

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2552

By: Ownbey of the House

and

Griffin of the Senate

11 COMMITTEE SUBSTITUTE

12 An Act relating to foster children; providing rights
13 for children served by the Department of Human
14 Services' Child Welfare Services; listing rights
15 related to placement, safety, privacy, communication
16 and personal growth; requiring balanced approach to
17 protect conflicting rights; mandating statement of
18 rights be provided to child and foster parent;
19 allowing child to motion court for equitable relief
20 in certain circumstances; granting court discretion
21 to waive certain requirements; construing provision;
22 amending 10A O.S. 2011, Section 1-9-120, as amended
23 by Section 5, Chapter 257, O.S.L. 2014 (10A O.S.
24 Supp. 2017, Section 1-9-120), which relates to
 grievance procedures; permitting child to file a
 grievance with the Office of Client Advocacy;
 directing Department to establish grievance
 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

1 provisions; providing for codification; and providing
2 an effective date.

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

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

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

12 1. Placement:

13 a. to remain in the custody of the child's parents or
14 legal custodians unless and until there has been a
15 determination in accordance with state law that
16 removal is appropriate,

17 b. to be placed, in accordance with state law, when
18 circumstances permit and in the following order of
19 preference:

- 20 (1) with an approved relative,
21 (2) with an approved kinship placement,
22 (3) with an approved resource family who has
23 previously cared for the child, and
24 (4) with an approved resource family,

- c. to be placed in the nearest geographic proximity to the home of the child as possible,
- d. to be placed with the child's sibling, when appropriate, if the sibling is also placed outside his or her home,
- e. to be placed, when appropriate, with a child of his or her own,
- f. to be placed, when possible, with a foster family that can and is willing to accommodate the child's communication needs,
- g. to be provided with both information about a foster family or program and, when circumstances permit, an opportunity to meet the foster parent or program staff before placement occurs,
- h. to be provided, when possible, an age-appropriate explanation why the child is in foster care and what is happening to the child and to the child's family, including siblings,
- i. to continue in the same school or educational placement with minimal disruption in order to receive an education that fits the child's age and individual needs,
- j. to be treated with dignity during placement changes.

1 (1) Except when a change in placement is due to an
2 emergency, a child and the child's attorney shall
3 be afforded five (5) judicial days' notice before
4 a change in placement.

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

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

15 2. Safety:

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

1 3. Privacy:

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

10 4. Communication:

- 11 a. to have written visitation plans with parents and
12 siblings in accordance with existing law,
13 b. to begin visitation with parents and siblings in
14 accordance with existing law,
15 c. to have safe and reasonable communications, when
16 appropriate and in accordance with existing law, with
17 the child's parents, siblings, extended family and
18 friends,
19 d. to have regular and meaningful access to the child's
20 attorney, guardian and court-appointed special
21 advocate,
22 e. to communicate, in private if necessary, with any
23 court and judge with personal jurisdiction of the
24 child. This shall include informing the court of

1 inadequate representation being provided by any
2 attorney or other individual tasked with advocating on
3 behalf of the child,

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

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

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

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

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

21 5. Personal Growth:

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

3 b. to engage in reasonable, age-appropriate day-to-day
4 activities, including extracurricular, enrichment and
5 social activities, consistent with the most family-
6 like environment,

7 c. to receive independent living and support services
8 and, unless circumstances or existing law requires a
9 document be obtained sooner, be provided
10 identification and permanent documents, including
11 birth certificate, Social Security card and health
12 records by eighteen (18) years of age, to the extent
13 allowed by federal and state law,

14 d. the opportunity to work and develop job skills at an
15 age-appropriate level that is consistent with state
16 law, and

17 e. to manage or have managed their personal earnings and
18 financial resources in a manner consistent with the
19 child's age and developmental level.

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

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

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

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

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

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

20 Section 1-9-120. A. The Office of Client Advocacy and child-
21 placing agencies shall each establish grievance procedures for
22 foster parents with whom the Department of Human Services or child-
23 placing agencies contract and for foster children in Department
24 custody. The Office of Client Advocacy shall work with the Office

1 of Juvenile System Oversight to track foster parent or foster child
2 complaints through the grievance procedures and ensure a resolution
3 of the complaint.

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

6 1. Resolution of disputes with foster parents or foster
7 children shall be accomplished quickly, informally and at the lowest
8 possible level, but shall provide for access to impartial

9 arbitration by management level personnel within the central office;

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

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

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

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

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

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

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

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

1 3. The provisions of this subsection shall not be construed to
2 include any complaint by the foster parent or foster child resulting
3 from an administrative, civil or criminal action taken by the
4 employee or child-placing agency for violations of law or rules, or
5 contract provisions by the foster parent.

6 SECTION 3. This act shall become effective November 1, 2018.
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8 COMMITTEE REPORT BY: COMMITTEE ON CHILDREN, YOUTH AND FAMILY
9 SERVICES, dated 02/28/2018 - DO PASS, As Amended and Coauthored.
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