

HOUSE BILL NO. 266

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE SPOHNHOLZ

Introduced: 2/21/20

Referred: Health and Social Services, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to foster care."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
4 to read:

5 LEGISLATIVE FINDING: FOSTER CARE BILL OF RIGHTS. (a) The legislature
6 finds that a child who is in the custody of the Department of Health and Social Services under
7 AS 47.10 has the following rights:

8 (1) the right to be treated with respect, including

9 (A) to be protected from discrimination or harassment based on age,
10 race, disability, religion, sexual or gender identity, foster care status, or family history;
11 and

12 (B) to have the child's personal physical boundaries respected;

13 (2) the right to function in as normal an environment as possible and to live as
14 normally as possible, including

15 (A) to be placed in a safe, supportive, and stable environment;

1 (B) to have clothes that fit, are in style, and are appropriate for the
2 season;

3 (C) to participate in extracurricular activities, including sports, clubs,
4 theater, band, choir, and other entertainment of the child's choice;

5 (D) to practice the child's religion and to engage in cultural activities,
6 including subsistence activities;

7 (E) to obtain an instruction permit and driver's license as provided by
8 state law;

9 (F) to have social contact with people outside of the foster care system,
10 including friends, teachers, church members, and mentors;

11 (G) to have access to a telephone; and

12 (H) to be provided transportation;

13 (3) the right to function in a healthy and safe environment including

14 (A) to be free from abuse and neglect;

15 (B) to be free from physical restraints imposed for the purpose of
16 discipline or convenience, unless required for the child's safety;

17 (C) to have adequate food in accordance with the child's customary
18 diet and nutritional needs;

19 (D) to have routine medical, dental, and vision care;

20 (E) to receive appropriate mental health services in the least restrictive
21 setting;

22 (F) to receive appropriate substance abuse treatment in the least
23 restrictive setting;

24 (G) to consent to the use of medications, including psychotropic
25 medications;

26 (H) to have a court hearing before being placed in a residential
27 treatment center; and

28 (I) to have a court hearing within 72 hours after being placed in a
29 psychiatric hospital;

30 (4) the right to be placed in a safe, secure, and stable environment including

31 (A) to remain in the child's home or be returned to the child's home if

1 safe;

2 (B) to be placed in the least restrictive homelike setting that meets the
3 child's needs;

4 (C) to have the department conduct a timely and thorough relative
5 search at every stage of the child's case;

6 (D) to have the child's wishes considered in all placement decisions;

7 (E) to receive a timely permanent placement;

8 (F) to have the department continue to look for an adoptive or
9 guardianship home until the child reaches 21 years of age;

10 (G) for a child 16 years of age or older, to live in an unlicensed
11 transitional living setting, including a dormitory;

12 (H) to be placed with the child's siblings;

13 (I) to have contact information for siblings and the ability to contact
14 siblings if not placed together;

15 (J) to have frequent contact with parents, siblings, and extended family
16 members; and

17 (K) to receive information about the situations of the child's parents
18 and siblings;

19 (5) the right to actively participate in the child's case plan, including

20 (A) to be a full participant in case planning meetings;

21 (B) to be involved in identifying permanency goals;

22 (C) to bring to case planning meetings two individuals to provide
23 support to the child;

24 (D) to be informed of all administrative reviews and other meetings
25 concerning the child, including team decision-making meetings, treatment team
26 meetings, and school best-interests meetings;

27 (E) to receive independent living services; and

28 (F) to have access to departmental records, including court records in
29 the department's possession, relating to the child;

30 (6) the right to privacy, including

31 (A) to have a private place to store personal belongings;

1 (B) to speak in private with the child's caseworker, guardian ad litem,
2 court-appointed special advocate, and attorney; and

3 (C) to have the child's confidential information and records protected;

4 (7) the right to education, including

5 (A) school stability;

6 (B) transportation to and from school;

7 (C) vocational training;

8 (D) funding for postsecondary education;

9 (E) to participate in school-related activities; and

10 (F) to receive evaluations, support, and advocacy necessary to ensure
11 the child is receiving an education appropriate to the needs and abilities of the child;

12 (8) the right to participate in the child's court case, including

13 (A) to be informed of the reason the child is in the custody of the
14 department;

15 (B) to be informed of all court hearings, administrative reviews, and
16 meetings concerning the child;

17 (C) to be present and participate at all court hearings;

18 (D) to be appointed a guardian ad litem to represent the best interests
19 of the child; and

20 (E) to have access to court records relating to the child;

21 (9) the right to be appointed an attorney if

22 (A) the child is placed in a psychiatric hospital or a residential
23 treatment center without the consent of the child;

24 (B) the child does not consent to being administered psychotropic
25 medication;

26 (C) the child objects to disclosure of psychotherapy information or
27 records under Rule 9(b), Alaska Child in Need of Aid Rules of Procedure; or

28 (D) a request for a court order authorizing emergency protective
29 custody of the child has been made under AS 47.10.141(c);

30 (10) the right to participate in custody decisions, including

31 (A) to receive notice not later than 30 days before the department

1 releases the child from custody or lets custody expire;

2 (B) to consent to continued custody when the child reaches 19 years of
3 age;

4 (C) to consent to release from custody when the child reaches 19 years
5 of age or later; and

6 (D) to re-enter custody after release, under certain conditions;

7 (11) the right to economic stability, including

8 (A) to receive a suitable allowance;

9 (B) to work and develop job skills at an age-appropriate level
10 consistent with state law;

11 (C) to maintain a bank account;

12 (D) to receive advance notice if the department applies to be the
13 representative payee for social security benefits on behalf of the child;

14 (E) to receive information regarding Native corporation dividends and
15 permanent fund dividends held in trust;

16 (F) to have taxes withheld before the state releases any income to the
17 child, including a permanent fund dividend and independent living funds; and

18 (G) to receive a credit report;

19 (12) the right to be provided with a copy of this Foster Care Bill of Rights;

20 (13) the right to file grievances regarding the child's caseworker, foster parent
21 or other care provider, guardian ad litem, court-appointed special advocate, or attorney;

22 (14) the right to contact the office of the ombudsman, the child's state
23 representative or senator, or the governor's office to complain and provide information about
24 the child's case; and

25 (15) upon release from custody, the right to be provided with important
26 documents, including the child's birth certificate, social security card, driver's license or
27 identification card, certificate of degree of Indian or Alaska Native blood card, and medical
28 records.

29 (b) When a child is placed in foster care by the Department of Health and Social
30 Services under AS 47.10, the foster parent has the following rights:

31 (1) the right to be treated with respect, including to be

1 (A) treated as a member of the professional team caring for the foster
2 child when interacting with the department; and

3 (B) included in discussions about the child before case planning,
4 administrative reviews, team decision-making meetings, and court hearings;

5 (2) the right to participate in custody decisions, including

6 (A) to decide whether to accept placement of a child in the foster
7 parent's home;

8 (B) to request a change in placement of a child placed in the foster
9 parent's home after giving reasonable advance notice of the requested change;

10 (C) to limit the number of children that may be placed in the foster
11 parent's home to the extent allowed under state law; and

12 (D) if a foster child is reentering foster care at the same level and under
13 the same type of care as a previous placement with the foster parent, placement is
14 consistent with the best interest of the child and other children in the home of the
15 foster parent, and, for a child 12 years of age or older, the child wishes to return to the
16 home of the foster parent, to be a preferred placement for the child;

17 (3) the right to receive information, including

18 (A) known information regarding each child who is to be placed in the
19 foster parent's home, including educational, medical, and behavioral information and
20 information relating to the strengths and needs of the child; and

21 (B) additional information relevant to the care of a child placed with
22 the foster parent;

23 (4) the right to privacy, including

24 (A) to work with the caseworker on how family contact will be
25 maintained in the home; and

26 (B) to decide what contact information will be provided to the child's
27 parents or caregivers and whether to allow birth family visits in the foster parent's
28 home;

29 (5) the right to a fair hearing on foster home licensure actions, including

30 (A) to appeal a plan of correction or license revocation; and

31 (B) to provide a written response to a completed investigation for

1 inclusion in the foster parent's licensing file;

2 (6) the right to participate in the child's case plan, including

3 (A) to receive notice of a placement change of a child in the foster
4 parent's home under nonemergency conditions;

5 (B) to receive notice of court hearings involving a child placed in the
6 foster parent's home;

7 (C) to challenge a placement change under nonemergency conditions;

8 (D) to receive regular visits from the child's caseworker to exchange
9 information, plan, and discuss any concerns about the child; and

10 (E) to grant permission for the child to participate in cultural,
11 extracurricular, social, and enrichment activities under a reasonable and prudent parent
12 standard and based on the child's age and developmental level;

13 (7) the right to free exercise of religion, including the right to practice the
14 foster parent's religion in the foster parent's home, as long as the religious and spiritual
15 practices of the child's birth family are also respected;

16 (8) the right to use the grievance procedure established by the department to
17 make the foster parent's concerns known without the fear of reprisal;

18 (9) if the foster parent is moving toward adoption of a foster child, the right to
19 have full disclosure of information relating to the child before the finalization of the child's
20 adoption;

21 (10) the right to receive timely financial reimbursement for providing foster
22 care services and be notified of any costs or expenses for which the foster parent may be
23 eligible for reimbursement; and

24 (11) the right to be notified of and given appropriate education and training to
25 meet the specific needs of a child in the foster parent's care and to develop and enhance foster
26 parenting skills.