



## STATE STATUTES

CURRENT THROUGH JANUARY 2024

# Religious Rights of Youth in Out-of-Home Care

To find statute information for a particular State or Territory, go to the [State Statutes Search](#).

Although little research exists on the religion and spirituality of youth in foster care, some studies suggest that religion may affect the experiences of these youth. For some, it may be a protective factor. The ability to engage in religious activities of youth's choice can give rise to social support and coping mechanisms and may improve their well-being. Maintaining a youth's connections to their own religion while in foster care can help them stay connected with their community and benefit from the strengths of their religion.<sup>1</sup>

For this publication, Child Welfare Information Gateway reviewed State, Territory, and Tribal laws and policies that protect the religious rights of youth who are

in out-of-home care. The publication also discusses the responsibility of child-placing agencies to find placements that either match the youth's religious affiliation or have foster caregivers, including foster parents or staff in group care facilities, who are willing and able to support the youth's connection to their faith community.

## WHAT'S INSIDE

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<sup>1</sup> For more information, see the report from the U.S. Government Accountability Office, [Foster Care: Further Assistance From HHS Would Be Helpful in Supporting Youth's LGBTQ+ Identities and Religious Beliefs](#).

## YOUTH'S RELIGIOUS RIGHTS

All States, the District of Columbia, and the U.S. Virgin Islands provide some protections from discrimination based on religion for youth placed in out-of-home care. These measures vary across the States. For example, approximately 20 States<sup>2</sup> have laws confirming that a youth may not be discriminated against based on their religion. In approximately 35 States<sup>3</sup> youth have the right to have their religious choice respected. Laws in 35 States<sup>4</sup> and the District of Columbia require that a youth in out-of-home care be allowed to observe the religious practices of their family or their own choosing. Ten States<sup>5</sup> allow youth to refrain from any faith-related activity. In six States,<sup>6</sup> American Indian/Alaska Native (AI/AN) children have the right to participate in the ceremonies and religious practices of their Tribes.

### Preserving Tribal Connections of Native Youth

Some Tribal codes include measures to preserve the connections between Native children in out-of-home care and their Tribal communities. For example, the Aleut Community of St. Paul Island declares that each child has the right to learn the available culture, traditions, and history of the Tribe. The Tribal code of the Mashpee Wampanoag Nation has provisions dedicated to helping each child learn their Mashpee heritage, culture, traditions, and history so that they know who they are, where they come from, and what it means to be a member of the Mashpee Wampanoag Tribe.

The code of the Pascua Yaqui Nation imposes the following conditions when a Yaqui child is placed with a non-Yaqui family:

- The Yaqui child must have reasonable access (e.g., visits, phone calls, correspondence) to Yaqui family members.
- If the Yaqui child wishes to observe or participate in the Tribe's cultural and religious ceremonies, the Tribe's Social Services Department must be notified so that appropriate arrangements can be made.

<sup>2</sup> The word "approximately" is used to stress the fact that States frequently amend their laws and applies to all data in this publication. The information in this publication is current only through January 2024. The States that protect youth from discrimination based on religion include Arkansas, Florida, Georgia, Hawaii, Idaho, Maine, Maryland, Massachusetts, Minnesota, Mississippi, New Jersey, New Mexico, New York, North Dakota, Pennsylvania, Rhode Island, Utah, Vermont, Wisconsin, and Wyoming.

<sup>3</sup> Alaska, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Utah, Washington, West Virginia, Wisconsin, and Wyoming.

<sup>4</sup> Alaska, Arizona, California, Colorado, Connecticut, Hawaii, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Utah, Washington, West Virginia, Wisconsin, and Wyoming.

<sup>5</sup> Hawaii, Louisiana, Michigan, Nevada, New Mexico, North Carolina, Ohio, Oklahoma, Pennsylvania, and Washington.

<sup>6</sup> California, Idaho, Massachusetts, Montana, New Mexico, and South Dakota.

California State law also provides the following rights to AI/AN children and youth in foster care:

- To be free from discrimination based on affiliation with a Tribe or Alaska Native village
- To live in a home that upholds the prevailing social and cultural standards of their Tribal community
- To have contact with Tribal members and members of their Tribal community consistent with their Tribe's prevailing social and cultural conditions and way of life
- To attend religious services, activities, and ceremonies of the child's choice, including traditional Native American religious practices

## AGENCY RESPONSIBILITIES

In nine States,<sup>7</sup> the child-placing agency must consider the religious affiliation of the children and their parents when children are placed in foster care. In 22 States<sup>8</sup> and the Virgin Islands, the agency, to the extent possible, must place the child with a family or facility that meets the parents' religious preference.

Laws in 19 States<sup>9</sup> and the District of Columbia require the child-placing agency to provide foster caregivers with information on the importance of recognizing the religious beliefs of a child's family and respecting the religious preference expressed by the child's parents. In 32 States<sup>10</sup> and the District of Columbia, caregivers must respect the religious preference of the child. In 35 States,<sup>11</sup> the District of Columbia, and the Virgin Islands, caregivers must provide opportunities for a child in foster care to participate in their preferred religious and cultural activities.

Foster caregivers may invite a child to their place of worship if the child and the parents do not object (in six States<sup>12</sup>), but they cannot require the child to attend (in six States<sup>13</sup>). In 17 States<sup>14</sup> and the District of Columbia, caregivers cannot force children to participate in any religious activities or cultural events against their will. A youth in care cannot be pressured to change their religious affiliation (in 10 States<sup>15</sup>) or participate in significant religious rituals, such as baptism or communion (in eight States<sup>16</sup>) without the express written authorization of their parents or the child-placing agency.

<sup>7</sup> Alabama, Colorado, Georgia, Kansas, Kentucky, Maine, Mississippi, Pennsylvania, and Utah

<sup>8</sup> Arkansas, California, Georgia, Idaho, Illinois, Louisiana, Maine, Maryland, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, Oklahoma, Oregon, Tennessee, Virginia, West Virginia, and Wyoming

<sup>9</sup> Alaska, Arkansas, Hawaii, Idaho, Iowa, Kansas, Maine, Minnesota, Missouri, Montana, North Carolina, North Dakota, Oklahoma, Rhode Island, South Carolina, Tennessee, West Virginia, Wisconsin, and Wyoming

<sup>10</sup> Alaska, Arizona, Arkansas, Connecticut, Florida, Idaho, Indiana, Iowa, Kansas, Kentucky, Maine, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New York, North Carolina, North Dakota, Ohio, Oklahoma, Rhode Island, South Dakota, Tennessee, Texas, Utah, Vermont, West Virginia, Wisconsin, and Wyoming

<sup>11</sup> Alaska, Arizona, Arkansas, Connecticut, Georgia, Hawaii, Idaho, Indiana, Iowa, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming

<sup>12</sup> Alabama, Alaska, New Jersey, South Dakota, Tennessee, and Texas

<sup>13</sup> Alaska, Arizona, Louisiana, New Jersey, North Carolina, and Rhode Island

<sup>14</sup> Arizona, Arkansas, California, Connecticut, Iowa, Maine, Michigan, New Jersey, North Carolina, Ohio, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, Washington, and West Virginia

<sup>15</sup> Indiana, Missouri, Nevada, New Hampshire, New York, North Carolina, Ohio, Rhode Island, South Carolina, and Wyoming

<sup>16</sup> Georgia, Indiana, Massachusetts, Nevada, New York, Ohio, South Carolina, and South Dakota

Residential facilities must respect the religious preference of the child and their parents (in eight States<sup>17</sup>) and ensure that each child is afforded opportunities to attend religious services or activities in their faith of choice (in 11 States<sup>18</sup>). In 11 States,<sup>19</sup> if the facility has a particular religious or denominational affiliation, it must provide a written description of its religious programming to the child and their parents prior to the child's admission. In 10 States,<sup>20</sup> the facility cannot require children to participate in religious services or activities.

## GRIEVANCE PROCESS

Title IV-E of the Social Security Act<sup>21</sup> requires States to include in the case plan for any youth in foster care who is aged 14 or older a document that describes the youth's rights while in out-of-home care. The document must inform the youth of their rights to stay safe and avoid exploitation, receive appropriate education and health-care services, have regular visits with family members, and participate in relevant court proceedings.

Laws and policies in 44 States<sup>22</sup> and the District of Columbia give youth in out-of-home care the right to seek assistance if their religious or other rights are not being respected. In 26 States<sup>23</sup> and the District of Columbia, the placing agency must provide the youth with a statement of their right to seek redress and explain the process the agency has established for addressing grievances.

A youth may commence the grievance process by filing a complaint with one of the following:

- Their caseworker (in 12 States<sup>24</sup>)
- Their caseworker's supervisor (in 7 States<sup>25</sup>)
- Their legal representative, including their attorney (in 10 States<sup>26</sup>) or guardian ad litem (in 8 States<sup>27</sup>)
- The social services department or placing agency (in 17 States<sup>28</sup> and the District of Columbia)
- The State ombudsman (in 10 States<sup>29</sup>) or the social services departments' office of the ombudsman (in Arizona and Indiana)

<sup>17</sup> Delaware, Louisiana, Maine, New Hampshire, New York, North Carolina, Ohio, and South Carolina

<sup>18</sup> Delaware, Iowa, Louisiana, Maine, Michigan, New York, North Carolina, Ohio, Rhode Island, South Carolina, and Vermont

<sup>19</sup> Delaware, Iowa, Louisiana, Maine, Minnesota, New Hampshire, Missouri, Rhode Island, Vermont, Virginia, and Wyoming

<sup>20</sup> Delaware, Maine, Michigan, New Hampshire, North Carolina, Ohio, Rhode Island, South Carolina, Virginia, and Wyoming

<sup>21</sup> 42 U.S. Code § 675a(b)(1)

<sup>22</sup> Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming

<sup>23</sup> Georgia, Indiana, Iowa, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Texas, Vermont, Virginia, Washington, Wisconsin, and Wyoming

<sup>24</sup> Connecticut, Florida, Indiana, Maine, Maryland, Michigan, Mississippi, New York, North Carolina, North Dakota, Utah, and Washington

<sup>25</sup> Indiana, Michigan, Mississippi, New Hampshire, New York, North Dakota, and Utah

<sup>26</sup> Connecticut, Delaware, Indiana, Maine, Maryland, Massachusetts, Michigan, Nevada, New York, and Washington

<sup>27</sup> Indiana, Michigan, Nevada, New Hampshire, North Carolina, North Dakota, Utah, and Washington

<sup>28</sup> Arizona, California, Colorado, Connecticut, Indiana, Maine, Maryland, Mississippi, Missouri, Nevada, New York, North Dakota, Texas, Utah, Washington, West Virginia, Wyoming

<sup>29</sup> Arizona, California, Colorado, Florida, Maine, Minnesota, Ohio, Utah, Washington, and West Virginia

- Office of the Child Advocate (in 6 States<sup>30</sup>)
- The entity providing health or other services to the youth (in Louisiana and Nevada)
- The State Chafee Program Manager (in Montana and North Dakota)
- The hotline set up to receive complaints (in Oregon and Wyoming)
- The Tribal authority that approved a home (in California)

In 10 States,<sup>31</sup> youth also may petition the court that handles their case when they feel that their complaint has not been adequately addressed by the grievance process.

Laws and policies in 21 States<sup>32</sup> and the District of Columbia provide assurance that youth who have complaints will be protected from retaliation or threats of retaliation. Examples of retaliation include, but are not limited to, threats, punishments, or denial of privileges.

#### SUGGESTED CITATION:

Child Welfare Information Gateway. (2024).  
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 U.S. Department of Health and Human Services,  
 Administration for Children and Families,  
 Children's Bureau. [https://www.childwelfare.gov/  
 resources/religious-rights-youth-out-home-care](https://www.childwelfare.gov/resources/religious-rights-youth-out-home-care)

This publication is a product of the State Statutes Series prepared by Child Welfare Information Gateway. While every attempt has been made to be as complete as possible, additional information on these topics may be in other sections of a State's code as well as agency regulations, case law, and informal practices and procedures.

<sup>30</sup> Connecticut, Illinois, Michigan, New Hampshire, New Mexico, and Oklahoma

<sup>31</sup> Arizona, Delaware, Hawaii, Indiana, Kansas, Nevada, New York, Oklahoma, Rhode Island, and South Dakota

<sup>32</sup> California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Kansas, Louisiana, Maryland, Nevada, New Hampshire, New Mexico, New York, Ohio, Oklahoma, Oregon, Vermont, Virginia, Washington, and West Virginia



U.S. Department of Health and Human Services  
 Administration for Children and Families  
 Administration on Children, Youth and Families  
 Children's Bureau



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