

AMENDED IN ASSEMBLY APRIL 6, 2006

CALIFORNIA LEGISLATURE—2005-06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2194**

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**Introduced by Assembly Member Bass**

February 22, 2006

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~~An act relating to foster care.~~ *An act to add Section 10609.45 to the Welfare and Institutions Code, relating to human services.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2194, as amended, Bass. ~~Resource Family Care Act.~~  
*Independent Living Program.*

*Existing law requires the State Department of Social Services to develop statewide standards for the Independent Living Program for emancipated foster youth established and funded pursuant to federal law, to assist these individuals in making the transition to self-sufficiency. Under existing law, a child in receipt of Kin-GAP benefits is also entitled to request and receive these independent living services.*

*This bill would require services under the Independent Living Program to be provided to an otherwise eligible child who is adopted at 14 years of age or older.*

~~Existing law governs the placement of children in foster care with foster and relative caregivers.~~

~~This bill would express the intent of the Legislature to enact legislation that would be known as the Resource Family Care Act and would set forth a foster and relative caregivers bill of rights, as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 10609.45 is added to the Welfare and  
2     Institutions Code, to read:

3     10609.45. Notwithstanding any other provision of law,  
4     services under the Independent Living Program, established  
5     pursuant to the federal Consolidated Omnibus Budget  
6     Reconciliation Act of 1985 (Public Law 99-272) shall be  
7     provided to an otherwise eligible child who is adopted at 14  
8     years of age or older.

9     ~~SECTION 1. (a) The Legislature finds and declares that~~  
10    ~~caregivers providing foster care are responsible for educating and~~  
11    ~~advocating on behalf of foster children to ensure they receive~~  
12    ~~adequate medical and mental health services, due to their loss of~~  
13    ~~family, and for providing temporary or permanent homes if the~~  
14    ~~children cannot be returned home safely to a loving and nurturing~~  
15    ~~environment. It is, therefore, in the best interests of the State of~~  
16    ~~California that foster caregivers providing care to children in~~  
17    ~~their homes are well prepared and highly valued for their~~  
18    ~~contributions.~~

19    ~~(b) It is the intent of the Legislature to enact legislation that~~  
20    ~~would be known as the Resource Family Care Act. Under the act,~~  
21    ~~foster and relative caregivers would have all of the following~~  
22    ~~rights:~~

23    ~~(1) The right to have an ombudsman appointed by the~~  
24    ~~Legislature or the Governor who has the authority to direct the~~  
25    ~~Department of Social Services to take corrective action when that~~  
26    ~~agency has not followed state laws or agency policies or~~  
27    ~~regulations.~~

28    ~~(2) The right to have the caregiver leadership involved from~~  
29    ~~the beginning of any new program, including education that~~  
30    ~~affects the caregiver, and in all phases of planning and their~~  
31    ~~approval of any plan should be required prior to the adoption of~~  
32    ~~that plan.~~

33    ~~(3) The right to be reimbursed by the state or the county for~~  
34    ~~any property damage caused by the foster children placed in their~~  
35    ~~care if the caregiver is held financially responsible for that~~  
36    ~~damage.~~

37    ~~(4) The right to receive compensation for any medical~~  
38    ~~treatment provided to the caregiver to treat injuries sustained by~~

- 1 the caregiver as a result of the “willful misconduct” of foster  
2 children placed in their homes.
- 3 ~~(5) The right to receive up-to-date information on changes in~~  
4 ~~the laws, rules, regulations, and policies relating to foster care.~~
- 5 ~~(6) The right to receive up-to-date information on changes in~~  
6 ~~agency structure, programs and policy relating to foster care.~~
- 7 ~~(7) The right to receive adequate and appropriate foster care~~  
8 ~~training using available funding for all caregivers.~~
- 9 ~~(8) The right to receive an identification card identifying the~~  
10 ~~individual as a foster parent.~~
- 11 ~~(9) The right to have all of the rights described in paragraphs~~  
12 ~~(1) to (9), inclusive, enforced by the imposition of fines or~~  
13 ~~penalties.~~
- 14 ~~(e) Foster and relative caregivers shall have all of the~~  
15 ~~following rights with respect to foster care placements:~~
- 16 ~~(1) The right to obtain prior placement information and the~~  
17 ~~right to say “NO” without threat of reprisal. This would include~~  
18 ~~the right to obtain the names and telephone numbers of previous~~  
19 ~~caregivers, allowing these previous caregivers to share~~  
20 ~~information about the child with the new caregiver, and the right~~  
21 ~~to conduct an “in-home” interview with the child.~~
- 22 ~~(2) The right to have the maximum placement rate firmly~~  
23 ~~established and to have that rate remain in effect when the child~~  
24 ~~is moved to a different home. This would also include the right to~~  
25 ~~receive retroactive payments for the failure of any state or county~~  
26 ~~agency to provide appropriate or adequate funding for the care of~~  
27 ~~children they place in the homes of foster and relative caregivers.~~
- 28 ~~(3) The right to develop a mutually convenient and safe~~  
29 ~~visitation plan with the child’s birth family.~~
- 30 ~~(4) The right to participate fully in all court proceedings, in~~  
31 ~~accordance with federal law.~~
- 32 ~~(5) The right to receive a copy of the court’s plan for the child,~~  
33 ~~which includes a copy of the social worker’s report, at least five~~  
34 ~~days prior to the court hearing.~~
- 35 ~~(6) The right to be free of coercion, discrimination, and~~  
36 ~~reprisal in serving foster children, including the right to voice~~  
37 ~~grievances about the treatment furnished or not furnished to the~~  
38 ~~foster child.~~

- 1     ~~(7) The right to communicate directly with and receive reports~~  
2 ~~from professionals working with the child, including therapists,~~  
3 ~~teachers, physicians, and other health care personnel.~~
- 4     ~~(8) The right to receive supportive services in a timely~~  
5 ~~manner, including, but not limited to, mental health intervention~~  
6 ~~and services, medical and dental.~~
- 7     ~~(9) The right to be involved in all aspects of the case and~~  
8 ~~receive all pertinent information.~~
- 9     ~~(10) The right for foster and relative caregiver homes to be~~  
10 ~~treated as “private residences” pursuant to Section 1530.5 of the~~  
11 ~~Welfare and Institutions Code. This includes the right to receive~~  
12 ~~prior notice of any home visit by all duly authorized state or local~~  
13 ~~agency representative, except in the case of inspection, allegation~~  
14 ~~or complaint.~~
- 15     ~~(11) The right to use the “prudent parent standard” without~~  
16 ~~prior authorization from a community care licensing or local~~  
17 ~~agency.~~
- 18     ~~(12) The right to receive retroactive payments for failure of the~~  
19 ~~state or local agency to provide the appropriate level of funding~~  
20 ~~for children at the time of placement.~~
- 21     ~~(d) Foster and relative caregivers shall have all of the~~  
22 ~~following administrative rights:~~
  - 23         ~~(1) The right to have all county and state officials follow state~~  
24 ~~and federal guidelines when investigating an allegation. These~~  
25 ~~include, but are not limited to, the following:~~
    - 26             ~~(A) The right to be provided a fair, timely, and impartial~~  
27 ~~investigation of all allegations or licensure issues, which include,~~  
28 ~~but are not limited to the following:~~
      - 29                 ~~(i) A written copy of the allegations.~~
      - 30                 ~~(ii) A person of foster parent’s choosing present during the~~  
31 ~~investigation or hearing.~~
    - 32             ~~(B) The right to due process during the investigation.~~
    - 33             ~~(C) The right to request and receive mediation or review of~~  
34 ~~decisions.~~
    - 35             ~~(D) The right to have a decision in writing concerning~~  
36 ~~allegations and findings consistent with local law.~~
    - 37             ~~(E) The right to freedom from retaliation when exercising the~~  
38 ~~right to appeal.~~

- 1     ~~(F) The right to have records and documentation of false~~  
2     ~~allegations removed immediately from the National Registry and~~  
3     ~~state records.~~
- 4     ~~(2) The right to have all allegations that have been investigated~~  
5     ~~and found to be “unfounded allegations” destroyed immediately,~~  
6     ~~except as otherwise provided by law.~~
- 7     ~~(3) The right to have all allegations that have been investigated~~  
8     ~~and found to be “unsubstantiated allegations” destroyed after one~~  
9     ~~year, except as otherwise provided by law.~~
- 10    ~~(4) The right to receive paid liability insurance protection and~~  
11    ~~legal representation from the state or county against any civil law~~  
12    ~~suits filed against foster parents arising out of all duties~~  
13    ~~performed as a foster parent for the “willful misconduct” of~~  
14    ~~foster children.~~