


ISSUE DATE June 28, 2023	EFFECTIVE DATE Immediately	NUMBER 3700-23-01
SUBJECT Implementation of Act 131 (Resource Family Legislation Act), repeal of Act 68 of 2005 (The Resource Family and Adoption Process Act), and repeal of Act 73 of 2005 (The Resource Family Care Act)		BY  Laval Miller-Wilson, Deputy Secretary Office of Children, Youth & Families

SCOPE:

County Children and Youth Social Service Agencies
 Private Children and Youth Social Service Agencies

PURPOSE:

The purpose of this bulletin is to provide clarification and direction to both public and private children and youth agencies (agencies) regarding the implementation of Act 131 of 2022 (Act 131). This addresses the agencies’ legal responsibilities to the resource families with whom they work to provide resource family care for children in the custody of the county children and youth agency. This bulletin rescinds and replaces the Office of Children, Youth and Families (OCYF) Bulletin 3700-08-01: Implementation of Act 68 of 2005 (The Resource Family and Adoption Act), Act 73 of 2005 (The Resource Family Care Act) and Act 76 of 2007.

BACKGROUND:

On November 16, 2005, Governor Edward G. Rendell signed Act 68 of 2005, known as the Resource Family and Adoption Process Act, into law. The intent of this Act was to ensure that resource families, interested in becoming an adoptive resource for a child in their care, received fair consideration as a permanent resource. Act 68 became effective on January 15, 2006.

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO: The appropriate OCYF Regional Office. Central Region (717)772-7702 | Northeast Region (570)963-4376 | Southeast Region (215)560-2249 | Western Region (412)565-5728

ORIGIN OF BULLETIN:
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Act 73 of 2005, known as the Resource Family Care Act, was signed into law by Governor Edward G. Rendell on November 22, 2005. This Act was intended to acknowledge the value of resource families by establishing specific mandated responsibilities for agencies in how they collaborate with resource families, thereby ensuring productive and respectful treatment. Anticipated benefits of improving the working relationship between agencies and resource families are an increased retention rate of resource families, and an enhanced quality of care to the children they both serve. The Act took effect on January 21, 2006.

Act 76 of 2007, known as the Notice and Hearing and Disposition of Dependent Child Act, was signed into law by Governor Edward G. Rendell on December 18, 2007. This Act was intended to provide the child's foster parent, preadoptive parent or relative providing care for a child with timely notice of the hearing and the right to be heard at the hearing. In addition, this Act establishes permanency hearings to determine or review the permanency plan of the child. The review should include a date the permanency plan might be achieved and a consultation from the child on the permanency plan. This Act took effect on January 1, 2008.

On November 17, 2015, Act 75, known as the Activities and Experiences for Children in Out-of-Home Placement Act, was signed into law by Governor Tom Wolf. This Act was intended to provide children and youth in Pennsylvania's foster care system the opportunity to live a more normal life. The law permits that children in out-of-home placement are afforded the opportunity to participate in age or developmentally appropriate activities when applicable. The goal of this act is to support youth in care enabling them to gain knowledge and skills necessary to be successful in adulthood. Act 75 empowers the caregiver or staff member of the child to make important decisions based on the reasonable and prudent parenting standard regarding activities deemed appropriate for the child to participate in without prior approval from the county and private agency or the courts.

On November 3, 2022, Governor Tom Wolf signed Act 131, known as the Resource Family Legislation Act, into law. The intent of this Act is to protect a resource family's fair consideration as a permanent resource and to uphold mandated responsibilities for agencies in how they collaborate with resource families. Act 131 was effective on January 2, 2023. As a consequence of Act 131's passage, Act 73 of 2005 and Act 68 of 2005 were repealed and the provisions of these Acts were added to Title 67 of the Pennsylvania Consolidated Statutes, Chapters 71 and 73.

DISCUSSION:

Due to much of the language from Act 68 and Act 73 being similar to the language recently added to Title 67 as a result of Act 131, many agencies have already incorporated most of the provisions outlined in Act 131 into practice. Act 131 made the following substantial changes that were not previously required by law and must now be added to the agency's practice:

- Amended Section 7101 (relating to definitions) of Title 67 Chapter 71 to reference a definition found in the Child Protective Services Law (Title 23 Chapter 63) regarding "resource family". Resource family is defined as a family which provides temporary

foster or kinship care for children who need out-of-home placement and may eventually provide permanency for those children, including an adoptive family.

- Amended Section 7301(12) (relating to responsibilities of county and private agencies) to include prompt written notice of any change to the child's permanency plan be given to resource families.
- Amended Section 7303(a) (relating to Resource Family Adoption Interview) to add criteria related to when a resource family should be interviewed as a potential adoptive family. Specifically, if the resource family has expressed interest in adopting the child, the child resided with the resource family for six months or longer and one of the following: the child's primary or concurrent permanency goal is adoption, or the child has been in out-of-home placement for at least 15 of the preceding 22 months.
- Amended Section 7303(b) (relating to Resource Family Adoption Interview) to add additional criteria related to sharing information that was obtained from the interview. Specifically, if the interviewing agency is not the agency responsible for making a recommendation to the court as to adoptive placement of the child, the interviewing agency shall share all information obtained from the interview under subsection (a) with the agency responsible for making the recommendation.
- Amended Section 7303(c) (relating to Resource Family Adoption Interview) to add consideration of more than one adoptive resource. Specifically, if more than one adoptive resource is available, the agency responsible for making a recommendation to the court as to adoptive placement of the child shall document the reasons for the agency's recommendation in the child's case record and, upon request, shall provide that information to the resource family.

POLICY AND PROCEDURES:

All agencies that approve resource families are required to have written policies and procedures to comply with state and federal laws related to resource families' rights and responsibilities, and have a standard document that lists out the provisions to include:

- Notification of scheduled meetings to allow resource families to actively participate in the service and permanency planning for the child(ren) in their home;
- Notification of any change to the child's permanency plan;
- Support services as assessed to meet the needs of the child and resource family;
- Timely, open and complete responsiveness from the agency when contacted by a resource family regarding their role and their care of the child(ren) placed in their home;
- Provision of information about the child(ren)'s medical, behavioral and familial history as soon as obtained by the agency/provision of information about education,

- experiential and placement history of the child(ren) within a reasonable amount of time;
- Consultation with the resource family in developing the child's permanency plan;
 - Consultation with the resource family in the decision to release their address to the child(ren)'s parent, and notification prior to any such release;
 - Assistance with the coordination of services to the family, as needed, to help in dealing with the loss of, or separation from, (a) child(ren) in their care, as long as the removal was not due to an immediate threat to the health or safety of the child(ren) by the resource family;
 - Provision of all written agency policies or procedures related to resource family roles;
 - Provision of appropriate training to enhance the skills and performance of the resource family;
 - Provision of information on how to receive services and reach agency personnel 24 hours a day, 7 days a week;
 - Assurance of confidentiality regarding any abuse allegations made about a resource family household member, as long as such assurance does not compromise the safety of the child;
 - Provision of the opportunity for resource parents to be heard regarding agency decisions and practices involving the child(ren) in their care/assurance that the agency will in no way discriminate or retaliate if resource parents make an appropriate inquiry about such decisions or practices;
 - Inclusion of a resource family, if interested, as an adoption interview candidate for (a) child(ren) whose goal has been changed to adoption, and who has/have resided in the resource family home for at least six months, as well as an explanation of the criteria for selection, if another family is chosen by the decision-making agency;
 - Assurance that the resource family's right to be notified of any court proceedings related to the child(ren) in their care happens as soon as the agency receives the information; agencies should consider assisting resource parents in how to prepare for court, and in becoming more comfortable with court appearances;
 - Assurance that the right of the resource family to be heard during any court proceeding related to the child(ren) in their care is preserved and encouraged in a proactive manner;
 - Assurance that no resource parent shall be denied consideration as an adoptive resource solely because the resource parent cannot be accessed as a resource parent in the future;
 - Assurance of the resource family's right to authorize children in their care to participate in opportunities that are age or developmentally appropriate without prior approval from the agency; and
 - The resource parent or agency is not liable for harm caused to the child while participating in an activity if the resource family has completed required trainings, the decision was made in good faith, and the approval does not conflict with a service plan or court order.

Agencies may choose to use the attached Model Agreement of Mutual Rights and Responsibilities or an adapted version with its signature page. The "Model Agreement of

"Mutual Rights and Responsibilities" has been updated to align with federal and state requirements relating to agency and resource family rights and responsibilities. The document must be provided to prospective resource family applicants for thorough review prior to approval. A signed copy of the document must be part of the resource family approval process as well as provided and signed by the resource family annually. Agencies must maintain a signed copy of the document that was provided to the resource family to fulfill the legislative mandate. A copy of this agreement, approved by the Department, appears as Attachment A (Model Agreement of Mutual Rights and Responsibilities).

To comply with recent state and federal requirements including Act 131, agencies shall update their current policies and procedures related to Act 68 and Act 73 to include the following:

- Change all references for resource parents to resource family;
- Provide written notice of change to the child's permanency plan to the resource family;
- Interview resource family of a child that has been in out-of-home placement for at least 15 of the preceding 22 months;
- If not the agency responsible for making a recommendation to the court, share all information obtained from the interview with the adoptive family, with the agency that is responsible for making the recommendation to the court as to adoptive placement of the child;
- Document reasons for the agency's recommendation to the court in the child's case record and upon request, provide that information to the resource family if more than one adoptive resource is available;
- Assure the resource family's right to authorize children in their care to participate in opportunities that are age or developmentally appropriate without prior approval from the agency; and
- Release liability of the resource family or agency for harm caused to the child while participating in an activity if the resource family has completed required trainings, the decision was made in good faith, and the approval does not conflict with a service place or court order.

Attachment A

Model Agreement of Mutual Rights and Responsibilities

The following is suggested model language which can be added to the agreement between an agency and a resource family to address state and federal requirements related to resource families.

1. Both [the Agency] and resource family will interact with each other with consideration, respect, and fairness and mutually work to develop and maintain a positive working relationship.
2. [The Agency] will treat resource families as part of the team in caring for the child(ren) served and agree to work collaboratively to ensure their safety, permanency, and well-being.
3. [The Agency] will respond in an open, complete, and timely fashion when contacted by the resource family regarding questions, issues, or concerns about their role and/or the care of the child(ren) in their home.
4. [The Agency] will inform the resource family of the child's medical history, mental health diagnosis, general behaviors, relationships between the child and their parents, educational history, life experiences, and previous and prospective placement circumstances to facilitate the resource family's care for the child. The availability and timeliness of this information being available to [the Agency] will affect how quickly it can be shared with the resource family. [The Agency] will continue to update the resource family as appropriate when additional information is received.
5. Resource families have the right to be notified of court proceedings related to the child(ren) in their care as soon as [the Agency] knows when such proceedings will occur. Additionally, [the Agency] will provide resource families as much notice as possible of scheduled meetings regarding the child(ren) in their care, to facilitate their participation in the case planning and decision-making processes, including Individual Service Plan (ISP) meetings. [The Agency] will provide prompt written notice of change to the child's permanency plan.
6. Resource families are expected and encouraged to attend meetings and to actively participate and offer input into the service and permanency planning process regarding the child(ren) in their care. The resource family agrees to implement and/or facilitate the actions stated in the ISP to the best of their ability, and to notify [the Agency] of need for technical assistance and/or support services.
7. [The Agency] will work with the resource family to identify, facilitate, arrange, and/or provide support services as assessed to meet the needs of the child and resource family consistent with the child's ISP. Such support services include, but are not limited to, medical and dental care, mental health and/or substance abuse evaluation and/or

treatment, and social work services. Individualized educational planning and services will be determined and implemented in mutual cooperation with the child's legal parent(s), school staff, [the Agency] staff, resource family, and educational decision maker, if applicable.

8. The resource family agrees to provide transportation for the child to and from appointments, including medical and dental care, therapy, evaluation, counseling, education or other care, treatment, or service appointment. The resource family also agrees to provide transportation to and from meetings regarding the child in their home, including ISP and court reviews. [The Agency] will work with the resource family to arrange transportation, as needed.
9. [The Agency] will provide orientation information, including a review of Agency policies and procedures provided to the resource family in writing, applicable State regulations or statutes, emergency and non-emergency agency contact information and protocols, and instructions on how to receive services. In addition, [the Agency] will provide on-going direction, supervision, and in-service training for the resource family to maintain continued understanding of mutual expectations, roles, and needs.
10. The resource family agrees to ensure the confidentiality of information provided to them about the child and their parents and/or extended family, and to only share information received from the child and their parents and/or extended family with agency staff or other professionals (i.e. physician, therapist, etc.) as appropriate. The resource family also agrees to be supportive of a child's relationship with their birth family and treat and/or speak of them with consideration and respect.
11. Under State regulations, [the Agency] will provide the name, address and phone number of the resource family to the parents of the child in their home, unless doing so (a) is restricted by court order, (b) threatens the health and well-being of the child or resource family, or (c) if [the Agency] is able to document a plausible basis for refusing such disclosure. [The Agency] will advise the resource family as to the timing of the release of this information and will be available to address concerns the resource family may have regarding this process.
12. Upon request, [the Agency] will work with the resource family to assist with the coordination of services needed to address family loss and separation issues stemming from a child leaving the resource family's home, when such relocation is not the result of an immediate threat to the health and safety of the child caused by the resource family.
13. In the event that the goal for a child who has resided with the resource family, that is interested in being an adoptive resource for the child, for at least six (6) months is changed to adoption or the child has been in out-of-home placement for at least 15 of the preceding 22 months, [the Agency] will ensure that the resource family is interviewed and considered as an adoptive resource for the child by the appropriate county or private agency. When more than one adoptive resource is available, the Agency shall document the basis for selection of the adoptive family resource for the

child in the child's case record. The agency shall share information regarding the criteria used in the selection of the adoptive family with the resource family upon request, within the limitations of confidentiality provisions.

14. The resource family agrees to complete a minimum of [six (6)] hours of training annually as required by State regulations or in compliance with [the Agency] policies to enhance their skills and abilities in areas requested and/or deemed necessary. The resource family is encouraged to seek additional training above the minimum requirements in order to further enhance their performance and abilities in fulfilling their roles and responsibilities.
15. According to State law, [the Agency] staff are mandated to report child abuse. In the event that an allegation of abuse is made regarding a resource family or member of their household, [the Agency] will follow protocols in reporting the allegation and ensuring the safety of the child. [The Agency] will ensure that information pertaining to the report is kept confidential and released only in accordance with State law and regulation. Agency policies will be shared with the resource family.
16. The resource family has the right to be heard in court proceedings related to the child(ren) in their care and should be provided the opportunity to be heard regarding agency decisions or practices involving a child(ren) residing in with their home. [The Agency] will not discharge, threaten or otherwise discriminate or retaliate against the resource family for an appropriate inquiry regarding such decisions or practices affecting the child or for any communication.
17. [The Agency] shall empower resource families to make decisions regarding age or developmentally appropriate activities children in their care partake in without prior approval from the agency. After being trained by [the Agency] on the reasonable and prudent parenting standard, the resource family is permitted to make decisions in the effort of good faith that don't conflict with current court orders or service plans.
18. Both [the Agency] and resource family are not liable for harm caused to a child participating in an activity when the decision was made in good faith, does not conflict with a service plan or court order and the resource family completed the require trainings to make said decisions.
19. [The Agency] will provide a copy of this Agreement in writing to the resource family upon their approval as a resource family and annually thereafter.
20. It is the responsibility of resource parents to help the child(ren) served in their home. To do the best job, it is important that the resource family and the Agency develop a positive working relationship by both using a common sense set of standards. There may be occasions when the resource family and the caseworker are unable to agree on matters relating to the child. If this should occur, there are steps to follow to maximize the opportunity to resolve areas of disagreement. Resource families have the assurance that these steps can be taken with confidence that the Agency will not discharge,

threaten, discriminate, or retaliate against the resource family when decisions and practices related to the child(ren) in care are questioned.

It is the responsibility of resource parents to help the child(ren) served in their home. To do the best job, it is important that the resource family and the Agency develop a positive working relationship by both using a common sense set of standards. There may be occasions when the resource family and the caseworker are unable to agree on matters relating to the child. If this should occur, there are steps to follow to maximize the opportunity to resolve areas of disagreement. Resource families have the assurance that these steps can be taken with confidence that the Agency will not discharge, threaten, discriminate or retaliate against the resource family when decisions and practices related to the child(ren) in care are questioned.

- A. Let the caseworker know that there is an area of disagreement. If the resource family is not satisfied with the response, go to the next level.
- B. Contact the caseworker's immediate supervisor and ask for a meeting. If not satisfied with the response, go to the next level.
- C. Contact [Director or designated point person] and ask for a meeting with the parties.
- D. If you are unable to reach anyone because of voice mail or night and weekends, and it involves a matter that cannot wait:
 - 1. Weekdays – Call the main agency number (Phone Number) and ask to speak to someone immediately.
 - 2. Evenings and Weekends – Call the on-call caseworker (Phone Number)

Please remember that every problem has a solution if we take the time to ask questions and work as a team. If you have questions about resource family care in general or Agency policy, you may contact your caseworker. At any time during this process you can also contact the Local Foster Parent Association for support, which can be reached at [Contact Information]. Our goal is to maximize your resource family care experiences for you and the child entrusted to your care.

AGENCY REPRESENTATIVE

DATE

RESOURCE PARENT

RESOURCE PARENT