



NCSL

NATIONAL CONFERENCE of STATE LEGISLATURES

The Forum for America's Ideas

OVERVIEW OF STATE LEGISLATION TO CERTIFY AND SUPPORT FOSTER CARE FAMILIES

June 17, 2015 - Nina Williams-Mbengue - NCSL



Overview

- NCSL Children and Families Program
- Background
- State Laws to Ensure Child Safety and Support Foster Families
 - Criminal Background Check Requirements for Foster Families
 - Training Requirements for Foster Families
 - Certification Standards for Foster Homes
- Foster Parents Bill of Rights Legislation
- Other Comprehensive Legislation to Support Foster Families

402,378 children in foster care

254,904 entered foster care

238,280 exited foster care

184,787 children in non-relative foster care





State Laws to Ensure Safety of Children in Foster Care and Support Foster Families

Federal Requirements for Criminal Background Checks

The Adoption and Safe Families Act of 1997:

- ❑ Requires criminal record checks of any prospective foster or adoptive parent to whom foster care maintenance payments or adoption assistance payments are to be made under title IV-E

The Adam Walsh Child Protection and Safety Act of 2006:

- ❑ Requires a fingerprint-based check of a national crime information database
- ❑ Requires a check of State child abuse and neglect registry(s) for all adults living in prospective foster homes

The Child Abuse Prevention and Treatment Act (CAPTA):

- ❑ Extends the requirement for criminal background checks to all adults residing in prospective foster family households

State Background Check Laws

Federal criminal record checks

- Required in 38 States (including OR)

Fingerprinting

- Required in 39 States (including OR)

Child abuse and neglect record checks

- Required 41 States, the District of Columbia, Guam, and Puerto Rico (including OR)

State Legislation Training of Foster Parents

States with no training listed in statute:

- ❑ AL, AR, CT, DE, D.C., ID, KS, ME, RI, SD, VT, VA, WI, WY, PR, VI

States that require but do not define specific # of hours:

- ❑ AK, GA, HI, IL (training on right to be heard, mandamus action, to intervene in juvenile court, availability of hotline), IN (therapeutic foster parent and special needs), KY (right to receive training), MD, MA, MI, MO, MT, NE, NV, NJ, NM, NY (therapeutic foster parent), ND, OR, PA, SC, TN, UT, WA, WV

State Legislation Training of Foster Parents (cont'd)

States with pre-service hours:

- ❑ MN (1 hour on installing car seat and SIDS, abusive head trauma, medical devices), MS (12 hours), OK (12 hours)

States with in-service hours:

- ❑ TX (1 hour on shaken baby syndrome, SIDS and early childhood brain development)

States with both pre- and in-service (# hours):

- ❑ AZ (6 pre-/6 in-), CA (12 hours pre- and annual in-service), CO (27 hours pre-service/20 hours in-service/12 hours for therapeutic foster care), FL (21 pre-/8 in-), IA (30 pre-/6 in-), LA (relatives), NC (30 pre-/10 in-), OH (36 pre-/40 in-)

State Legislation Eligibility Requirements for Foster Parents

Suitable character, financial stability, general ability to care for a child, definitions

Financial eligibility:

- MN: foster parent must ensure separation of funds of foster children and foster parents
- VA: Prospective foster parent may submit an operating budget and one credit reference in lieu of inspection of person's financial records

Medical or mental health eligibility:

- MI: (medical statement from each household member)
- PA: Foster family care agency requires a psychological evaluation of potential foster parent if there is a question regarding mental or emotional stability
- WV: preplacement self-certification to include physical and mental health
- PR: Prohibited from becoming foster parents: (judicially declared incompetent, undergoing treatment for medical, mental, emotional and nervous conditions); requires annual certificate of physical and mental health indicating capacity to continue to render services.

State Legislation Standards for Foster Care Homes

- Inspection required, no time specified: AL, AK, AR, GA, MD, MO, MT, NV, NM, NC, OH, OR (developmental disability)
- Facility/fire: NE, NH
- Smoke detector/lead: RI
- Investigations, onsite inspections, record reading and observation: IN
- At any time: DC, ND, OK, OR (time to time), SD
- Right of entry any time: ME
- Unrestricted access: WI

- Annual visit: CA, FL, HI, KS, NH, NJ, PA, SC (fire, health), TX, WV, WI, Guam, Puerto Rico
- Regular inspections/visits: AZ, CA (compliance monitoring for children with HIV or exposed to alcohol/drugs), IL (child care placing agencies must visit monthly), KY, MI (monthly), NY (4 x year), TN, UT (may inspect routinely), VA (twice), WI (periodically)

State Legislation Standards for Foster Care Homes (cont'd)

Preplacement
study/inspection: CA, CO,
CT, DE, HI, ID, MN, NV, NY,
VT, VA (home study and
investigation), WA, WV,
Guam

Reports of abuse: SC, SD,
TX

Separation of inspection
function from licensing:
unable to determine in
statutes examined

- Unannounced visits: FL, IL, IA
(annual), NY, TN, TX, VA, WV
- Annual on-site licensing study: IN
- Inspection for emergency
license: MN
- Complaints: CO, NH, ND (re-
inspection for corrective orders),
OK, TX (under six), AK
- Periodic random sample: TX, WA
(on-site monitoring of 10% of
licensed foster homes)
- Annual enforcement team
conference: TX



Foster Parent Bill of Rights Laws

Foster Parent Bill of Rights Legislation

AZ, AR, CA, GA, IL, IA, KY,
LA, MD, MI, MO, OR, PA,
RI, TN, WA

Generally includes the right to:

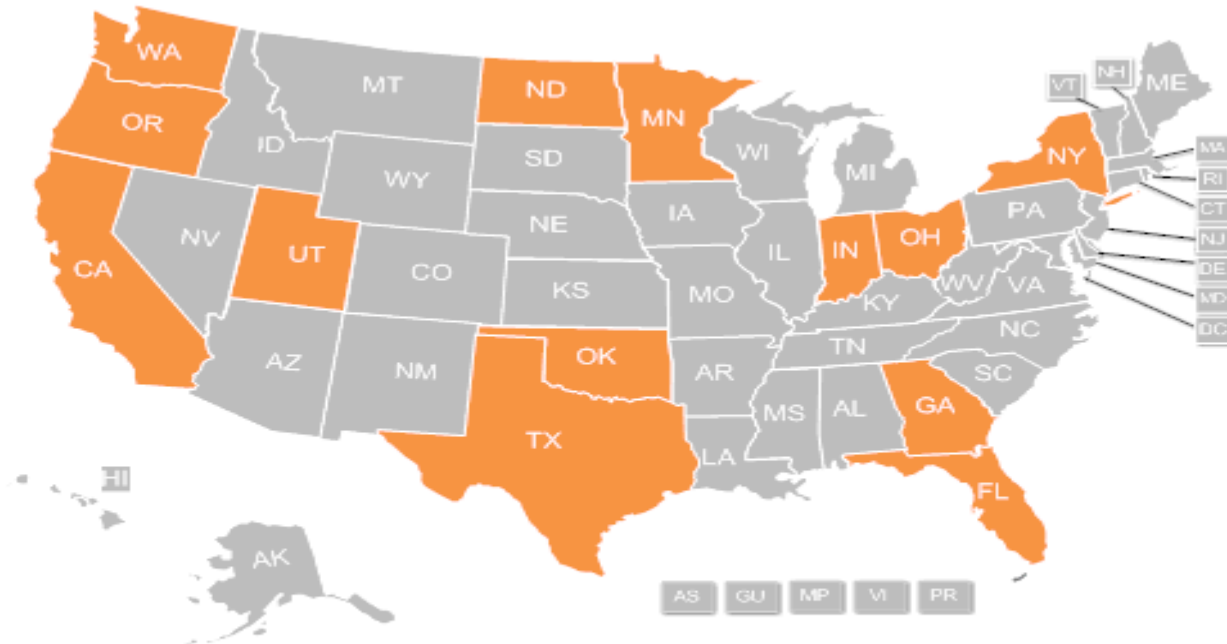
- Be treated with dignity, respect, trust, value, and consideration
- Receive information concerning the rights enumerated
- A written explanation of their role as foster parents
- Training and support

States may also provide rights to:

- Standardized pre-service training and continuing education
- Respite care
- Fair and equitable payment
- A staff person on call 24 hours, 7 days a week (AL, LA)
- Foster parent hotline (IL)

Preventing Sex Trafficking Act of 2014

States with Reasonable and Prudent Parent Standard in Statute



LEGEND

- States with a reasonable and prudent parent standard in statute
- States without a reasonable and prudent parent standard in statute



Other Legislation

Other Legislation

Lawmakers authorized:

- a study of foster care reimbursement, recruitment, licensing and retention of foster and adoptive parents statewide (MO 2011, NE 2013);
- an examination of why foster parents dropped out of the state's program (MI 2011);
- randomly selected unannounced visits (WA 2011);
- codification of appeal rights of foster homes and child placement agencies that license foster homes (NM 2011);
- procedures for when a foster parent believes the department has failed to follow the foster parent's bill of rights and put a child at risk (TN 2009);
- a pilot project for a unified process for licensing kinship, foster and adoptive homes (CA 2007);
- regularly scheduled pre-service training and in-service training (MO 2007);
- respite care (MO 2007)

Other Legislation

- **Oregon**

2007 Ore. Laws, HB 2175, Chap. 444 Sec. 2. Gives the Department of Human Services authority to use abuse and neglect reports to provide protective services and screen employees, providers and volunteers. Creates notice and opportunity for hearing rights for employees, contractors and volunteers. Limits the use of abuse and neglect records from disclosure other than for purposes outlined in legislation. Sec. 3. Directs the department to convene a committee to develop recommendations for screening employees and persons who are licensed, certified, registered or otherwise regulated by the department to provide care.

- **Texas**

2007 Tex. HB 2702, Chap. 267 Sec. 51. Requires the Department of Family and Protective Services to develop a child protective service improvement plan that builds on the reform added under Chapter 268 of the 2005 Regular Legislative Session to keep families together and children safe, reduce the length of time children remain in care and improve the quality and accountability of foster care. The plan must include, if funds are available, improving quality and accountability of child care licensing, monitoring and investigations; streamlining criminal history background checks.

2007 Tex. HB 2702, Chap. 267 Sec. 15. Instructs the Department of Family and Protective Services, when making a placement decision for a child younger than age 2, to give priority to a person who will provide care without disruption until the child is returned to his or her parents or adopted. Sec. 30. Establishes a Committee on Licensing Standards to review, analyze and make recommendations for policy and statutory changes related to licensing standards and facility inspections. The committee review shall include analysis of the deaths of children in substitute care, types of licensing violations, administrative reviews and appeals, and the technical assistance received. Sec. 32. Outlines requirements for the unannounced annual inspection of residential child care facilities. Directs the department to investigate any report of a serious incident in an agency foster home or group home involving a child younger than age 6, including an investigation of any alleged violation of a minimum standard. Sec. 36. Requires an agency foster home that is transferring cases to another child-placing agency to notify that agency of any licensing violations.

- **Maryland**

2007 Md. Laws, HB 397 Creates an Eastern Shore Task Force on Foster Care to consider incentives and make recommendations that will enhance foster care recruitment and retention and to consider the hiring of a permanent staff person in each local Department of Social Services to recruit, retain and support foster care parents.

Comprehensive State Legislation to Support Foster Parents

- Connecticut
2013 Conn. Acts, SB 972, P.A. 178: Requires the Department of Children and Families to develop a comprehensive implementation plan for meeting the emotional and behavioral health needs of all children in the state. The plan, must: (1) strengthen families through home visitation and parenting education programs; (2) increase mental, emotional, or behavioral health issue awareness within elementary and secondary schools; (3) improve the current system of addressing such issues in youths; and (4) provide public and private reimbursement for some mental, emotional, or behavioral health services.
- West Virginia
2010 W.V. Acts, HB 4164, Chap. 20: Establishes a pilot program (to be known as Jacob's Law) for the placement of children ages 4 to 10 in foster care to provide children in crisis with early intervention, assistance with emotional needs, medical evaluations, independent advocates, and foster family training and education. The law also requires immediate evaluation and testing following removal from a home.
- Wisconsin
2010 Wis. Laws, AB 823, Act 336: Requires that all foster parents complete training regarding the care and support needs of children who are placed in foster care or treatment foster care. The training shall be completed on an ongoing basis and include parenting skills, the teaching and encouragement of independent living skills, and issues that may confront foster parents of children with special needs.

Resources

Evidence-Based Practice in Foster Parent Training and Support: Implications for Treatment Foster Care Providers, 2008, Center for Advanced Studies in Child Welfare , Center for Foster Family Based Treatment Association: <http://cascw.umn.edu/wp-content/uploads/2013/12/EBPappendix.pdf>

NCSL Child Welfare Page: <http://www.ncsl.org/research/human-services/child-welfare.aspx>

Contact NCSL

Nina Williams-Mbengue

303-856-1559

nina.mbengue@ncsl.org

Meghan McCann

303-856-1404

meghan.mccan@ncsl.org

Kyle Ramirez-Fry

303-856-1507

Kyle.ramirez@ncsl.org