy-two hours of placement. Confidential
9 information shall be kept confidential by the foster parents.

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

12 (10) The right to fair and equitable payments from the Department of Health and Human
13 Resources based on a system of daily board rates and other financial reimbursement as specified in
14 a plan adopted by the department after consultation with the foster parent, subject to the availability
15 of funds.

16 (11) The right to accept or refuse placement within the home or to request, upon reasonable
17 notice to the department, the removal of a child from the home for good cause without threat of
18 reprisal.

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

1 meetings and medical appointments.

2 (13) The right to request that a person or persons serve as volunteer advocate and to be
3 present at all meetings with the department including, but not limited to, individualized service
4 planning, administrative hearings, the grievance/mediation process, the adoption process and the
5 allegation process where the foster parent is present. All communications received by the volunteer
6 advocate shall be in strict confidence.

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

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

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

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

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

1 (19) The right to a period of respite upon the request, with reasonable notice, of a foster
2 parent.

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

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

11 (22) Except in emergencies, foster parents shall be given two weeks advance notice and a
12 written statement of the reasons before a child is removed from their care. When requesting removal
13 of a child from their home, foster parents shall give two weeks advance notice, consistent with
14 division policy, to the child's caseworker except in emergency situations. Recognizing the critical
15 nature of attachment for children, if a child reenters the foster care system and is not placed in a
16 relative's home, the child's former foster parents shall be given first consideration for placement of
17 the 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.