

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2682

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KESSINGER AND LOVEJOY

[Introduced January 25, 2019; Referred
to the Committee on Senior, Children, and Family
Issues then Health and Human Resources.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §49-2-106a, relating to establishing a bill of rights for foster parents.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.

§49-2-106a. Foster parent’s bill of rights.

1 (a) Legislative Findings. – Foster parents provide a critical service to the State of West
2 Virginia caring for thousands of foster children every year, allowing the State of West Virginia
3 substantial financial savings each year through providing loving homes enabling children to
4 endure the hardship associated with separation from family at extremely low cost to the state.
5 These services come with tremendous sacrifice and selflessness, representing a commitment to
6 make a meaningful difference during the most important years of a person’s lifetime.

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

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

11 (2) The right to receive information concerning the rights enumerated in this section;

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

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

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

20 (6) The right to provide input to the department in identifying the types of resources and
21 services that would meet the needs of children currently in their care and of their families, and

22 advocate for the same without threat of reprisal;

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

28 (8) The right to a written explanation of the plan concerning the placement of a child in the
29 foster parent's home. For emergency placements where time does not allow prior preparation of
30 the explanation, the department shall provide an explanation within 72 hours. Prior to placement,
31 the department shall allow the foster parent to review a written summary of information concerning
32 the child, including, but not limited to, assessments, evaluations, and case plans and allow the
33 foster parent to assist in determining if the child would be a proper placement for the prospective
34 foster family. For emergency placements where time does not allow prior review of the
35 information, the department shall provide the information within 72 hours of placement.
36 Confidential information shall be kept confidential by the foster parents;

37 (9) The right to a staff person representing the department on call 24 hours a day, seven
38 days a week, for the purpose of aiding the foster parent in receiving departmental assistance;

39 (10) The right to fair and equitable payments from the Department of Health and Human
40 Resources based on a system of daily board rates and other financial reimbursement as specified
41 in a plan adopted by the department after consultation with foster parents, subject to the
42 availability of funds;

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

46 (12) The right to information of scheduled meetings and appointments concerning the
47 foster child and permission for the foster parent to actively participate in and provide input to be

48 used in the case planning and decision-making process regarding the child in foster care,
49 including, but not limited to, multidisciplinary team meetings, foster care reviews, individual
50 educational planning meetings and medical appointments;

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

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

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

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

66 (17) The right to necessary information on an ongoing basis which is relevant to the care
67 of the child, including timely information on changes in the case plan or termination of the
68 placement and reasons for the changes or termination of placement to the foster parent except in
69 the instances of immediate response of child protective service;

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

72 (19) The right to a period of respite upon the request of a foster parent. The foster parent
73 shall provide reasonable notice of a request for respite;

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

80 (21) The right to copies of all information relative to their family and services contained in
81 the personal foster home record; and,

82 (22) Except in emergencies, foster parents shall be given two weeks' advance notice and
83 a written statement of the reasons before a child is removed from their care. When requesting
84 removal of a child from their home, foster parents shall give two weeks' advance notice, consistent
85 with department policy, to the child's caseworker, except in emergency situations. Recognizing
86 the critical nature of attachment for children, if a child reenters the foster care system and is not
87 placed in a relative home, the child's former foster parents shall be given first consideration for
88 placement of the child.

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

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.