WEST VIRGINIA CODE: §49-2-126

§49-2-126. The Foster Child Bill of Rights.

(a) Foster children and children in a kinship placement are active and participating members of the child welfare system and have the following rights:

(1) The right to live in a safe and healthy environment, and the least restrictive environment possible;

(2) The right to be free from physical, sexual, or psychological abuse or exploitation including being free from unwarranted physical restraint and isolation;

(3) The right to receive adequate and healthy food, appropriate and seasonally necessary clothing, and an appropriate travel bag;

(4) The right to receive medical, dental, and vision care, mental health services, and substance use treatment services, as needed;

(5) The right to be placed in a kinship placement, when such placement meets the objectives set forth in this article;

(6) The right, when placed with a foster to kinship family, to be matched as closely as possible with a family meeting the child's needs, including, when possible, the ability to remain with siblings;

(7) The right, as appropriate to the child's age and development, to be informed on any medication or chemical substance to be administered to the child;

(8) The right to communicate privately, with caseworkers, guardians ad litem, attorneys, Court Appointed Special Advocates (CASA), the prosecuting attorney, and probation officers;

(9) The right to have and maintain contact with siblings as may be reasonably accommodated, unless prohibited by court order, the case plan, or other extenuating circumstances;

(10) The right to contact the department or the foster care ombudsman, regarding violations of rights, to speak to representatives of these offices confidentially, and to be free from threats, retaliation, or punishment for making complaints;

(11) The right to maintain contact with all previous caregivers and other important adults in his or her life, if desired, unless prohibited by court order or determined by the parent, according to the reasonable and prudent parent standard, not to be in the best interests of the child;

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(12) The right to participate in religious services and religious activities of his or her choice to the extent possible;

(13) The right to attend school, and, consistent with the finances and schedule of the foster or kinship family, to participate in extracurricular, cultural, and personal enrichment activities, as appropriate to the child's age and developmental level;

(14) The right to work and develop job skills in a way that is consistent with the child's age and developmental level;

(15) The right to attend Independent Living Program classes and activities if the child meets the age requirements;

(16) The right to attend court hearings and speak directly to the judge, in the court's discretion;

(17) The right not to be subjected to discrimination or harassment;

(18) The right to have access to information regarding available educational options;

(19) The right to receive a copy of, and receive an explanation of, the rights set forth in this section from the child's guardian ad litem, caseworker, and attorney;

(20) The right to receive care consistent with the reasonable and prudent foster parent standard; and

(21) The right to meet with the child's department case worker no less frequently than every 30 days;

(22) The right, when the child is 13 years of age or older, to receive timely notice of any hearing pursuant to this chapter that may have legal implications for the child. The child's guardian ad litem or legal counsel shall explain the nature of the hearing and inquire whether the child wishes to attend;

(23) The right, when the child is 13 years of age or older, to attend any hearing pursuant to this chapter that may have legal implications for the child. The child's guardian ad litem or legal counsel shall inform the child that attendance may involve distressing information but shall not discourage the child from attending. If the court determines that in-person attendance is impracticable, or not in the child's best interest, whether due to the facts of the case, the circumstances of the child's placement, or other relevant factors the court may require the child to attend the hearing virtually, such determination may be made by the court or based upon a written report from the guardian ad litem that addresses what method of attendance is in the child's best interest. If practicable and in the child's best interest, deference shall be given to the child's desire to attend in-person;

(24) The right to have the outcome of any hearing pursuant to this chapter that has legal

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implications for the child explained by the child's guardian ad litem or legal counsel.

(b) The rights provided in this section do not create an independent cause of action. Violations of these rights may be reported to and investigated by the foster care ombudsman. On or before December 15, 2021, and on or before December 15 of every year thereafter, the foster care ombudsman shall submit a written summary of the number and nature of reports received, and investigations conducted in response to said reports, to the Joint Standing Committee on Government and Finance, the West Virginia Supreme Court of Appeals, and the Governor: *Provided*, That the summary required by this section may not include any personally identifying information of a person named in a report, or a person submitting a report to, the ombudsman.

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