

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 COMMITTEE SUBSTITUTE  
4 FOR  
5 HOUSE BILL NO. 2552

By: Ownbey

6  
7 COMMITTEE SUBSTITUTE

8 An Act relating to foster children; providing rights  
9 for children served by the Department of Human  
10 Services' Child Welfare Services; listing rights  
11 related to placement, safety, privacy, communication  
12 and personal growth; requiring balanced approach to  
13 protect conflicting rights; mandating statement of  
14 rights be provided to child and foster parent;  
15 allowing child to motion court for equitable relief  
16 in certain circumstances; granting court discretion  
17 to waive certain requirements; construing provision;  
18 amending 10A O.S. 2011, Section 1-9-120, as amended  
19 by Section 5, Chapter 257, O.S.L. 2014 (10A O.S.  
20 Supp. 2017, Section 1-9-120), which relates to  
21 grievance procedures; permitting child to file a  
22 grievance with the Office of Client Advocacy;  
23 directing Department to establish grievance  
24 procedures for foster children in Department custody;  
requiring resolution of disputes in specified manner;  
providing for notification of grievance procedures  
upon placement; mandating separate files for  
grievances; prescribing access to grievance record  
after completion; granting right to present grievance  
without fear of reprisal; providing for discipline  
when investigation finds retaliation or  
discrimination against a foster child; construing  
provisions; providing for codification; and providing  
an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1-9-119.1 of Title 10A, unless  
3 there is created a duplication in numbering, reads as follows:

4 A. A child being served by Child Welfare Services of the  
5 Department of Human Services is entitled to reasonable, good-faith  
6 efforts in order to be provided the following rights when doing so  
7 serves the child's best interest:

8 1. Placement:

9 a. to remain in the custody of the child's parents or  
10 legal custodians unless and until there has been a  
11 determination in accordance with state law that  
12 removal is appropriate,

13 b. to be placed, in accordance with state law, when  
14 circumstances permit and in the following order of  
15 preference:

16 (1) with an approved relative,

17 (2) with an approved kinship placement,

18 (3) with an approved resource family who has  
19 previously cared for the child, and

20 (4) with an approved resource family,

21 c. to be placed in the nearest geographic proximity to  
22 the home of the child as possible,

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- 1 d. to be placed with the child's sibling, when  
2 appropriate, if the sibling is also placed outside his  
3 or her home,
- 4 e. to be placed, when appropriate, with a child of his or  
5 her own,
- 6 f. to be placed, when possible, with a foster family that  
7 can and is willing to accommodate the child's  
8 communication needs,
- 9 g. to be provided with both information about a foster  
10 family or program and, when circumstances permit, an  
11 opportunity to meet the foster parent or program staff  
12 before placement occurs,
- 13 h. to be provided, when possible, an age-appropriate  
14 explanation why the child is in foster care and what  
15 is happening to the child and to the child's family,  
16 including siblings,
- 17 i. to continue in the same school or educational  
18 placement with minimal disruption in order to receive  
19 an education that fits the child's age and individual  
20 needs,
- 21 j. to be treated with dignity during placement changes.  
22 (1) Except when a change in placement is due to an  
23 emergency, a child and the child's attorney shall  
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1 be afforded five (5) judicial days' notice before  
2 a change in placement.

3 (2) Prior to any placement change, the impacted child  
4 shall be consulted when appropriate and advised  
5 in an age-appropriate manner of the circumstances  
6 and the reason for the placement change. The  
7 child's input concerning the placement change  
8 shall be considered, taking the child's age and  
9 developmental level into account, and

10 k. to receive reasonable equipment and assistance to  
11 transport personal possessions during placement  
12 changes;

13 2. Safety:

- 14 a. to live in a safe, healthy and comfortable home,
- 15 b. to have adequate and appropriate clothing,
- 16 c. to receive individualized medical, dental, vision,  
17 mental health and other required services by, when  
18 reasonably possible, a continuity of providers,
- 19 d. to be free of unnecessary or excessive medication, and
- 20 e. to report a potential violation of personal rights  
21 without fear of punishment, interference, coercion or  
22 other retaliation;

23 3. Privacy:

- a. to have an age-appropriate expectation of privacy in accordance with existing law as to person, property and communications,
- b. to freely exercise the child's own religious beliefs, including the refusal to attend any religious activities and services, and
- c. to confidentiality of all juvenile court records consistent with existing law;

4. Communication:

- a. to have written visitation plans with parents and siblings in accordance with existing law,
- b. to begin visitation with parents and siblings in accordance with existing law,
- c. to have safe and reasonable communications, when appropriate and in accordance with existing law, with the child's parents, siblings, extended family and friends,
- d. to have regular and meaningful access to the child's attorney, guardian and court-appointed special advocate,
- e. to communicate, in private if necessary, with any court and judge with personal jurisdiction of the child. This shall include informing the court of inadequate representation being provided by any

1 attorney or other individual tasked with advocating on  
2 behalf of the child,

3 f. to be provided the opportunity to engage in regular,  
4 meaningful and private communication with the child's  
5 assigned caseworker,

6 g. to participate, in a manner consistent with the  
7 child's age and developmental level and in accordance  
8 with existing law, in the development of and any  
9 revision to the child's service plan,

10 h. to be presented, when appropriate and in accordance  
11 with existing law, with the service plan for the  
12 child's review and signature,

13 i. when appropriate, to be notified of, attend and have  
14 the opportunity to be heard in court hearings relating  
15 to the child's case and in family team meetings, and

16 j. to have, in accordance with existing law, all of the  
17 child's records available for review by the child's  
18 attorney and court-appointed special advocate if they  
19 deem such review necessary; and

20 5. Personal Growth:

21 a. to have fair and equal access to all available  
22 services, placement, care, treatment and benefits, and  
23 to not be subjected to discrimination or harassment as  
24 ensured by existing law,

- 1           b. to engage in reasonable, age-appropriate day-to-day  
2           activities, including extracurricular, enrichment and  
3           social activities, consistent with the most family-  
4           like environment,
- 5           c. to receive independent living and support services  
6           and, unless circumstances or existing law requires a  
7           document be obtained sooner, be provided  
8           identification and permanent documents, including  
9           birth certificate, Social Security card and health  
10          records by eighteen (18) years of age, to the extent  
11          allowed by federal and state law,
- 12          d. the opportunity to work and develop job skills at an  
13          age-appropriate level that is consistent with state  
14          law, and
- 15          e. to manage or have managed their personal earnings and  
16          financial resources in a manner consistent with the  
17          child's age and developmental level.

18          B. One or more of the enumerated rights in subsection A of this  
19          section may conflict. Therefore, a balanced approach to protect  
20          these rights shall be pursued that takes into account both the  
21          child's unique circumstances and what is in the child's best  
22          interest.

23          C. A statement of the rights enumerated in this section shall  
24          be provided to:

1           1. Each child at the outset of entering foster care and at  
2 least annually thereafter; and

3           2. Any foster parent once a child in the custody of the  
4 Department enters the foster parent's home and annually thereafter.

5           D. Subsequent to the exhaustion of available administrative  
6 remedies as provided in Section 1-9-120 of Title 10A of the Oklahoma  
7 Statutes, any child aggrieved by a violation of these rights may  
8 seek intervention by a court with jurisdiction over the child to  
9 make it aware of the grievance and obtain, if warranted, appropriate  
10 equitable relief. The court in its discretion may waive the prior  
11 exhaustion of administrative remedies. Nothing in this section,  
12 however, shall be construed to create a private cause of action or  
13 claim on the part of any individual, the Department, the Office of  
14 Juvenile Affairs or any child-placing agency.

15           SECTION 2.           AMENDATORY           10A O.S. 2011, Section 1-9-120, as  
16 amended by Section 5, Chapter 257, O.S.L. 2014 (10A O.S. Supp. 2017,  
17 Section 1-9-120), is amended to read as follows:

18           Section 1-9-120. A. The Office of Client Advocacy and child-  
19 placing agencies shall each establish grievance procedures for  
20 foster parents with whom the Department of Human Services or child-  
21 placing agencies contract and for foster children in Department  
22 custody. The Office of Client Advocacy shall work with the Office  
23 of Juvenile System Oversight to track foster parent or foster child  
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1 complaints through the grievance procedures and ensure a resolution  
2 of the complaint.

3 B. The procedures established shall contain the following  
4 minimum requirements:

5 1. Resolution of disputes with foster parents or foster  
6 children shall be accomplished quickly, informally and at the lowest  
7 possible level, but shall provide for access to impartial  
8 arbitration by management level personnel within the central office;

9 2. Prompt resolution of grievances no more than sixty (60) days  
10 after receipt of the grievance or complaint; and

11 3. Notification to all foster parents and foster children if  
12 age-appropriate upon placement of a child about the grievance  
13 procedures and how to file a complaint.

14 C. The Office of Client Advocacy and child-placing agency shall  
15 designate one employee at the central office to receive and process  
16 foster care grievances received by the Office of Juvenile System  
17 Oversight.

18 D. The Office of Client Advocacy and child-placing agency shall  
19 maintain records of each grievance filed as well as summary  
20 information about the number, nature and outcome of all grievances  
21 filed. The Office of Client Advocacy and the Office of Juvenile  
22 System Oversight shall compile an annual report for the Oklahoma  
23 Legislature that details the number of complaints received, the  
24 number of complaints resolved, the nature of the complaints and any

1 other information requested by the Legislature. Agencies shall keep  
2 records of grievances separate and apart from other foster parent or  
3 foster child files. A foster parent ~~or a~~, former foster parent, or  
4 a foster child or former foster child shall have a right of access  
5 to the record of grievances such person filed after the procedure  
6 has been completed.

7 E. 1. Each foster parent or foster child shall have the right,  
8 without fear of reprisal or discrimination, to present grievances  
9 with respect to the providing or receiving of foster care services.

10 2. The Department of Human Services shall promptly initiate a  
11 plan of corrective discipline including, but not limited to,  
12 dismissal of any Department employee or cancellation or nonrenewal  
13 of the contract of a child-placing agency determined by the state  
14 agency, through an investigation to have retaliated or discriminated  
15 against a foster parent or foster child who has:

- 16 a. filed a grievance pursuant to the provisions of this  
17 section,
- 18 b. provided information to any official or Department  
19 employee, or
- 20 c. testified, assisted, or otherwise participated in an  
21 investigation, proceeding or hearing against the  
22 Department or the child-placing agency.

23 3. The provisions of this subsection shall not be construed to  
24 include any complaint by the foster parent or foster child resulting

1 from an administrative, civil or criminal action taken by the  
2 employee or child-placing agency for violations of law or rules, or  
3 contract provisions by the foster parent.

4 SECTION 3. This act shall become effective November 1, 2018.

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