

HOUSE No. 104

The Commonwealth of Massachusetts

PRESENTED BY:

Joseph D. McKenna and David F. DeCoste

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act establishing a foster parents' bill of rights.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Joseph D. McKenna</i>	<i>18th Worcester</i>
<i>David F. DeCoste</i>	<i>5th Plymouth</i>
<i>Donald R. Berthiaume, Jr.</i>	<i>5th Worcester</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Peter J. Durant</i>	<i>6th Worcester</i>
<i>Ryan C. Fattman</i>	<i>Worcester and Norfolk</i>
<i>Kevin J. Kuros</i>	<i>8th Worcester</i>
<i>Mathew Muratore</i>	<i>1st Plymouth</i>

HOUSE No. 104

By Messrs. McKenna of Webster and DeCoste of Norwell, a petition (accompanied by bill, House, No. 104) of Joseph D. McKenna and others relative to the rights of foster parents. Children, Families and Persons with Disabilities.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act establishing a foster parents' bill of rights.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1.

2 Section 21 of chapter 119 of the General Laws is hereby amended by inserting the
3 following definition;

4 “foster parent(s)”, any private individual or legally married couple that voluntarily makes
5 themselves and their homes available to the Commonwealth for the purpose of providing foster
6 care for a child in the custody of the department, to include IFC/CPC, pre-adoptive, and kinship
7 foster parents.

8 SECTION 2.

9 Chapter 119 of the General Laws is hereby amended by inserting after section 23B the
10 following section:-

11 Section 23C. Foster Parents Bill of Rights

12 The department shall promulgate a set of policies governing the department’s relationship
13 with and responsibilities to those serving the Commonwealth as Foster Parents. These policies
14 shall be collectively known as the Foster Parents Bill of Rights and shall be provided, along with
15 a document detailing the department’s standard policies and procedures, by the department in the
16 form of hard copy or electronically to any prospective or current foster parent at the time this
17 section takes effect, at the request of any current or prospective foster parent, upon a prospective
18 foster parent’s first contact with the department, and during any necessary training that
19 prospective foster parents might engage in. The Foster Parents Bill of Rights shall contain at a
20 minimum the following ‘rights’ which shall be granted to those foster parents;

21 1. Status/Expectations:

22 (a) The right to be treated with dignity, respect, trust, value, privacy, and consideration as
23 a primary provider of foster care and a member of the professional team that provides services
24 for foster children. This right includes the right to uniform treatment throughout the state by the
25 department in the providing of information to foster parents and in ensuring the exercise of the
26 rights granted to foster parents. Inherent in this right is the responsibility to take necessary
27 measures to provide a stable, loving family environment for children who are placed outside of
28 their homes on a temporary basis.

29 (b) The right to not be discriminated against on the basis of religion, race, color, creed,
30 sex, national origin, age or physical handicap.

31 (c) The right to have a clear explanation and clarification as to the expectations and roles
32 of all team members and to receive evaluation and feedback on their role as foster caregivers.

33 (d)The right to pre-service training, on-going training and support services and education,
34 and information about the department programs, services, and policies, which enhance the foster
35 parent's skills and ability to cope as a foster and care for the needs of the child in foster care,
36 including open and timely responses from the department.

37 (e)The right to accept or refuse placement within their home, or to request, upon
38 reasonable notice to the department, the removal of a child from their home for good cause
39 without threat of reprisal for acting on such good cause.

40 (f)The right to information of and receipt of fair and equitable payment of daily, birthday,
41 and Christmas stipends; and other expenses the foster parent may be eligible for reimbursement
42 of as specified in a plan adopted by the department, subject to the availability of funds.

43 (g)The right to allow continuation of family patterns, routines, values and beliefs to
44 include religious activities/beliefs/practices so long as the values and beliefs of the foster child
45 and the birth family are not infringed upon and consideration is given to the special needs of
46 children who have experienced trauma and separation from their families. This shall include the
47 right to exercise parental authority. Inherent in this right is the foster parent's responsibility to
48 support activities that will promote the child's right to relationships with his or her own family
49 and cultural heritage, including but not limited to, information on skin and hair care, information
50 on any specific religious or cultural practices of the child's biological family.

51 (h)The right to impose negative consequences for negative behavior consistent with state
52 laws and regulations and with the purpose to teach and direct the behavior of the child in a
53 humane and sensitive manner.

54 (i)The right to exercise parental substitute authority as the norm rather than the exception.

55 (j)The right to honest and open communications from the department.

56 2.Placement:

57 (a)The right for a foster parent to have priority consideration as adoptive parent for a
58 child currently under their care who becomes eligible for adoption.

59 (b)The right to be considered, where appropriate, as a preferential placement option when
60 a child who was formerly placed with the foster parents has reentered the foster care system, if
61 that placement is consistent with the best interest of the child.

62 3.Support:

63 (a)The right to reach personnel representing the department on call 24 hours a day, seven
64 days a week, for the purpose of aiding the foster parent in receiving departmental assistance.
65 Inherent in this right is the understanding that the department voicemail messages will be kept
66 current.

67 (b)The right to be assisted in dealing with family loss and separation when a child leaves
68 the foster home, maintain contact with the foster child after the child leaves the foster home,
69 unless the child, a biological parent, the department, or other foster or adoptive parent refuses
70 such contact.

71 4.Information:

72 (a)The right to be provided all available information regarding the child that will impact
73 the foster home or family life during the care of the foster child including, but not limited to the
74 birth/legal family situation, child's behavior, family background, or health history, number of
75 times a foster child has been moved and the reasons why; to receive the names and phone

76 numbers of the previous foster parents if the previous foster parents have authorized such release
77 to enable them to make an informed decision about the ability or inability to provide care for the
78 child and participate in the case.

79 (b)The right to full access to copies of birth certificates and Social Security numbers for
80 Foster Parents' tax filing purposes.

81 (c)The right to a MassHealth Medical card and valid MMIS number upon receiving a
82 new foster placement.

83 (d)The right to have placement information kept confidential when it is necessary to
84 protect the foster parent and the members of the foster parent's household.

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

87 (f)The right to complete medical history with the understanding that foster parents are not
88 privy to such information under HIPAA law.

89 (g)The right to reasonable notice when possible, except in the case of court orders or if a
90 child is determined to be ant an imminent risk of harm to or from himself and/or members of the
91 foster family , of:

92 (i)Change in a child's case plan.

93 (ii)Plans to remove a child from their home

94 (iii)The reason for removal.

95 5.Right to be Heard

96 (a)The right to provide input to the department in identifying the types of resources and
97 services that would meet the needs of children currently in their care and their families, and
98 contribute to the permanency plan. To have that input given full consideration in the same
99 manner as information presented by any other professional on the team. To advocate for the
100 same without threat of reprisal or intimidation and receive feedback when such input is contrary
101 to the department decisions.

102 (b)The right to notification of scheduled meetings, appointments, etc., and concerning the
103 foster child and authorization for the foster parent to actively participate in same and provide
104 input to be used by the team in the case planning and decision-making process regarding the
105 child in foster care, including, but not limited to, individual service planning meetings, foster
106 care reviews, pre-placement activities, individual educational planning meetings, and medical
107 appointments Involve them as team members in and case planning. Be made aware of right to be
108 heard without threat of reprisal in such proceedings. The agency shall not discharge, threaten or
109 otherwise discriminate or retaliate against a resource family for an appropriate inquiry regarding
110 the decisions or practices of an agency that affect a child residing with the resource family.

111 (c)The right to notice and an opportunity to be heard, including timely information of
112 court proceedings. This notification may include, but is not limited to, notice of the date and
113 time of the court hearing, the name of the judge or hearing officer assigned to the case, the
114 guardian ad litem, the location of the hearing, and the court docket number. The notification shall
115 be made upon receipt of this information by the department. Although not a party to the case, the
116 foster parent may attend court hearings as outlined in federal and state statues of their right to be
117 heard.

118 (d)The right to represent the foster child for the duration of the foster parent-foster child
119 relationship in matters relating to identification, assessment, instructional planning and
120 development, educational placement, reviewing and revising an individualized education
121 program, if necessary, and in all other matters relating to the provision of a free public
122 education of the child In accordance with e-pac legislation. The foster parent may sign any
123 consent relating to individualized education program purposes.

124 (e)The right to help plan visitation between the child and the child's siblings or biological
125 family members all who shall have been properly cleared for visitation by DCF or a contracted
126 agency. Visitations should be scheduled at a time that meets the needs of the child, the biological
127 family members, and the foster family whenever possible.

128 6.Evaluations:

129 (a)The right to receive periodic and timely evaluations on the foster parent's performance.

130 7.Grievances/Complaints:

131 (a)The right to notification in person and in writing, of any complaint against their home
132 or of any condition or problem in the home which adversely affects their status as foster parents,
133 provided a fair and timely investigation of, and guidance and support toward resolution of the
134 condition or problem to include an explanation of a corrective action plan or policy violation and
135 confidentiality regarding these issues.

136 (b)The right to the extent allowed under state and federal law, to have an advocate
137 present at all portions of investigations of complaints relative to a foster parent.

138 (c)The right to file a grievance against the department and to be informed of the process
139 for filing a grievance without the threat of reprisal

140 SECTION 3.

141 Section 23D; the Office of the Child Advocate in the Commonwealth shall be charged
142 with ensuring the enforcement of and compliance with Section 23C by foster parents and the
143 Department of Children and Families.