



WV COURT IMPROVEMENT PROGRAM

**A JUDICIAL PRIMER ON THE
FOSTER CHILD BILL OF RIGHTS
AND FOSTER AND KINSHIP
BILL OF RIGHTS**

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Overview

Enforcement of the Bill of Rights

Legal Analysis of W.Va. Code §49-2-126

Legal Analysis of W.Va. Code §49-2-127

Legal Analysis of W.Va. Code §49-2-127a

Q&A with West Virginia Foster Care Ombudsman

Practical Tips for Implementation

Enforcement

KeyPoints

- A copy of the Bill of Rights should be provided both to the child and the foster/kinship providers.
- There is no private cause of action.
- An alleged violation is subject to investigation by the Foster Care Ombudsman.

Foster Child Bill of Rights

W.Va. Code § 49-2-126

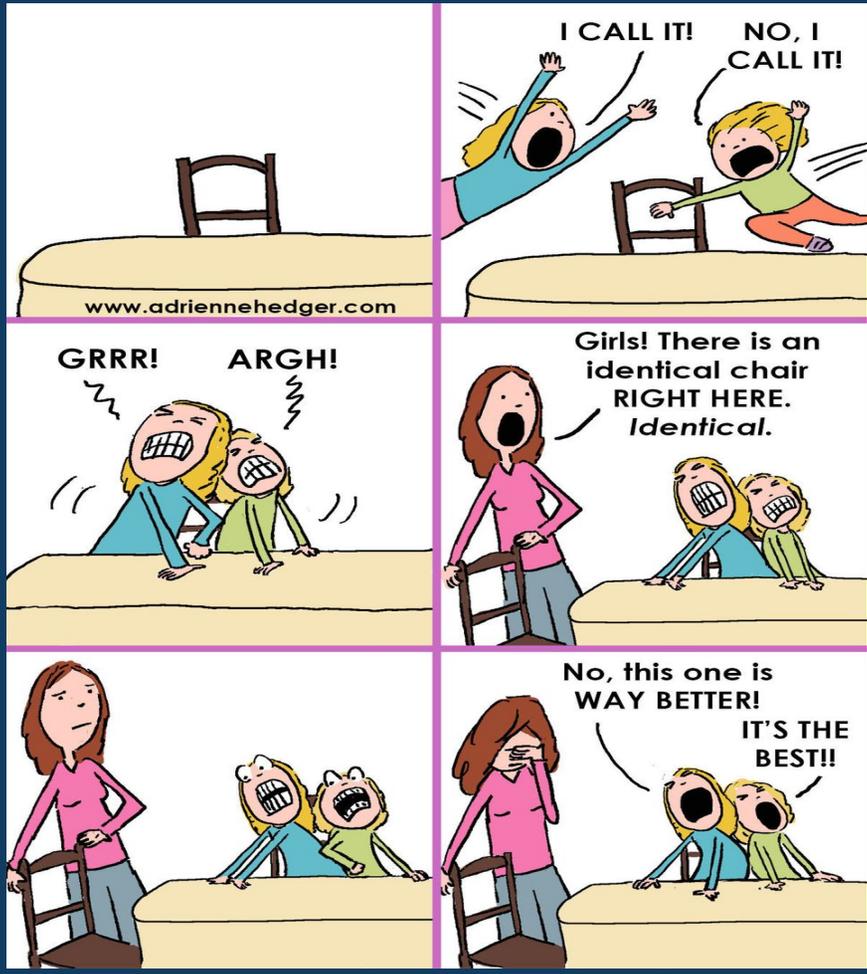
○ RIGHTS OF CONTINUED ASSOCIATION

- When possible, a child has a right to placement with siblings.
- If siblings are in separate placements, a child has a right to maintain contact with siblings.
- A child has the right to maintain contact with previous caregivers and important adults.
- The right to a kinship placement, if appropriate.

Foster Child Bill of Rights

W.Va. Code §49-2-126

- RIGHTS OF CONTINUED ASSOCIATION (continued)
 - See W.Va. Code §§ 49-4-111 and 49-4-114(a)(3);
 - *In Re Shanee Carol B.*, 550 S.E.2d 636 (W. Va. 2001);
 - *In re K.L.*, 826 S.E.2d 671 (W. Va. 2019); and
 - Rule 15, WVRCANP.



www.adriennehedger.com

I CALL IT! NO, I CALL IT!

GRRR! ARGH!

Girls! There is an identical chair RIGHT HERE. Identical.

No, this one is WAY BETTER! IT'S THE BEST!!

Foster Child Bill of Rights

W.Va. Code §49-2-126

○ THE RIGHT TO PARTICIPATE IN THE CASE

- To receive an explanation of the Bill of Rights.
- To communicate, in private, with caseworkers, GAL, etc.
- To attend hearings and address the Court.
- To contact the Foster Care Ombudsman.
- See W.Va. Code §§ 49-4-405 and 49-4-608;
Rule 8(d), WVRCANP.



Foster Child Bill of Rights

W.Va. Code §49-2-126

○ SAFETY ISSUES

- To live in the least restrictive environment.
- To live in freedom from abuse or exploitation.
- To receive adequate nutrition.
- To own an appropriate travel bag.
- See *State ex rel. DHHR v. Dyer*, 836 S.E.2d 472 (W.Va. 2019); and W.Va. Code §49-4-608(g).



Foster Child Bill of Rights

W.Va. Code §49-2-126

○ MEDICAL CARE

- The right to receive medical, dental, vision care, mental health services, and substance abuse treatment.
- When appropriate due to the child's age and development, the right to be informed about medication.
- See W.Va. Code § 49-4-405.

Foster and Kinship Parent Bill of Rights

W.Va. Code §49-2-127

○ THE RIGHT TO INFORMATION

- To receive information about the child that affects safety of foster family and/or affects care for the child.
- To receive information about the child before placement.
- To receive a copy of individual treatment and service plan for the child.
- To communicate with professionals providing care to child.
- To receive notice of removal of child from foster home.

Foster and Kinship Parent Bill of Rights

W.Va. Code §49-2-127

- THE RIGHT TO INFORMATION (continued)
 - See W.Va. Code §§ 49-4-111 and §49-4-405;
 - Rule 3(o) and 41, RPCANP.

Foster and Kinship Parent Bill of Rights

W.Va. Code §49-2-127

○ COURT PARTICIPATION

- The right to notice of hearings.
- The right to intervene in a case once parental rights have been terminated.
- The right to be considered as a permanent placement.
- The right to submit a report or letter to Court concerning violation of foster/kinship parent's rights or deficient performance of professionals.

Foster and Kinship Parent Bill of Rights

W.Va. Code §49-2-127

- COURT PARTICIPATION (continued)

- See Rule 3(o), RPCANP;
- W.Va. Code §§ 49-4-601(h) and 49-4-608;
- *State ex rel. H.S. v. Beane*, 814 S.E.2d 660 (W.Va. 2018); and
- *State ex rel. C.H. v. Faircloth*, 815 S.E.2d 540 (W.Va. 2018).

Foster and Kinship Parent Bill of Rights

W.Va. Code §49-2-127

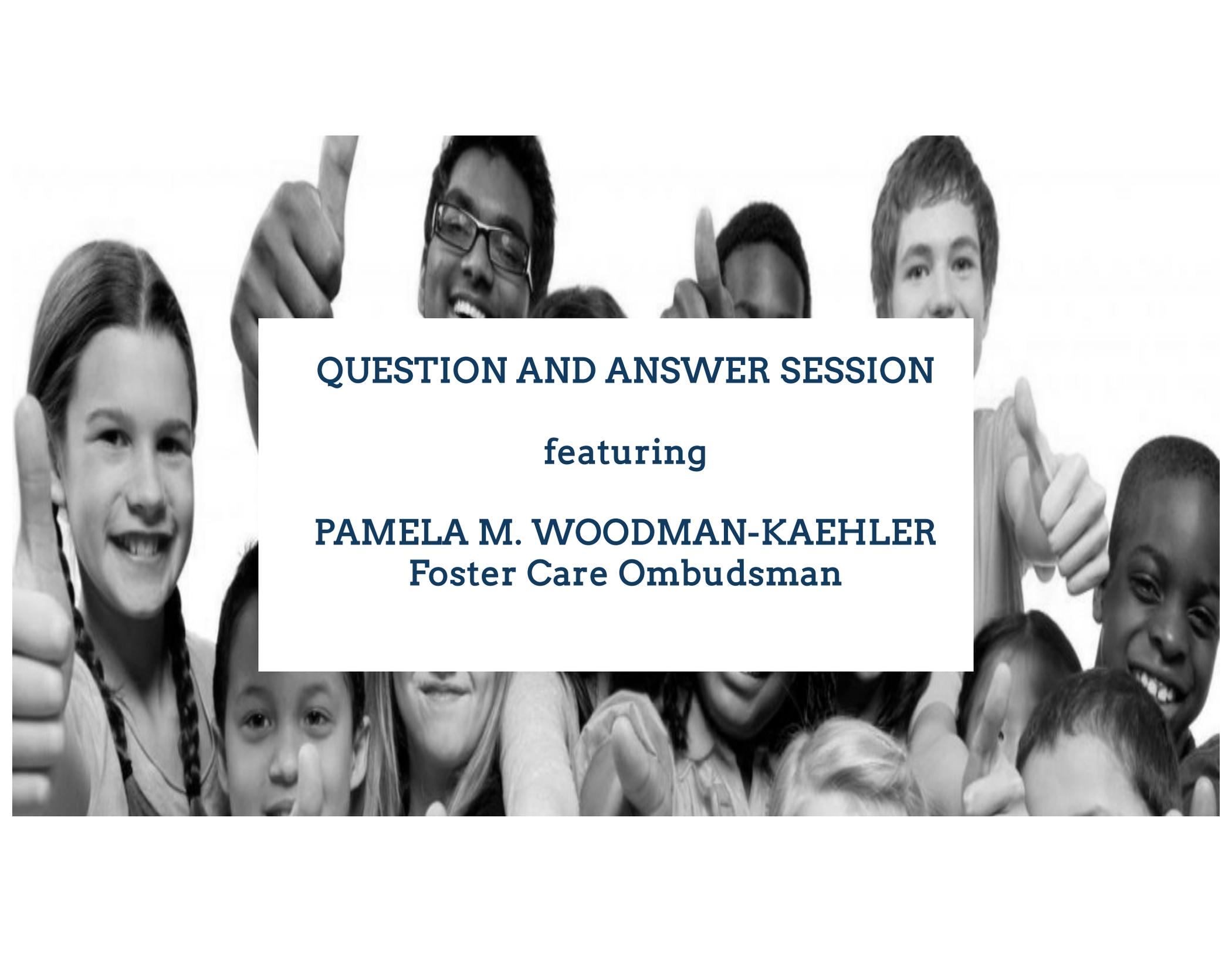
○ ISSUES IN THE FOSTER HOME

- The right to training.
- The right to emergency contact information.
- The right to information regarding the final outcome of complaints in a foster home.

Foster and Kinship Parent Duties

W.Va. Code §49-2-127a

- The duty to support reunification unless the Court has found it is not appropriate.
- The duty of confidentiality.
- The duty to provide information about the child to the M.D.T. and Court.
- See W.Va. Code §§ 49-4-604 and 49-5-101; and
- *State ex rel. C.H. v. Faircloth*, 815 S.E.2d 540 (W.Va. 2018).



QUESTION AND ANSWER SESSION

featuring

PAMELA M. WOODMAN-KAEHLER
Foster Care Ombudsman

Complaint Process

Complaint received by FCO –
telephone, email, letter, fax,
in person

FCO analyzes, categorizes and
assigns complaint

Three levels of FCO
intervention

- Information/Referral
- Assistance
- Investigation

Process complaint toward
resolution

May include agency meetings
and recommendations

Track key data for aggregate
reporting

Produce aggregate and ad
hoc summary reports

Follow up with agencies
regarding implementation of
recommendations

Inform stakeholders



HOW TO CONNECT: FOSTER CARE OMBUDSMAN

Contact Information

- Pamela M. Woodman-Kaehler, MBA, MSW, LGSW
Foster Care Ombudsman
West Virginia DHHR
Office of Inspector General
State Capitol Complex
Building 6, Room 817
Charleston, WV 25305
Phone: 304.558.1117
Fax: 304.558.1992
Email: Pamela.M.WoodmanKaehler@wv.gov
Website: <http://www.wvdhhr.org/oig/fco.html>



**PRACTICAL TIPS FOR
IMPLEMENTATION OF THE
FOSTER CARE BILL OF RIGHTS**



FOSTER CHILD BILL OF RIGHTS

West Virginia Code § 49-2-126



A BILL OF RIGHTS FOR YOU!

As a foster child, you have these rights when possible:

- The right to live in a safe, healthy environment that is the least restrictive possible.
- The right to be free from physical, sexual, or psychological abuse.
- The right to receive adequate and healthy food, appropriate and necessary clothing, and an appropriate travel bag.
- The right to receive medical, dental, vision care, mental health services, and substance abuse treatment.
- The right to be placed in a kinship placement.
- The right to be placed with siblings.
- The right to be informed of medications, when appropriate based on age and development.
- The right to speak in private with caseworkers, GAL, CASA, and other M.D.T. members.
- The right to maintain contact with siblings.
- The right to contact the Foster Care Ombudsman Office.
- The right to communicate with previous caregivers and important adults.
- The right to participate in religious activities.
- The right to attend school and activities.
- The right to develop job skills.
- The right to attend Independent Living Program.
- The right to attend hearings and speak to Court.
- The right not to be subjected to discrimination or harassment.
- The right to information on education options.
- The right to understand these rights.
- The right to receive care consistent with the reasonable and prudent foster care standard.
- The right to meet with your caseworker at least one time per month.

HOW TO CONTACT FOSTER CARE OMBUDSMAN OFFICE:

State Capitol Complex
Building 6, Room 817-B
Charleston, WV 25305
(304) 558-1117
fostercareombudsman@wv.gov

THE FOSTER AND KINSHIP PARENT BILL OF RIGHTS

WEST VIRGINIA CODE § 49-2-127 (EFFECTIVE JUNE 5, 2020)



HOW TO CONNECT WITH THE FOSTER CARE OMBUDSMAN (FCO) OFFICE:

State Capitol Complex
Building 6, Room 817-B
Charleston, WV 25305
Telephone: (304) 558-1117
fostercareombudsmanwv.gov

What is the FCO?
The FCO advocates for rights of foster children and foster families, investigates and resolves complaints by foster children and foster families, and monitors the development of regulations, policies, and procedures related to the child welfare system.

RIGHTS FOR YOU: WEST VIRGINIA'S FOSTER AND KINSHIP FAMILIES

**A Bill of Rights that acknowledges the integral
and vital role you provide for our State's children!**

The West Virginia Legislature established a Bill of Rights for Foster and Kinship Parent Families that includes, but is not limited to, the following:

- The right to be treated professionally and ethically as a provider.
- The right to maintain your own family beliefs and beliefs, when possible.
- The right to receive training.
- The right to have an emergency contact 24/7.
- The right to learn safety issues about the child prior to placement.
- The right to learn background about the child prior to placement.
- The right to be provided a copy of treatment and service plans.
- The right to participate and be notified of permanency planning.
- The right to communicate with other professionals regarding the child.
- The right to be notified of all Court hearings.
- The right to be notified of the final outcome of an investigation concerning foster home and explanation of corrective action plan or policy violation.
- The right to contact the Foster Care Ombudsman.
- The right to submit a letter or report to the Court.
- The right to be considered a permanent placement, when appropriate.
- The right to receive a full copy of the Bill of Rights.



Training Survey

WV Court Improvement Program

<https://www.surveymonkey.com/r/NK7VZPF>

Please participate in a survey following today's CLE!

Please note that today's CLE session does not replace the required 8-hour Guardian ad Litem training.

MCLE CODE: 47139



How to Connect

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