

# Legislative Analysis

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## FOSTER PARENTS BILL OF RIGHTS

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**House Bill 4649 (Substitute H-1)**  
**Sponsor: Rep. Kevin Cotter**

**House Bill 4650 (Substitute H-2)**  
**Sponsor: Rep. Ben Glardon**  
**Committee: Families, Children, and Seniors**

**Complete to 10-29-13**

## A SUMMARY OF HOUSE BILLS 4649 & 4650 AS REPORTED FROM COMMITTEE

House Bill 4649 would amend the Foster Care and Adoption Services Act by adding a new Section 8a, which would be known and cited as the "Foster Parent's Bill of Rights Law" to ensure that foster parents and prospective adoptive parents receive all applicable resources as outlined below.

House Bill 4650 would amend the Children's Ombudsman Act to authorize the Children's Ombudsman to begin and conduct investigations into alleged violations of the Foster Parent's Bill of Rights Law (created by House Bill 4649). The bill is tie-barred to House Bill 4649, meaning it cannot take effect unless House Bill 4649 is also enacted.

### **House Bill 4649 (*Foster Parent's Bill of Rights*)**

Under the bill, in order to ensure that each foster parent is treated with dignity, respect, trust, and consideration, the department would be required to ensure that each foster parent has access to or receives the following:

- Explanation and clarification regarding supervising agency's role and expectations, information concerning its policies and procedures, and changes to the same relative to the role as a foster parent or the children in the foster parent's care within 30 days after changes are made.
- Treatment by the supervising agency that does not violate the provisions of the Elliot-Larsen Civil Rights Act (MCL 37.2010 et al.)
- Evaluation and "feedback" regarding the foster parent's provision-of-care role. ("Feedback" would be defined to mean providing a copy of the written annual assessment of rule compliance and the written special evaluation report to the foster parent.)
- Necessary training and support to enable the foster parent to provide quality services to the children who are or will be in care, to include information on the policies developed by the supervising agency designed to support and aid foster,

kinship, and adoptive families relative to foster care and prospective adoptive placement.

- Necessary support for the foster parent, to include ; access to the supervising agency staff for assistance in dealing with family loss and separation when a child leaves the foster home; and access to information about local and statewide support groups that include local and statewide foster, kinship, and adoptive parent associations. (The term "respite" would be defined to mean substitute care that is provided to a foster child when the foster parent is not present or not available as defined in the supervising agency's substitute care policy or as facilitated by the supervising agency.)
- 24 hour/7 day access to the appropriate supervising agency for emergency information and assistance for children in the foster parent's care.
- Timely financial reimbursement for foster children in the foster parent's care. (The term "timely financial reimbursement" would be understood to mean payment issued within 14 days after submission of accurate and complete documentation.)
- Timely investigation of complaints concerning the foster parent's licensure, the right to have a person of the foster parent's choosing present during an investigation, and the right to file a grievance when the foster parent disagrees with a finding in a licensing investigation. (The term "timely investigation" would be understood to mean an investigation is completed within 45 calendar days after receipt of the information. If additional time is required, the supervising agency would be required to inform the foster parent, in writing, of the basis for the extension. Any extensions could not exceed 90 days)
- A hearing regarding licensing.
- Decisions concerning a licensing corrective action plan that are specifically tied to the licensing violation.
- Copies of all information relative to the foster family and services contained in the personal foster home or foster parent records as allowed by law.
- Information before placement of the child regarding the child's behavior, background, health history, or other issues relative to the child that may jeopardize the health and safety of the foster family or alter the manner in which foster care should be provided. In an emergency situation, the supervising agency would be required to provide information as soon as the information is available.
- The option to refuse placement of a child into the home or request--upon reasonable notice--removal of a child without fear of reprisal or adverse effects on future assignments of foster or adoptive placements.

- Information through the supervising agency regarding the number of times a child has been moved, the reason for the move, and the names and telephone numbers of previous foster parents, if the previous foster parent has authorized release of that information.
- Advance notice of a child's removal in order to prepare the child and foster family members. The advance notice would not apply in a case of an emergency situation when there is evidence of mistreatment.
- Notification and the option to participate in writing or in person--depending on the case--in meetings concerning the child, to be informed of decisions made by the court or the supervising agency concerning the child, and to provide input that is given consideration in the same manner as information from other professionals working with the child within the context of foster care, including therapist, physicians, and teachers.
- The option to receive a copy of the supervising agency's placement and service plan concerning the child's care in the foster parent's home and to participate in and receive service plan revisions and any other information relevant to the care, including subsequent revisions to the case plan in a timely manner. Foster parents are to be meaningful participants in the development and/or revision of the case plan for the child in the foster parent's home. Service plans would need to be provided within 10 days after a foster parent's written request.
- Timely and complete written notice from the supervising agency of all court proceedings, including notice of the hearing date, time, and location; the name of the judge or hearing officer; and the court docket number; the option to participate in court hearings when that information is known by the supervising agency; the option to submit factual written statements to the court as provided by law; and notice of the option to be heard at court hearings regarding the child, as allowed by law. (The term "timely notice" would be understood to mean notification of a hearing within 7 days after the supervising agency receives notice from the court.)
- The option to be considered a foster care parent when a child formerly placed with the foster parent is re-entering foster care and the right to be considered when a previously placed child becomes available for adoption, if a relative placement is not available, and if the placement is consistent with the best interest of the child and other children in the foster parent's home.

The department would be required to ensure that all items described in the bill are addressed in any combination of department policy, administrative rules promulgated under the Administrative Procedures Act, or state or federal law.

Under the bill, the department or a child placing agency would need to maintain a written policy describing the grievance procedures for foster parents and prospective adoptive

parents to address any non-compliance with the items described above. The procedure would also need to include information on how and where to file a grievance.

In accordance with the provisions in Section 5 of the Children's Ombudsman Act, a foster parent could file a complaint with the Ombudsman to investigate the department's or a child placing agency's alleged violation of law, rule, or policy.

A foster parent could file a grievance with the department or placing agency to address non-compliance with the items listed above. The department or a child placing agency would have 30 days to respond. If the department or child placing agency acknowledges non-compliance within the 30-day period, the department or the agency would be required to develop a corrective action plan within 30 days of the acknowledgement and provide a copy of the corrective action plan to the foster parent.

The foster parent could request a hearing under the Administrative Procedures Act if any of the following occur: (1) the department or child placing agency fails to respond to a grievance within 30 days; (2) the department or child placing agency objects to the grievance in whole or in part; or (3) the department or child placing agency does not comply with the described corrective action plan within 30 days.

If a grievance is not resolved under the grievance process, the foster parent could appeal to the circuit court as provided in the Administrative Procedures Act. The Children's Ombudsman's investigations of the violations are subject to an appropriation of funds for those investigations.

**House Bill 4650 (*Enforcement by Children's Ombudsman*)**

The bill would amend the Children's Ombudsman Act to authorize the Children's Ombudsman, subject to an appropriation of funds, to begin and conduct investigations into alleged violations of the Foster Parent's Bill of Rights Law (created by House Bill 4659). The Ombudsman could also, in relation to a child who may be a victim of child abuse or neglect, investigate an alleged violation of the Foster Parent's Bill of Rights Law. This could be done upon the ombudsman's own initiative or upon receipt of a complaint.

**FISCAL IMPACT:**

House Bills 4649 and 4950 could have a minimal fiscal cost to the Department of Human Services and to local units of government related to additional training and printing costs.

These bills would expand the types of complaints the Children's Ombudsman would field and potentially investigate, so these bills would, at a minimum, increase intake and training costs of the Children's Ombudsman. While these bills do not mandate that the Children's Ombudsman investigate violations of the Resource Families Bill of Rights<sup>1</sup>, it

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<sup>1</sup> The Children's Ombudsman Act provides the Ombudsman with the authority to investigate; it does not mandate investigation.

is important to note that the Children's Ombudsman would most likely need additional resources to perform these additional investigations.

**POSITIONS:**

Department of Human Services-CPS Program Office testified and supports the bills in concept with concerns. (10-9-13)

Office of the Children's Ombudsman supports the bill. (10-9-13)

Family Enrichment Center supports the bills. (10-2-13)

Michigan Foster Care Review Board supports the bills (10-2-13)

Michigan Association for Foster, Adoptive and Kinship Parents testified in support of House Bill 4649. (10-9-13)

A representative of Families On The Move testified in support of the bills. (10-2-13)

Several currently serving foster parents testified in support of the bills. (10-9-13)

A representative of Foster Care Alumni of America/Michigan Chapter testified in opposition to the bills. (10-9-13)

A representative of Foster Youth Voice testified in opposition of the bill. (10-9-13)

Several former foster care youth (now adults) testified in opposition to the bills. (10-9-13)

A representative of Park West Foundation testified and is neutral on the bills. (10-9-13)

Children's Law Section-State Bar no position as yet on the bills. (10-9-13)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.