

# WEST VIRGINIA LEGISLATURE

## 2017 REGULAR SESSION

Introduced

### House Bill 2089

FISCAL  
NOTE

BY DELEGATE COWLES

[Introduced February 8, 2017; Referred  
to the Committee on the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §49-2-127, relating to establishing a bill of rights for foster parents.

*Be it enacted by the Legislature of West Virginia:*

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
2 section, designated §49-2-127, to read as follows:

**ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.**

**§49-2-127. Foster Parent's Bill of Rights.**

1 (a) Legislative Findings -- Foster parents provide a critical service to the State of West  
2 Virginia caring for thousands of foster children every year, allowing the State of West Virginia  
3 substantial financial savings each year through providing loving homes enabling children to  
4 endure the hardship associated with separation from family, at extremely low cost to the state.  
5 These services come with tremendous sacrifice and selflessness, representing a commitment to  
6 make a meaningful difference during the most important years of a person's lifetime.

7 (b) The Department of Health and Human Resources shall ensure that each foster parent  
8 has all of the following rights:

9 (1) The right to be treated with dignity, respect, trust, value and consideration as a primary  
10 provider of foster care and a member of the professional team caring for foster children;

11 (2) The right to receive information concerning the rights enumerated in this section;

12 (3) The right to a concise written explanation of their role as foster parents in partnership  
13 with children and their families, the department and other providers, the role of the department  
14 and the rights and role of the members of the birth family of a child in foster care;

15 (4) The right to training and support for the purpose of improving skills in providing daily  
16 care and meeting the needs of the child in foster care;

17 (5) The right to training, consultation and assistance in evaluating, identifying and  
18 accessing services to meet their needs related to their role as foster care providers. This includes,

19 but is not limited to, all foster care policies, the Foster Parent Handbook and a mediation process;

20 (6) The right to provide input to the department in identifying the types of resources and  
21 services that would meet the needs of children currently in their care and of their families, and  
22 advocate for the same without threat of reprisal;

23 (7) The right to information concerning behavioral problems, health history, educational  
24 status, cultural and family background and other issues relative to the child which are known to  
25 the department at the time the child is placed in foster care prior to the child's placement with a  
26 foster parent or parents. When the department knows this information after placement, the  
27 department shall make that information available to the foster parent as soon as practicable;

28 (8) The right to a written explanation of the plan concerning the placement of a child in the  
29 foster parent's home. For emergency placements where time does not allow prior preparation of  
30 the explanation, the department shall provide an explanation within seventy-two hours. Prior to  
31 placement, the department shall allow the foster parent to review a written summary of information  
32 concerning the child including, but not limited to, assessments, evaluations and case plans and  
33 allow the foster parent to assist in determining if the child would be a proper placement for the  
34 prospective foster family. For emergency placements where time does not allow prior review of  
35 the information, the department shall provide the information within seventy-two hours of  
36 placement. Confidential information shall be kept confidential by the foster parents;

37 (9) The right to a staff person representing the department on call twenty-four hours a day  
38 seven days a week for the purpose of aiding the foster parent in receiving departmental  
39 assistance;

40 (10) The right to fair and equitable payments from the Department of Health and Human  
41 Resources based on a system of daily board rates and other financial reimbursement as specified  
42 in a plan adopted by the department after consultation with the foster parent, subject to the  
43 availability of funds;

44 (11) The right to accept or refuse placement within the home or to request, upon

45 reasonable notice to the department, the removal of a child from the home for good cause without  
46 threat of reprisal;

47 (12) The right to information of scheduled meetings and appointments concerning the  
48 foster child and permission for the foster parent to actively participate in and provide input to be  
49 used in the case planning and decision-making process regarding the child in foster care  
50 including, but not limited to, multidisciplinary team meetings, foster care reviews, individual  
51 educational planning meetings and medical appointments;

52 (13) The right to request that a person or persons serve as volunteer advocate and to be  
53 present at all meetings with the department including, but not limited to, individualized service  
54 planning, administrative hearings, the grievance/mediation process, the adoption process and the  
55 allegation process where the foster parent is present. All communications received by the  
56 volunteer advocate shall be in strict confidence;

57 (14) The right to notice and an opportunity to be heard including timely information  
58 concerning all court hearings. This notification may include, but is not limited to, notice of the date  
59 and time of the court hearing, the name of the judge or hearing officer assigned to the case, the  
60 guardian ad litem, the location of the hearing and the court docket number. The notification shall  
61 be made upon receipt of this information by the department. Although not a party to the case, the  
62 foster parent may attend court hearings at the discretion of the judge;

63 (15) The right to communicate with professionals who work with the foster child including,  
64 but not limited to, therapists, physicians and teachers who work directly with the child;

65 (16) The right to communicate with the child's birth family, other foster parents of the child  
66 and prospective and finalized adoptive parents of the child without the threat of reprisal;

67 (17) The right to necessary information on an ongoing basis which is relevant to the care  
68 of the child including timely information on changes in the case plan or termination of the  
69 placement and reasons for the changes or termination of placement to the foster parent except in  
70 the instances of immediate response of child protective service;

71 (18) The right to first consideration as the resource for a child in a foster parent's home  
72 who becomes free for adoption or another planned permanent living arrangement;

73 (19) The right to a period of respite upon the request, with reasonable notice, of a foster  
74 parent;

75 (20) The right to information, in person and in writing, of allegations of maltreatment of  
76 children in the home of the foster parent alleged to have been perpetrated by a member of the  
77 foster parent's household, the process for disposition of these allegations and any review process  
78 for reports of indicated child abuse and neglect upon receipt of the allegations. A written  
79 notification of any report in which a finding is not indicated on the county level shall be provided  
80 to a foster parent within five days of the findings;

81 (21) The right to copies of all information relative to their family and services contained in  
82 the personal foster home record; and

83 (22) Except in emergencies, foster parents shall be given two weeks advance notice and  
84 a written statement of the reasons before a child is removed from their care. When requesting  
85 removal of a child from their home, foster parents shall give two weeks advance notice, consistent  
86 with division policy, to the child's caseworker except in emergency situations. Recognizing the  
87 critical nature of attachment for children, if a child reenters the foster care system and is not placed  
88 in a relative's home, the child's former foster parents shall be given first consideration for  
89 placement of the child.

NOTE: The purpose of this bill is to provide a bill of rights for foster parents.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.