

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §49- - , relating to legislative findings and declaration of intent and rights for foster children; requiring the Department of Health and Human Resources to propose legislative rules; providing that no new cause of action against the state is created; and no expenditure of funds is required.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §49- - , to read as follows:

ARTICLE . STATE RESPONSIBILITIES FOR THE PROTECTION AND CARE OF CHILDREN.

§49- - . Legislative findings and declaration of intent for rights of foster children.

- (a) The Legislature finds and declares that the design and delivery of child welfare services should be directed by the principle that the health, safety and well-being of children should be of paramount concern, and, therefore, establishes the following rights for children in foster care:
- (1) Protection by a family of his or her own, provided readily available services and supported through care of an adoptive family or by plan, a continuing foster family. Protection is also guaranteed for youth in residential facilities;
 - (2) Nurturing by foster families and providers who have received intensive background checks and have demonstrated that foster children are their first priority. Foster parents will be thoroughly evaluated and continuously re-evaluated to ensure the well-being of the child is paramount;

- (3) A safe and nurturing foster home or residential placement free of violence, abuse, neglect, and danger;
- (4) The ability to maintain his or her sibling relationships shall be a top priority in case planning and court hearings;
- (5) The ability to communicate with the assigned social worker and Guardian Ad Litem overseeing the child's case and have calls made to the social worker or Guardian Ad Litem returned within three days;
- (6) The ability to have access to education regarding psychotropic medication side effects, risks, and alternatives, including therapies that could be used in lieu or in conjunction with the psychotropic medications, such a pet therapies;
- (7) Participation in school extracurricular activities, community events, and religious practices of the child's choosing;
- (8) Special consideration to older foster youth who have children of their own and the ability to keep their children with them;
- (9) The ability to have continued contact with the child's biological family that was terminated, to the extent possible;
- (10) Identification and other permanent documents, including a birth certificate, social security card, bank account, and health records by the age of 16, and to the extent allowed by federal and state law, and will be provided to the youth before they leave foster care;
- (11) A high quality of child welfare services, including involvement of the natural parents, and the child's involvement in all decisions that affect his or her

life; including a meaningful transition plan for children transitioning out of foster care;

- (12) A normal style of life as possible, for both children in foster/adoptive homes and residential placements, as responsive to the child's needs as a foster/adoptive home is expected to be.
- (b) No person shall have a cause of action against the state or any of its subdivisions, agencies, contractors, subcontractors, or agents, based upon the adoption of or failure to provide adequate funding for the achievement of these rights by the Legislature. Nothing herein shall require the expenditure of funds to meet the rights established herein except funds appropriated for such purpose.
- (c) The West Virginia Department of Health and Human Resources shall promulgate rules in accordance with the provisions of chapter twenty-nine-a of this code to ensure that a child has an effective means of being heard if he or she believes the goals of this section are not being met.

This Bill is the result of input of former and current foster youth across the state who attended West Virginia Foster Advocacy Movement (WVFAM) meetings and shared their concerns and stories. Last July, thirty of their peers came together and voted on the top issues which have been included in this Bill of Rights. For more information, please visit <http://modify.cedwvu.org/wvfam/>