



### Smoking Policies for Foster Parents

Last updated: June 5, 2008

According to the Environmental Protection Agency, exposure to secondhand smoke presents health hazards to children, including increased risk of asthma, Sudden Infant Death Syndrome, lower respiratory infections such as pneumonia and bronchitis, and middle ear infections.<sup>1</sup>

States have a variety of policies regarding smoking in the presence of children in out-of-home care. We have assembled those we were able to locate here. Specific state regulations are cited below. Note that this is not a comprehensive list of all policies.

States for which no policy regarding smoking in foster homes was located:	Alabama, Arizona, Arkansas, California, Connecticut, Delaware, District of Columbia, Florida, Hawai'i, Idaho, Illinois, Indiana, Kentucky, Louisiana, Massachusetts, Minnesota, Missouri, Nebraska, Nevada, New Hampshire <sup>1</sup> , New Mexico, North Carolina, Ohio, Pennsylvania, South Carolina, South Dakota, Tennessee, Utah, Virginia, West Virginia
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1. **New Hampshire** does not currently have a law or policy prohibiting smoking by foster parents in the presence of children. They are currently discussing the education needs of smoking foster parents, including smoking cessation programs, and working with Breathe NH, a coalition to limit the effects of second hand smoke on children in care.
2. **Wisconsin** has have drafted language limiting smoking around foster children but it hasn't been formally issued yet. The proposed language is included later in this document.

States which recommend against smoking, but do not prohibit it:	Georgia, Michigan, New York, North Dakota
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**Georgia** does not prohibit smoking, but does include the following statement in the Georgia Division of Family And Children Services Foster Parent Manual:

Second Hand Smoke- Particular caution should be taken when smoking in the home. Children who reside with smokers have more upper respiratory infections than most children. When medically fragile care is provided, a smoke-free environment is required.

[http://www.files.georgia.gov/DHR-DFCS/DHR-DFCS\\_CommonFiles/16875120FosterParentManual2.pdf](http://www.files.georgia.gov/DHR-DFCS/DHR-DFCS_CommonFiles/16875120FosterParentManual2.pdf)

**Michigan:** State legislation required the Department of Human Services to distribute materials on risks to children from tobacco use and secondhand smoke, to introduce a smoking cessation program, and to determine the number of foster children residing in homes where parents smoke. DHS was also required to determine the resulting health costs and the impact on recruiting foster parents if being a non-smoker was a requirement for foster parenting. This report describes DHS' activities in response to this mandate: [http://www.michigan.gov/documents/dhs/DHS-BoilerplateSec550-551PA147-2005\\_176411\\_7.pdf](http://www.michigan.gov/documents/dhs/DHS-BoilerplateSec550-551PA147-2005_176411_7.pdf)

**New York** issued an Informational Letter in 2004 recommending that local agencies "review their current policy and practices concerning foster parents and foster children and the smoking of tobacco, if such a review has not been undertaken in the last few years. This review is recommended to support the good health of foster children residing in foster homes and to take necessary steps to avoid the dangers caused by a child smoking tobacco or being exposed to second-hand smoke."  
 04-OCFS-INF-05 Smoking in Foster Homes  
[http://www.ocfs.state.ny.us/main/policies/external/OCFS\\_2004/](http://www.ocfs.state.ny.us/main/policies/external/OCFS_2004/)

**North Dakota:** No person may smoke, in the foster home, in circumstances which present a hazard to the health of a foster child. All foster parents should be aware of the potential hazards of smoking in the presence of children, particularly infants and children with respiratory or allergic sensitivity.  
 North Dakota Administrative Code, Chapter 75-03-14-04, Family Foster Care Homes  
<http://www.legis.nd.gov/information/acdata/html/..%5Cpdf%5C75-03-14.pdf>

States in the process of developing policies at the time this document was written:	Iowa, Rhode Island, Wisconsin,
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**Iowa** has drafted rules to be noticed in the next couple of months (currently under review by the Attorney General) regarding smoking policies for foster family homes. Proposed language is (*personal communication*):

113.5(15) Smoking. Smoking and the use of tobacco products shall be prohibited in areas that may be used by children receiving care in the home, in the outdoor play area, and in any vehicle in which children receiving care in the home are transported. Foster parents who smoke shall have a written plan for smoking while children are in their care that is approved by the department.

All motor vehicles used to transport foster children shall be smoke free. The children shall not be subjected to second-hand smoke.

The department shall not place a child with respiratory health issues in a foster family home where any member of the household smokes. Children under the authority of the department shall not be subjected to second-hand smoke.

**Rhode Island** has just completed new Foster Care and Adoption Regulations which have yet to be promulgated. The new regulations do include a prohibition against smoking, as follows (personal communication):

Foster children shall not be exposed to second hand smoke in their foster placement nor in the foster parent's vehicle by any member of the provider family or visitor of that family.

**Wisconsin** has drafted language limiting smoking around foster children but it hasn't been formally issued yet. Here is the language being proposed (personal communication):

In order to protect foster children from the effects of second-hand smoke, foster parents shall:

- (a) Refrain from smoking or allowing any other person to smoke in the foster home while foster children are present.
- (b) Refrain from smoking or allowing any other person to smoke in vehicles while transporting foster children.

Nothing in this section shall be interpreted to interfere with traditional or established spiritual cultural ceremonies involving the use of tobacco.

States which have explicit legislation or policy prohibiting smoking in foster homes and/or vehicles in which children are being transported:	Alaska, Colorado, Kansas, Maine, Maryland, Montana, New Jersey, Oklahoma, Oregon, Texas, Vermont, Washington, Wyoming
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**Alaska**

Alaska Administrative Code, Chapter 10 - Licensing, Certification and Approvals Article 4, Environmental Health and Safety, Section 1085, Smoking (effective 06/23/2006):

(c) Smoking in a foster home or foster group home must be limited to outside the home, or in a well-ventilated area away from the immediate living area, and only after submitting a plan acceptable to the department that addresses how children in care will be protected from smoke.

(e) Any vehicle used to transport children must be smoke-free.

[http://www.hss.state.ak.us/dpa/programs/ccare/files/Omnibus\\_Safety-Sanitation-7AAC\\_10-2006.pdf](http://www.hss.state.ak.us/dpa/programs/ccare/files/Omnibus_Safety-Sanitation-7AAC_10-2006.pdf)

**Colorado**

Colorado Department of Human Services, Rules and Regulations

7.708.2 Requirements for Certification of Family Foster Care Homes

7.708.21 Character, Suitability, and Qualifications of Family Foster Parents [Rev. eff. 8/1/07]

I. Foster parents shall protect foster children from exposure to second hand tobacco smoke.

1. Smoking is prohibited inside the foster home at all times when a child(ren) is in placement.
2. Smoking is prohibited in a foster parents' or substitute caregiver's motor vehicle when a foster child(ren) is in placement in the foster care home.
3. Smoking includes carrying or having in one's possession a lighted cigarette, cigar, pipe or other object giving off tobacco smoke.

[http://stateboard.cdhs.state.co.us:8008/CDHS/rule\\_display\\$.DisplayVolume?p\\_vol\\_num=7700](http://stateboard.cdhs.state.co.us:8008/CDHS/rule_display$.DisplayVolume?p_vol_num=7700)

**Kansas**

K.A.R. 28-4-819. Health care

(f) Tobacco use limitations.

(1) To prevent exposure of a child in foster care to secondhand smoke, each licensee shall ensure that both of the following conditions are met:

(A) Smoking is prohibited inside the family foster home when a child in foster care is in placement, whether the child is physically present on the premises or not.

(B) Smoking by any member of the foster family is prohibited outside the family foster home within 10 feet of a child in foster care.

(2) Each licensee shall prohibit smoking and the use of any other tobacco product by a child in foster care less than 18 years of age.

K.A.R. 28-4-816. Transportation

Smoking in the vehicle shall be prohibited when a child in foster care is in placement in a family foster home, whether or not the child in foster care is physically present in the vehicle.

(Authorized by K.S.A. 65-508; implementing K.S.A. 65-507 and 65-508; effective March 28, 2008.)

[http://www.kssos.org/pubs/register%5C2008%5CVol\\_27\\_No\\_11\\_March\\_13\\_2008\\_p\\_303-342.pdf](http://www.kssos.org/pubs/register%5C2008%5CVol_27_No_11_March_13_2008_p_303-342.pdf)

**Maine**

Rules Providing for the Licensing of Family Foster Homes for Children Licensing

Requirements for Family Foster Homes for Children. (9.K.)

K. EXPOSURE TO SECOND-HAND TOBACCO SMOKE

Foster parents shall protect foster children from exposure to second hand tobacco smoke:

- (1) Smoking is prohibited in a foster home when a foster child is in placement.
- (2) When a foster child is absent from the foster home, smoking is prohibited within 12 hours prior to their expected return.

- (3) (3)Smoking is prohibited in a foster home when a foster child is placed in a foster home providing respite care and within 12 hours prior to a child's expected respite placement.
- (4) (4)Smoking is prohibited in a foster parents' motor vehicle within 12 hours prior to transporting a foster child and whenever the foster child is present in the vehicle.

"Smoking includes carrying or having in one's possession a lighted cigarette, cigar, pipe or other object giving off tobacco smoke."

[http://www.state.me.us/dhhs/boh/\\_rules\\_documents/148c016.doc](http://www.state.me.us/dhhs/boh/_rules_documents/148c016.doc)

### **Maryland**

Maryland is in the process of revising regulations to include that foster parents accept responsibility for protecting foster children from Second Hand Smoke, effective July 1, 2008.

All foster parents will sign an agreement, the details of which are still being worked out, to make sure that in the home, car or when at other houses or in public, the child is not exposed to second hand smoke (personal communication)

### **Montana**

Administrative Rules of Montana, 37.51.825 Youth Foster Homes: Physical Care of Children  
(13) Foster parents must not allow children placed in the foster home to be exposed to secondhand smoke in the foster parents' home or vehicle.

<http://arm.sos.mt.gov/37/37-11585.htm>

### **New Jersey**

Manual of Requirements for Resource Family Parents, 10:122C-7.2 General health practices  
The resource family parent shall maintain a smoke-free environment in all indoor areas of the home, and in all vehicles used to transport a child in placement.

<http://www.state.nj.us/dcf/divisions/licensing/RFmanual.pdf>

In addition:

- The resource family parent shall prohibit smoking and the use of smokeless tobacco by children in placement.
- The resource family parent shall comply with the provisions of N.J.S.A. 2A:170-51.4 prohibiting any person from directly or indirectly selling, giving or furnishing to a minor under 18 years of age any cigarettes made of tobacco, any matter or substance that can be smoked, any cigarette paper or tobacco in any form, including smokeless tobacco.
- The resource family parent may permit smoking outdoors when no child in placement is present.

### **Oklahoma**

Oklahoma Administrative Code, 340:110-5-60. Foster home requirements  
When children are in care, smoking is prohibited inside the home and when transporting children.

[http://www.sos.state.ok.us/oar/oar\\_welcome.htm](http://www.sos.state.ok.us/oar/oar_welcome.htm)

**Oregon**

Certification Standards for Foster Parents, Relative Caregivers, and Pre-Adoptive Parents  
413-200-0335: Certification Standards Regarding the Home Environment

(7) Smoking limitations. A certified family must assure that:

- (a) A child or young adult is not exposed to any type of second-hand smoke in the certified family's home or vehicle;

[http://www.dhs.state.or.us/policy/childwelfare/manual\\_2/ii-b1.htm](http://www.dhs.state.or.us/policy/childwelfare/manual_2/ii-b1.htm)

**Texas**

Texas Administrative Code, Title 40, Part 19, Chapter 749, Subchapter O, Division 2, Rule  
S749.2931

Effective January 1, 2007: A child may not use or possess tobacco products.

- (b) Caregivers and other adults may only smoke tobacco products outside.
- (c) No one may smoke tobacco products in a motor vehicle while transporting children in care.

[http://info.sos.state.tx.us/pls/pub/readtac\\$ext.viewtac](http://info.sos.state.tx.us/pls/pub/readtac$ext.viewtac)

**Vermont**

Licensing Regulations for Foster Care, 403

Foster parents shall ensure that children in the custody of the Department shall not be exposed to second hand smoke in the foster parent's home or vehicle.

[http://www.dcf.state.vt.us/fsd/pubs&reports/index\\_publications.html#Licensing](http://www.dcf.state.vt.us/fsd/pubs&reports/index_publications.html#Licensing)

**Washington**

Washington Administrative Code, Title 388-148-0185

Is smoking permitted around children?

- (1) You must prohibit smoking in the living space of any home or facility caring for children and in motor vehicles while transporting children.
- (2) You may permit adults to smoke outdoors away from children.
- (3) Nothing in this section is meant to interfere with traditional or spiritual Native American or religious ceremonies involving the use of tobacco.

<http://apps.leg.wa.gov/WAC/default.aspx?cite=388-148-0185>

**Wyoming**

Placement/Permanency Policy, Family Foster Care, Foster Parent Responsibilities, 5.12.5  
15. Smoke free environments and restriction of tobacco, alcohol and other controlled substances

- a. The foster home shall maintain a smoke free environment. There will be no smoking in any space connected to the home environment, to include but not limited to the garage, bathroom, or house. Exceptions may be granted to foster homes certified prior to July 1, 2006 by written approval of the district manager. Foster parent(s) shall ensure a smoke free environment in all motor vehicles while transporting child(ren)/youth.

<http://dfsweb.state.wy.us/childprotection/5.12.5FamilyFosterCare-FosterParentResponsibilities.pdf>

Sources of information for this document include state statutes, policies, and websites and some personal communications. Online sources are indicated, when available.

New Jersey GASP. (2007). *Protecting foster/resource family children from secondhand smoke in homes and cars*. Retrieved February 28, 2008 from:  
[http://www.njgasp.org/d\\_Foster\\_Homes\\_and\\_Cars.pdf](http://www.njgasp.org/d_Foster_Homes_and_Cars.pdf)

Tobacco Public Policy Center. (2007). *The duty to protect foster children from secondhand smoke*. Retrieved February 28, 2008 from:  
[http://www.law.capital.edu/tobacco/documents/foster\\_care.pdf](http://www.law.capital.edu/tobacco/documents/foster_care.pdf)

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<sup>i</sup> U.S. Environmental Protection Agency. (2007). *Health effects of exposure to secondhand smoke*. Retrieved February 28, 2008 from: <http://www.epa.gov/smokefree/healtheffects.html>