



STATE OF ARIZONA

July 13, 2009

JANICE K. BREWER
GOVERNOR

EXECUTIVE OFFICE

The Honorable Robert Burns
President of the Senate
Arizona State Senate
1700 W. Washington
Phoenix, Arizona 85007

RE: Senate Bill 1209: Children; Foster Care; Rights

Dear President Burns:

Today I signed Senate Bill 1209. This bill enumerates important rights for children in foster care and expressly notes that no cause of action is established on behalf of any person. I am very concerned that this bill does not adequately assure that no new legally enforceable right is established for or on behalf of any person, including a child, parent or guardian.

While these rights are critical for children and parents, oversight must remain with the Arizona Legislature and not the courts. I am signing this bill only with the assurance the Legislature will clarify this bill next session to specify that no new legally enforceable right or cause of action is established for a foster child, anyone acting on behalf of a foster child, or a parent or guardian.

Given the importance of establishing a bill of rights for children in foster care, I am signing Senate Bill 1209 into law with the understanding that my concerns will be addressed during the next legislative session.

Sincerely,

A handwritten signature in cursive script that reads "Janice K. Brewer".

Janice K. Brewer
Governor

JKB/jk

cc: The Honorable Kirk Adams
The Honorable Leah Landrum Taylor
The Honorable Linda Lopez
The Honorable Richard Miranda
The Honorable Rebecca Rios

Senate Engrossed

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
Senate
Forty-ninth Legislature
First Regular Session
2009

CHAPTER 159

SENATE BILL 1209

AN ACT

AMENDING TITLE 8, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 8-528; RELATING TO CHILD WELFARE AND PLACEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 8, chapter 5, article 1, Arizona Revised Statutes, is
3 amended by adding section 8-528, to read:

4 8-528. Children in foster care; rights

5 A. A CHILD IN FOSTER CARE HAS THE FOLLOWING RIGHTS:

6 1. TO APPROPRIATE CARE AND TREATMENT IN THE LEAST RESTRICTIVE SETTING
7 AVAILABLE THAT CAN MEET THE CHILD'S NEEDS ACCORDING TO THE BEST JUDGMENT OF
8 THE FOSTER PARENT.

9 2. TO LIVE IN A SAFE, HEALTHY AND COMFORTABLE PLACEMENT WHERE THE
10 CHILD CAN RECEIVE REASONABLE PROTECTION FROM HARM AND APPROPRIATE PRIVACY FOR
11 PERSONAL NEEDS AND WHERE THE CHILD IS TREATED WITH RESPECT.

12 3. TO KNOW WHY THE CHILD IS IN FOSTER CARE AND WHAT WILL HAPPEN TO THE
13 CHILD AND TO THE CHILD'S FAMILY, INCLUDING SIBLINGS, AND CASE PLANS.

14 4. WHENEVER POSSIBLE, THE CHILD SHOULD BE PLACED WITH A FOSTER FAMILY
15 THAT CAN ACCOMMODATE THE CHILD'S COMMUNICATION NEEDS.

16 5. TO BE DISCIPLINED IN A MANNER THAT IS APPROPRIATE TO THE CHILD'S
17 LEVEL OF MATURITY.

18 6. TO ATTEND COMMUNITY, SCHOOL AND RELIGIOUS SERVICES AND ACTIVITIES
19 OF THE CHILD'S CHOICE TO THE EXTENT THAT IT IS APPROPRIATE FOR THE CHILD, AS
20 PLANNED AND DISCUSSED WITH THE CHILD'S PLACEMENT WORKER AND CASEWORKER AND
21 BASED ON CAREGIVER ABILITY IF TRANSPORTATION IS AVAILABLE THROUGH A
22 RESPONSIBLE PARTY.

23 7. TO GO TO SCHOOL AND RECEIVE AN EDUCATION THAT FITS THE CHILD'S AGE
24 AND INDIVIDUAL NEEDS.

25 8. TO TRAINING IN PERSONAL CARE, HYGIENE AND GROOMING.

26 9. TO CLOTHING THAT FITS COMFORTABLY AND IS ADEQUATE TO PROTECT THE
27 CHILD AGAINST NATURAL ELEMENTS SUCH AS RAIN, SNOW, WIND, COLD AND SUN.

28 10. TO HAVE PERSONAL POSSESSIONS AT HOME THAT ARE NOT OFFENSIVE TO THE
29 FOSTER FAMILY AND TO ACQUIRE ADDITIONAL POSSESSIONS WITHIN REASONABLE LIMITS,
30 AS PLANNED AND DISCUSSED WITH THE CHILD'S FOSTER PARENT, PLACEMENT WORKER AND
31 CASEWORKER, AND BASED ON CAREGIVER ABILITY.

32 11. TO PERSONAL SPACE, IN THE FOSTER HOME PREFERABLY, IN THE CHILD'S
33 BEDROOM FOR STORING CLOTHING AND BELONGINGS.

34 12. TO HEALTHY FOODS IN HEALTHY PORTIONS THAT ARE APPROPRIATE FOR THE
35 CHILD'S AGE.

36 13. TO COMPLY WITH ANY APPROVED VISITATION PLAN, AND TO HAVE ANY
37 RESTRICTIONS EXPLAINED TO THE CHILD IN A MANNER AND LEVEL OF DETAILS DEEMED
38 AGE APPROPRIATE BY THE FOSTER PARENT IN AGREEMENT WITH THE CASEWORKER AND
39 DOCUMENTED IN THE CHILD'S RECORD.

40 14. IF THE CHILD IS SIX YEARS OF AGE OR OLDER, TO RECEIVE CONTACT
41 INFORMATION FOR THE CHILD'S CASEWORKER, ATTORNEY OR ADVOCATE AND TO SPEAK
42 WITH THEM IN PRIVATE IF NECESSARY.

43 15. TO PARTICIPATE IN AGE APPROPRIATE CHILD'S SERVICE PLANNING AND
44 PERMANENCY PLANNING MEETINGS AND TO BE GIVEN A COPY OR SUMMARY OF EACH
45 SERVICE PLAN AND SERVICE PLAN REVIEW. THE CHILD MAY REQUEST SOMEONE TO

1 PARTICIPATE ON THE CHILD'S BEHALF OR TO SUPPORT THE CHILD IN THIS
2 PARTICIPATION.

3 16. TO ATTEND THE CHILD'S COURT HEARING AND SPEAK TO THE JUDGE.

4 17. TO HAVE THE CHILD'S RECORDS AND PERSONAL INFORMATION KEPT PRIVATE
5 AND DISCUSSED ONLY WHEN IT IS ABOUT THE CHILD'S CARE EXCEPT THE FOSTER PARENT
6 SHALL HAVE FULL ACCESS TO THE RECORDS TO DETERMINE IF THE CHILD WILL BE
7 SUCCESSFUL IN THE HOME. DURING THE FOSTER PLACEMENT, IF THE FOSTER PARENT
8 REQUESTS TO VIEW THE RECORD UPON EXPERIENCING PROBLEMS WITH THE CHILD'S
9 ADJUSTMENT, THE FULL RECORD SHALL BE MADE AVAILABLE FOR VIEWING BY THE FOSTER
10 PARENT.

11 18. TO BE FREE OF UNNECESSARY OR EXCESSIVE MEDICATION.

12 19. TO RECEIVE EMOTIONAL, MENTAL HEALTH OR CHEMICAL DEPENDENCY
13 TREATMENT SEPARATELY FROM ADULTS WHO ARE RECEIVING SERVICES, AS PLANNED AND
14 DISCUSSED WITH THE CHILD'S PLACEMENT WORKER AND CASEWORKER, AS IS FINANCIALLY
15 REASONABLE FOR THE FOSTER PARENT.

16 20. TO REPORT A VIOLATION OF PERSONAL RIGHTS SPECIFIED IN THIS SECTION
17 WITHOUT FEAR OF PUNISHMENT, INTERFERENCE, COERCION OR RETALIATION, EXCEPT
18 THAT AN APPROPRIATE LEVEL OF PUNISHMENT MAY BE APPLIED IF THE CHILD IS PROVEN
19 TO HAVE MALICIOUSLY OR WRONGFULLY ACCUSED THE FOSTER PARENT.

20 21. THE CHILD HAS THE RIGHT TO BE INFORMED IN WRITING OF THE NAME,
21 ADDRESS, TELEPHONE NUMBER AND PURPOSE OF THE ARIZONA PROTECTION AND ADVOCACY
22 SYSTEM FOR DISABILITY ASSISTANCE.

23 22. TO UNDERSTAND AND HAVE A COPY OF THE RIGHTS LISTED IN THIS SECTION.

24 B. A CHILD IN FOSTER CARE WHO IS AT LEAST SIXTEEN YEARS OF AGE HAS THE
25 FOLLOWING RIGHTS:

26 1. TO ATTEND PREPARATION FOR ADULT LIVING CLASSES AND ACTIVITIES AS
27 APPROPRIATE TO THE CHILD'S CASE PLAN, AS IS FINANCIALLY REASONABLE FOR THE
28 FOSTER PARENT.

29 2. TO A TRANSITION PLAN THAT INCLUDES CAREER PLANNING AND ASSISTANCE
30 WITH ENROLLING IN AN EDUCATIONAL OR VOCATIONAL JOB TRAINING PROGRAM.

31 3. TO BE INFORMED OF EDUCATIONAL OPPORTUNITIES BEFORE THE CHILD LEAVES
32 FOSTER CARE.

33 4. TO ASSISTANCE IN OBTAINING AN INDEPENDENT RESIDENCY WHEN THE CHILD
34 IS TOO OLD TO REMAIN IN FOSTER CARE FROM THE CHILD'S CASEWORKER, ATTORNEY OR
35 ADVOCATE.

36 5. TO REQUEST A COURT HEARING FOR A COURT TO DETERMINE IF THE CHILD
37 HAS THE CAPACITY TO CONSENT TO MEDICAL CARE THAT IS DIRECTLY RELATED TO AN
38 ILLNESS, DISEASE, DEFORMITY OR OTHER PHYSICAL MALADY.

39 6. TO RECEIVE HELP WITH OBTAINING A DRIVER LICENSE, SOCIAL SECURITY
40 NUMBER, BIRTH CERTIFICATE OR STATE IDENTIFICATION CARD, EXCEPT THAT THE
41 FOSTER PARENT SHALL HAVE DISCRETION TO DETERMINE IF THE CHILD IS RESPONSIBLE
42 AND MATURE ENOUGH TO BECOME A LICENSED DRIVER.

1 7. TO RECEIVE NECESSARY PERSONAL INFORMATION WITHIN THIRTY DAYS AFTER
2 LEAVING FOSTER CARE, INCLUDING THE CHILD'S BIRTH CERTIFICATE, IMMUNIZATION
3 RECORDS AND INFORMATION CONTAINED IN THE CHILD'S EDUCATION PORTFOLIO AND
4 HEALTH PASSPORT.

5 C. THIS SECTION DOES NOT ESTABLISH ANY CAUSE OF ACTION ON BEHALF OF
6 ANY PERSON.

7 Sec. 2. Short title

8 This act may be cited as the "Bill of Rights for Children and Youth in
9 Foster Care Act".

APPROVED BY THE GOVERNOR JULY 13, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 13, 2009.

Passed the House July 1, 2009,

by the following vote: 35 Ayes,

20 Nays, 5 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

Passed the Senate June 25, 2009,

by the following vote: 18 Ayes,

8 Nays, 4 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

1st day of July, 2009,

at 8:53 o'clock A. M.

[Signature]
Secretary to the Governor

Approved this 13th day of

July, 2009,

at 4:28 o'clock P. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 13 day of July, 2009,

at 4:50 o'clock P. M.

[Signature]
Secretary of State

S.B. 1209