

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2552

By: Ownbey

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6 AS INTRODUCED

7 An Act relating to foster children; prescribing  
8 rights for children in the custody of the Department  
9 of Human Services; providing exceptions; listing  
10 rights related to placement, safety, privacy,  
11 communication and personal growth; allowing child to  
12 motion court for equitable relief; amending 10A O.S.  
13 2011, Section 1-9-120, as amended by Section 5,  
14 Chapter 257, O.S.L. 2014 (10A O.S. Supp. 2017,  
15 Section 1-9-120), which relates to grievance  
16 procedures; permitting child to file a grievance with  
17 the Office of Client Advocacy; directing Department  
18 to establish grievance procedures for foster children  
19 in Department custody; requiring resolution of  
20 disputes in specified manner; providing for  
21 notification of grievance procedures upon placement;  
22 mandating separate files for grievances; prescribing  
23 access to grievance record after completion; granting  
24 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:

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

1 A. A child in the custody of the Department of Human Services  
2 shall have the following rights, unless prohibited or otherwise  
3 modified in the best interest of the child by court order:

4 1. Placement:

- 5 a. to remain in the custody of the child's parents or  
6 legal custodians unless and until there has been a  
7 determination by a qualified person exercising  
8 competent professional judgment that removal is  
9 necessary to protect the child from an imminent safety  
10 threat,
- 11 b. to be placed, except for good cause, with a relative,
- 12 c. to be placed, except for good cause, with any previous  
13 resource family,
- 14 d. to be placed, except for good cause, in an appropriate  
15 setting in the child's home county,
- 16 e. to be placed, except for good cause, in the same  
17 setting with the child's sibling if the sibling is  
18 also placed outside the home,
- 19 f. to be placed, except for good cause, with a child of  
20 his or her own,
- 21 g. to be placed, except for good cause, with a foster  
22 family that can accommodate the child's communication  
23 needs,
- 24

- 1 h. to be provided with information about a foster family  
2 or program and, except for good cause, have an  
3 opportunity to meet the foster parent or program staff  
4 before placement occurs,
- 5 i. to be informed in an age-appropriate manner why the  
6 child is in foster care and what is happening to the  
7 child and to the child's family, including siblings,
- 8 j. to attend school with minimal disruption to the  
9 child's education and retention in the child's home  
10 school and to receive an education that fits the  
11 child's age and individual needs,
- 12 k. to complete the school year at the school where the  
13 child is currently enrolled, if being moved during the  
14 school year, including reasonable efforts by the  
15 Department to locate or provide transportation to the  
16 child's school,
- 17 l. except when a change in placement is due to an  
18 emergency, to have five (5) judicial days' notice for  
19 the child, the child's attorney and the foster parent  
20 before a change in placement,
- 21 m. to be treated with dignity during placement changes,  
22 including reasonable efforts to permit the child to  
23 say their farewells to friends and family, and  
24

1 n. to receive reasonable equipment and assistance to  
2 transport personal possessions during placement  
3 changes that maintain the child's dignity;

4 2. Safety:

5 a. to live in a safe, healthy and comfortable home, free  
6 from physical, sexual or other abuse or neglect or  
7 corporal punishment,

8 b. to have clothing that fits comfortably and is adequate  
9 to protect the child against natural elements such as  
10 rain, snow, wind, cold and sun,

11 c. to receive medical, dental, vision, emotional, mental  
12 health and other required services,

13 d. except for good cause, to receive continuity of care,  
14 provided by medical, dental, vision, emotional, mental  
15 health and other service providers for the child, even  
16 after a placement change,

17 e. to be free of unnecessary or excessive medication, and

18 f. to report a violation of personal rights without fear  
19 of punishment, interference, coercion or retaliation;

20 3. Privacy:

21 a. to enjoy individual dignity, liberty, pursuit of  
22 happiness and the protection of civil and legal  
23 rights,  
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- 1           b. to have the child's privacy protected unless  
2           prohibited by court order for reasonable cause,  
3           including receiving and sending unopened  
4           communications and having access to a telephone,  
5           c. to freely exercise the child's own religious beliefs,  
6           including the refusal to attend any religious  
7           activities and services,  
8           d. to have personal space, preferably in the child's  
9           bedroom for storing personal possessions that are not  
10           offensive to the foster family and to acquire  
11           additional possessions within reasonable limits, as  
12           planned and discussed with the child's foster parent  
13           and caseworker, and  
14           e. to confidentiality of all juvenile court records  
15           consistent with existing law;

16       4. Communication:

- 17           a. to have written visitation plans with parents and  
18           siblings that set out regular and consistent  
19           visitation including visits with siblings, separate  
20           from parent visits, and neither requirement shall be  
21           fulfilled by therapeutic visits unless ordered by the  
22           court,  
23           b. to begin visitation with parents and siblings within  
24           seven (7) calendar days of removal,

- 1 c. to have additional safe and reasonable contact with  
2 the child's parents, extended family and friends  
3 through phone calls, email, social media and mail,  
4 d. to receive contact information for the child's  
5 caseworker, attorney and Court Appointed Special  
6 Advocate (CASA) and to speak with them in private,  
7 e. to receive regular, meaningful communication with the  
8 child's assigned caseworker, at least once a month,  
9 which shall include meeting with the child alone and  
10 conferring with the placement provider,  
11 f. to be provided immediate and unlimited access to the  
12 child's attorney,  
13 g. to be involved and incorporated, consistent with the  
14 child's age and developmental level, in the  
15 development and review of the service plan and have  
16 input into changes to the plan that affect permanency,  
17 safety, stability or well-being,  
18 h. to be presented, if the child is twelve (12) years of  
19 age or older, with the service plan for the child's  
20 review and signature,  
21 i. to be notified, attend and participate in court  
22 hearings and to speak to the judge regarding any  
23 decision that may have an impact on the child's life,  
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1 j. to be notified, attend and participate in family team  
2 meetings and to have a voice regarding any decision  
3 that may have an impact on the child's life, and

4 k. to have all the child's records available for review  
5 by the child's attorney and Court Appointed Special  
6 Advocate (CASA) if they deem such review necessary;  
7 and

8 5. Personal Growth:

9 a. to have fair and equal access to all available  
10 services, placement, care, treatment and benefits, and  
11 to not be subjected to discrimination or harassment on  
12 the basis of actual or perceived race, ethnic group  
13 identification, ancestry, national origin, color,  
14 religion, sex, sexual orientation, gender identity,  
15 mental or physical disability or HIV status,

16 b. to engage in reasonable, age-appropriate day-to-day  
17 activities, including extracurricular, enrichment and  
18 social activities, consistent with the most family-  
19 like environment,

20 c. to obtain identification and permanent documents,  
21 including birth certificate, Social Security card and  
22 health records by sixteen (16) years of age, to the  
23 extent allowed by federal and state law,  
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- 1 d. to work and develop job skills at an age-appropriate  
2 level that is consistent with state law, and  
3 e. to manage personal income, consistent with the child's  
4 age and developmental level.

5 B. A child may motion the court, through the child's attorney,  
6 for appropriate equitable relief for violations of these rights or  
7 file a grievance with the Office of Client Advocacy as provided in  
8 Section 1-9-120 of Title 10A of the Oklahoma Statutes.

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

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

20 B. The procedures established shall contain the following  
21 minimum requirements:

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

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

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

8 C. The Office of Client Advocacy and child-placing agency shall  
9 designate one employee at the central office to receive and process  
10 foster care grievances received by the Office of Juvenile System  
11 Oversight.

12 D. The Office of Client Advocacy and child-placing agency shall  
13 maintain records of each grievance filed as well as summary  
14 information about the number, nature and outcome of all grievances  
15 filed. The Office of Client Advocacy and the Office of Juvenile  
16 System Oversight shall compile an annual report for the Oklahoma  
17 Legislature that details the number of complaints received, the  
18 number of complaints resolved, the nature of the complaints and any  
19 other information requested by the Legislature. Agencies shall keep  
20 records of grievances separate and apart from other foster parent or  
21 foster child files. A foster parent ~~or a~~, former foster parent,  
22 foster child or former foster child shall have a right of access to  
23 the record of grievances such person filed after the procedure has  
24 been completed.

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

4 2. The Department of Human Services shall promptly initiate a  
5 plan of corrective discipline including, but not limited to,  
6 dismissal of any Department employee or cancellation or nonrenewal  
7 of the contract of a child-placing agency determined by the state  
8 agency, through an investigation to have retaliated or discriminated  
9 against a foster parent or foster child who has:

10 a. filed a grievance pursuant to the provisions of this  
11 section,

12 b. provided information to any official or Department  
13 employee, or

14 c. testified, assisted, or otherwise participated in an  
15 investigation, proceeding or hearing against the  
16 Department or the child-placing agency.

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

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

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24 56-2-8333 EK 01/07/18