

## HB 1540

This document shows the original bill text in black, the proposed amendments in red, and an explanation for the amendments in blue

### **This bill shall establish a bill of rights for all children and their families who receive services through the Division of Children, Youth and Families**

Statement of Purpose.

I. The rights and privileges enumerated in this act are intended to **establish a mandatory standard of conduct for** Division of Children, Youth and Families (“DCYF”) staff and providers in the delivery of care and services to youth with a commitment to permanency, safety and well-being. **The principles and requirements enumerated in the following provisions shall establish a foundation for all actions and decisions taken by DCYF staff and their contractors, agents, and other providers.** -The listed rights were previously classified as guidelines. Additionally, every place where it says ‘DCYF’ previously said ‘the department’. Brain and social science have validated that word choice matters when it comes to perception, and it’s easy for anyone from DCYF staff to legislators to citizens to see the term ‘department’ and forget that it’s specifically DCYF staff and leadership who are the ones responsible for ensuring these rights, rather than a nebulous, non-specific chain of command inside of the ‘department’. As DCYF is a division of DHHS, the department is an inherent part of assuring that DCYF follows through on its responsibilities, both fiscally and through action.

**These rights and privileges, guaranteed to all youth who come into contact with the child protection system, are a reminder to all of those providing services and care that children are fully realized people deserving of interactions that honor their inherent dignity, right to respect, and right to personal agency to the extent that is reasonable, appropriate, and possible in a given situation.** – The law and policies frequently do not acknowledge, especially explicitly, that children are not simply property or wards of their parents or the state, but human beings in their own rights whose needs are just as legitimate as those of adults. To make specific policies that will truly be transformative in how we treat and care for children, this philosophy needs to be the foundation.

**DCYF and its providers should make all decisions, and execute decisions, that affect youth through the lens of trauma-informed care that understands, recognizes, and responds to the effects of all types of trauma affecting physical, psychological, and emotional safety. The goal of DCYF and its providers should be to leave youth with the coping tools to heal from trauma, rather than inflicting more upon them in the course of their contact with the system.** -There was previously no mention of a trauma-informed lens, despite that being the standard that many DCYF policies and operations are allegedly based on. Using the standard of trauma-informed care and having a focus on trauma prevention and treatment can minimize harm that has both a human and financial cost after the fact.

II. The following assumptions, beliefs, and goals **form the foundation for** this children's bill of rights: -vs. 'guide' in the original text

- (a) Everyone deserves to be safe.
- (b) All children and youth need and deserve permanency and a life of wellbeing.
- (c) Everyone, regardless of age, deserves to be treated with courtesy and respect.
- (d) All children, youth, and families have strengths.
- (e) All children and youth belong with a family or other sources of caring and support.

**II. Section 170G:20 shall be amended to read as follows:**

170-G:20 **Best Interest of the Child Standard** The rights of children **who are assessed by, receive services from, or are otherwise involved with, DCYF shall be interpreted and based on The Best Interests of the Child Standard as set forth in existing provisions of the New Hampshire Judicial Code Section 169:B, C, and D.** This means that **DCYF staff and their providers** must make careful and sensible decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child. The rights and privileges established in this section are to be applied in accordance with the **best interests of the child** standard, in a context appropriate to the age and developmental level of the child. – **HB 377 which is expected to pass amends RSA169:C (the child protection act) to use the best interest of the child standard defined in that statute as encouraging, "...the mental, emotional, and physical development of each child coming within the provisions of this chapter, by providing the child with the protection, care, treatment, counseling, supervision, and rehabilitative resources which the child needs and has a right to receive."** This will standardize the definition across legislation and place this legislation in compliance with the changes to RSA 169:C.

**III. Section 170G:21 shall be amended to read as follows:**

170-G:21(a) **Children's Bill of Rights.** All children **who are assessed by, receive services from, or are otherwise involved with DCYF and its designated providers shall have the rights enumerated in paragraphs I through XV below. These rights shall also inure to any child who is placed in a foster home or other out-of-home placement pursuant to a juvenile court proceeding under RSA 169-B, RSA 169- C, or RSA 169-D.** - **Provide that all clients of DCYF are granted the same rights as those provided under current law to foster care clients. Prior to entering foster care, all children first encounter the system through the assessment process, which can last for months. Further, it often takes multiple assessments before a child is removed from their home and placed in care, or a different outcome is determined. Children should have the provision of the rights established in this amendment from their first contact with DCYF or any of its providers to maximize positive outcomes and minimize harm.**

I. To be supported in a healthy growth and developmental process from early childhood to adulthood and to be protected from all forms of abuse and neglect.- Abuse and neglect have 2 different statutory definitions under NH law.

- II. To receive appropriate and team recommended assessments and treatments, including counseling, medical care, and dental treatment, within a reasonable period. Such treatments and services shall be provided by appropriately qualified and licensed providers. The child and/or guardian shall have the right to be informed of such provider's qualifications and credentials. This shall include the right to choose an alternative qualified and licensed professional. – Assessments come prior to treatment and a child has a right to expect these rights be fulfilled with all providers they come in contact with, even if the provider is not officially providing treatment. Children and families have a right to know who is assessing and providing treatment to a child and what qualifies them to do so, just like families outside of the system do. If a family is not satisfied with, or has a concern about, a particular provider, they should have a right to seek an equally qualified alternate provider or a second opinion, just like families outside the system do. So many families have their power removed when involved with this system, and this is an easy and common sense way to allow them to partner in this process, build trust with the system, and advocate for their children in a way overseen by licensed and qualified professionals.
- III. To receive support from DCYF staff, and his or her foster family or residential provider in maintaining positive contact with significant people, such as relatives, friends, teachers, and community supports, including assistance with obtaining contact information, transportation, and reasonable visitation opportunities.
- IV. To develop a group of supportive adults, which may include DCYF staff, foster parents, residential staff, therapists, and other individuals with responsibility for case planning, and to maintain contact with bonded caretakers or providers where clinically indicated. -When a licensed and qualified professional deems it to not be harmful for a child to maintain contact with their bonded caretakers, it is important a child be allowed to do so to minimize trauma of complete and sudden separation, and ties to the life they've known which is an important part of a child forming and understanding their identity as they develop. This is also consistent with HB 377.
- V. To be treated with courtesy and respect by DCYF staff, foster parents, residential staff, and providers without regard to race, ethnicity, sexual orientation, gender identity, religion, or disability and to participate in activities associated with his or her religious beliefs.
- VI. To participate in regular activities consistent with his or her age, cultural and ethnic background, and developmental level, such as opening a bank account, celebrating birthdays, participating in graduations, and obtaining an identity card, unless restricted by the child's treatment plan, case plan, or the availability of financial resources. -Adding regular ensures that children have ongoing access to age-appropriate activities and opportunities. Acknowledging that those from different cultures may have some traditions and activities that are important but may be different from the culture of a placement or caseworker prompts that case planning prioritize important activities from the child's culture of origin, which is important for child and identity development.
- VII. To receive notice of any meetings regarding the child's case and to have opportunities to resolve potential barriers to participation, such as a lack of transportation or conflict with the child's academic schedule. This shall include the right to an interpreter.- Being able to understand what is being communicated is a fundamental barrier to participation that needs to specifically be addressed, whether because of language difference or the use of alternate forms of communication necessary to transmit information.
- VIII. To receive timely information about decisions that affect the child's life and to be notified of changes that affect his or her case plan, treatment plan, permanency, safety, stability, or wellbeing, and to have his or her voice considered in these decisions.
- IX. To be informed of all assistance that DCYF offers children related to permanency planning, education, employment, housing, and wellbeing. Such services shall be provided at no cost to the child or his or her caregiver. – Per 1657-FN-A re amendment to RSA 169:B, C, D. An amendment to RSA 169:B, C, and D is

coming before the House this session via HB 1657-FN-A that will remove the financial burden of voluntary and required services offered by DCYF and its providers from the family engaging in the services to the department. This will echo those changes and put this legislation in compliance with the amendment, if it passes.

- X. To receive assistance in acquiring life skills, education, training, and career guidance to accomplish personal goals, prepare for the future, and to become a self-sufficient adult.
- XI. To have an achievable transition plan for when the child leaves DCYF involvement that is created for the child with the help of his or her support group. – This previously said ‘by the child’, which potentially took the onus of creating a solid transition plan off of DCYF and placed it on the child. This gives the child and their support team the ability to participate in exit planning without being responsible for it.
- XII. To attend and participate in court hearings to the extent permitted by the court and appropriate given the age and experience of the child. **This shall include the right to an interpreter.**
- XIII. To utilize technology, such as social networking sites and cell phones, based on the child's level of maturity and responsibility and taking into account the environment in which the child is living, the support of his or her treatment team, the financial costs involved, and the child's ability to maintain privileges.
- XIV. To be informed in writing **at least every 6 months** of the process for contacting the child protective services worker's supervisor, or other DCYF staff, the guardian ad litem, and the office of the child advocate. -This needs to be an ongoing reminder. This is an overwhelming process filled with lots of paperwork and information, and it's easy to forget or misplace things. The goal of government should always be to best allow citizens to understand and exercise their rights.
- XV. To be informed in writing, at least every 6 months, by the DCYF of the rights set forth in this section and to receive assistance in obtaining and enforcing them. Section 170G-21(b) The department of health and human services shall develop regulations to ensure that the rights enumerated in subsection (a) shall be communicated to any child who is assessed by, receives services from, or is otherwise involved with DCYF and its designated providers. - This needs to be an ongoing reminder for the same reasons listed above.

These regulations shall provide that such communication:

- I. shall be made at least every 6 months;
  - II. shall be made by written notice to be signed and acknowledged by the DCYF representative, and the child or his or her representative;
  - III. shall inform the child and his or her representative that all assessments, services and treatments performed by DCYF and its designated providers shall be at no cost
  - IV. shall include an explanation of the procedure to be followed in the event that the child or his or her representative has a concern or grievance;
  - V. shall make it clear that the rights enumerated in subsection (a) are binding on all contractors, agents and other providers engaged by DCYF in connection with the child's case.
- This section for ongoing reminders is based on existing legislation in New York and Missouri. Children and families need to fully know and understand their rights when interacting with any system, and especially one focused on such a vulnerable aspect of their lives. This provides another safeguard inside such a big system to keep accountability that everyone involved is upholding the main priority for all of these services, which is protecting children.

A new section \_\_\_\_ shall be added to read as follows: Definitions. For purposes of sections 170-G:20 and 170-G:21, the following definitions shall apply:

- (a) “Provider” - Any individual or organization that DCYF engages to provide services for youth with child protection system involvement; including but not limited to therapists, case managers, foster parents, CASA, and parent aids.
- (b) Qualified and Licensed Providers - Providers who are generally recognized in their field as having the expertise to perform a specific task or offer a specific service. For those professions that require a license or certification to provide certain services, the license/certification held by the licensee/ certificate holder must be current and in good standing.
- (c) Services - Anything provided to a child made available to them by DCYF or one of its providers. This includes, but is not limited to, assessments, treatment, court intervention, voluntary services, and out-of-home placements.