

SENATE No. 87

The Commonwealth of Massachusetts

PRESENTED BY:

Joanne M. Comerford

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>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>3/8/2021</i>

SENATE No. 87

By Ms. Comerford, a petition (accompanied by bill, Senate, No. 87) of Joanne M. Comerford and Vanna Howard for legislation to establish a Foster Parents' Bill of Rights. Children, Families and Persons with Disabilities.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 30 OF 2019-2020.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

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

3 Section 23C. (a) The commonwealth recognizes that children in its custody deserve safe
4 and nurturing placements, which promote healing and support the child's culture, background
5 and trauma history. Foster parents and preadoptive parents play an integral and vital role in the
6 commonwealth's effort to care for children removed from their homes. The commonwealth
7 acknowledges the need for foster parents to be active and participating members in this effort. In
8 recognition of the important role of foster parents, the department shall promulgate a policy
9 governing its relationship with and responsibilities to those serving the commonwealth as foster
10 parents. This policy shall be collectively known as the Foster Parents Bill of Rights and shall be

11 provided by the department and private agencies contracted by the department to provide foster
12 care, to all prospective foster and pre-adoptive parents during the application process and to
13 kinship foster parents during the placement process.

14 (b) The Foster Parents Bill of Rights shall contain, at a minimum, the following:

15 (1) A foster parent shall be treated with dignity, respect, privacy and consideration.

16 (2) A foster parent shall not be discriminated against on the basis of religion, race, color,
17 creed, gender or gender identity, sexual orientation, national origin, age or disability.

18 (3) A foster parent shall be offered standardized pre-service training and ongoing training
19 at appropriate intervals to meet the needs of the child, to improve the foster parent's skills, and
20 update foster parents of any relevant changes in policies and procedures of the department and
21 any changes in applicable law.

22 (4) As allowable under state and federal law, a foster parent shall receive from the
23 department prior to placement, all available pertinent information about the child's physical
24 health, behavioral health, trauma history, history of high risk behavior and education needs as
25 relevant to the care of the child. The department shall communicate all such additional
26 information that becomes known to them during the time of placement in a timely fashion.

27 (5) When the department determines that contact between the current and previous foster
28 parent promotes the child's best interest, the department shall provide the current foster parent
29 with names and phone numbers of the previous foster parents, if the previous foster parents have
30 authorized release of the information.

31 (6) A foster parent shall have reasonable access to a social worker and family resource
32 worker as well as access to a 24-hour emergency hotline to assist with any urgent needs.

33 (7) A foster parent shall be provided with a written copy of department action plans
34 regarding the child in the foster parent's home, other than those parts of the plan containing
35 information that is confidential as to a parent under federal or state law, and be afforded an
36 opportunity to discuss such plan with the social worker, as well as reasonable notification of any
37 changes to that plan.

38 (8) A foster parent shall be informed of foster care reviews and appropriate meetings
39 regarding the child in their home and be provided an opportunity to actively participate in said
40 meetings, except as to those parts of foster care reviews or meetings that involve information that
41 is confidential as to a parent under federal or state law. If there is a clinical conference which is
42 inappropriate for a foster parent to attend, a foster parent will have the ability to provide input to
43 the department before a final decision is made.

44 (9) A foster parent shall be provided with advance notice of all court hearings, consistent
45 with federal and state law, regarding the child in their home. The notice shall include the date,
46 time and location of the hearing. A foster parent who is unable to attend a court hearing shall
47 have the ability to provide input to the department's legal representative prior to the hearing.

48 (10) A foster parent may communicate with professionals, including therapists,
49 physicians, and teachers, who work with the child in their home for the purpose of supporting the
50 needs of the foster child.

51 (11) A foster parent shall receive information about the range and frequency of payments
52 the foster parent may be eligible to receive, including daily reimbursement and quarterly

53 clothing, birthday, and holiday payments and shall receive notification of any delays in such
54 payments as soon as such delay becomes known to the department.

55 (12) A foster parent shall be informed of other available financial supports and services,
56 including, but not limited to, Parents and Children Together compensation, reimbursements for
57 one-time costs, child care and respite and the criteria for accessing supports and services.

58 (13) A foster parent may refuse placement of a child in their home. Understanding the
59 trauma that occurs in moving a child, a foster parent may request, upon reasonable notice, the
60 removal of a child from their home.

61 (14) A foster parent shall be given advance notice, whenever possible, when a child is to
62 be removed from their home.

63 (15) A foster parent may participate with department staff to plan supervised or
64 unsupervised visitation, including arranging supervision of visits by the foster parent, if
65 appropriate, and other contact between the child and the child's biological family, consistent with
66 the wellbeing of the child and family's plan for visitation. The department shall make
67 appropriate efforts to accommodate the foster parent's schedule in arranging for visits and other
68 contact between the child and the child's family

69 (16) The department shall keep information regarding the foster parent and household
70 members confidential, except as required by law.

71 (17) A non-kin foster parent shall have the opportunity to be considered as the first
72 choice as an adoptive parent or legal guardian for a child whose goal has been changed to
73 adoption or guardianship if no kin is available.

74 (18) A foster parent shall be permitted to make routine decisions about the foster child's
75 daily activities and shall be permitted to continue practicing their own family values and
76 routines, excluding physical discipline, while respecting the foster child's culture, background,
77 trauma history and preferences.

78 (19) A foster parent shall be provided with periodic respite from their role.

79 (20) A foster parent shall be provided with the content of their record, upon request,
80 including any assessment or evaluations completed on the foster home.

81 (21) A foster parent may request a review of department decisions, including filing for a
82 grievance or requesting a Fair Hearing. Foster parents shall be provided with the most up to date
83 information on these procedures and timelines which shall be included with the Foster Parent
84 Bill of Rights.

85 (22) A foster parents shall be provided with information about the process and time lines
86 for investigation and resolution of a complaint made against them, including complaints made
87 pursuant to section 51A of chapter 119, their rights to receive and provide information and
88 during the review or investigation, and the potential consequences of a supported complaint
89 review or an investigation.

90 (23) A foster parent shall be free from retaliation for asserting their rights, including, but
91 not limited to, issuing or filing a complaint with the commissioner or ombudsman of the
92 department, or the Office of the Child Advocate. The department shall take immediate action to
93 remedy any action taken against a foster parent in retaliation for exercising their rights under this
94 section.

95 (b) A foster parent shall use a reasonable and prudent parenting standard in making
96 decisions about the daily routines of children placed in their homes, including determining
97 whether to allow a child to participate in extracurricular, enrichment, and social activities. The
98 “reasonable and prudent parent standard” is characterized by careful and sensible parental
99 decisions that maintain the child’s health, safety, and best interests while at the same time
100 encouraging the child’s emotional and developmental growth. Reasonable and prudent decisions
101 shall consider the following factors:

102 (1) the child’s age, maturity, and developmental level;

103 (2) the potential risk factors and the appropriateness of the extracurricular, enrichment,
104 and social activity;

105 (3) the best interest of the child based on information known by the caregiver;

106 (4) the importance of encouraging the child’s emotional and developmental growth;

107 (5) the importance of providing the child with the most family-like living experience
108 possible; and

109 (6) the behavioral history of the child and the child’s ability to safely participate in the
110 proposed activity, as with any other child.

111 SECTION 2. All current foster, pre-adoptive and kinship parents shall be provided with a
112 copy of the Foster Parents Bill of Rights within 6 months of the effective date of this act.

113 SECTION 3. The Department shall establish a Task Force for the purpose of reviewing
114 and revising procedures for handling complaints against foster parents including complaints of
115 abuse and neglect filed under section 51A of chapter 119.

116 The Task Force shall be chaired by the commissioner. Members of the Task Force shall
117 include the Child Advocate or designee, the chairs of the committee on children families and
118 persons with disabilities or their designees, the Executive Director of the Massachusetts Society
119 for the Prevention of Cruelty to Children or their designee, the Executive Director of the
120 Children’s League of Massachusetts or their designee, a representative of the Massachusetts
121 Association for Families, a representative of the Committee for Public Counsel Services, three
122 foster parents to be selected by the commissioner of the department, 1 of whom shall be a
123 departmental foster parent, 1 of whom shall be an intensive foster care provider and 1 of whom
124 shall be a kinship foster parent. The Task Force may consult with others as necessary to achieve
125 its purpose.

126 The Task Force shall make recommendations for procedures for reviewing complaints
127 against foster parents including those made under section 51A of chapter 119. The Task Force
128 shall prioritize development of processes which protect the health and safety of children and, to
129 the extent possible, protect foster parents from the negative consequences of an unsupported
130 allegation.

131 Recommendations shall include processes and timelines for: notifying a foster parent of a
132 complaint, sharing information, conducting and concluding the review or investigation,
133 informing foster parents of their rights during a review or investigation and rights to appeal the
134 result of a review or investigation.

135 The Task Force shall report its recommendations to the governor, the clerks of the house
136 of representatives and the senate and the chairs of the committee on children, families and
137 persons with disabilities no later than July 1, 2022.

138 The department shall implement the recommendations of the Task Force no later than
139 December 21, 2022.