

An Act

ENROLLED HOUSE
BILL NO. 2552

By: Ownbey and Nollan of the
House

and

Griffin of the Senate

An Act relating to foster children; providing rights for children served by the Department of Human Services' Child Welfare Services; listing rights related to placement, safety, privacy, communication and personal growth; requiring balanced approach to protect conflicting rights; mandating statement of rights be provided to child and foster parent; allowing child to motion court for equitable relief in certain circumstances; granting court discretion to waive certain requirements; construing provision; amending 10A O.S. 2011, Section 1-9-120, as amended by Section 5, Chapter 257, O.S.L. 2014 (10A O.S. 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 provisions; providing for codification; and providing an effective date.

SUBJECT: Foster children

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:

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

1. Placement:

- a. to remain in the custody of the child's parents or legal custodians unless and until there has been a determination in accordance with state law that removal is appropriate,
- b. to be placed, in accordance with state law, when circumstances permit and in the following order of preference:
 - (1) with an approved relative,
 - (2) with an approved kinship placement,
 - (3) with an approved resource family who has previously cared for the child, and
 - (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) Except when a change in placement is due to an emergency, a child and the child's attorney shall be afforded five (5) judicial days' notice before a change in placement.
 - (2) Prior to any placement change, the impacted child shall be consulted when appropriate and advised in an age-appropriate manner of the circumstances and the reason for the placement change. The child's input concerning the placement change shall be considered, taking the child's age and developmental level into account, and
- k. to receive reasonable equipment and assistance to transport personal possessions during placement changes;

2. Safety:

- a. to live in a safe, healthy and comfortable home,
- b. to have adequate and appropriate clothing,
- c. to receive individualized medical, dental, vision, mental health and other required services by, when reasonably possible, a continuity of providers,
- d. to be free of unnecessary or excessive medication, and

- e. to report a potential violation of personal rights without fear of punishment, interference, coercion or other retaliation;

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 attorney or other individual tasked with advocating on behalf of the child,
- f. to be provided the opportunity to engage in regular, meaningful and private communication with the child's assigned caseworker,

- g. to participate, in a manner consistent with the child's age and developmental level and in accordance with existing law, in the development of and any revision to the child's service plan,
- h. to be presented, when appropriate and in accordance with existing law, with the service plan for the child's review and signature,
- i. when appropriate, to be notified of, attend and have the opportunity to be heard in court hearings relating to the child's case and in family team meetings, and
- j. to have, in accordance with existing law, all of the child's records available for review by the child's attorney and court-appointed special advocate if they deem such review necessary; and

5. Personal Growth:

- a. to have fair and equal access to all available services, placement, care, treatment and benefits, and to not be subjected to discrimination or harassment as ensured by existing law,
- b. to engage in reasonable, age-appropriate day-to-day activities, including extracurricular, enrichment and social activities, consistent with the most family-like environment,
- c. to receive independent living and support services and, unless circumstances or existing law requires a document be obtained sooner, be provided identification and permanent documents, including birth certificate, Social Security card and health records by eighteen (18) years of age, to the extent allowed by federal and state law,
- d. the opportunity to work and develop job skills at an age-appropriate level that is consistent with state law, and

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

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

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

1. Each child at the outset of entering foster care and at least annually thereafter; and
2. Any foster parent once a child in the custody of the Department enters the foster parent's home and annually thereafter.

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

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

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

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

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

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

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

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

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

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

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

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

- b. provided information to any official or Department employee, or
- c. testified, assisted, or otherwise participated in an investigation, proceeding or hearing against the Department or the child-placing agency.

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

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

Passed the House of Representatives the 8th day of March, 2018.

Presiding Officer of the House
of Representatives

Passed the Senate the 10th day of April, 2018.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____