

2015 Regular Session

HOUSE BILL NO. 261

BY REPRESENTATIVE HODGES

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CHILDREN/FOSTER CARE: Enacts the Quality Parenting for Children in Foster Care Act

1 AN ACT

2 To amend and reenact R.S. 46:283(C)(1)(a)(introductory paragraph), and to enact R.S.
3 46:283(C)(1)(a)(v) and Subpart D-2 of Part II of Chapter 3 of Title 46 of the
4 Louisiana Revised Statutes of 1950, to be comprised of R.S. 46:286.21 through
5 286.25, relative to the well-being of children in foster care; to establish the
6 reasonable and prudent parent standard for persons and agencies providing foster
7 care; to provide relative to training for prospective foster care providers; to limit
8 liability of foster caregivers in certain circumstances; to provide legislative findings
9 and intent; to provide for rulemaking; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 46:283(C)(1)(a)(introductory paragraph) is hereby amended and
12 reenacted and R.S. 46:283(C)(1)(a)(v) and Subpart D-2 of Part II of Chapter 3 of Title 46
13 of the Louisiana Revised Statutes of 1950, comprised of R.S. 46:286.21 through 286.25, are
14 hereby enacted to read as follows:

15 §283. Determination of fitness; award of contract

16 * * *

17 C.(1)(a) After January 1, 1984, no new contract for foster care services shall
18 be awarded to any person who has not completed a training program approved by the
19 department, ~~including~~ that includes but is not limited to the following areas:

20 * * *

1 maturity or that are determined to be developmentally appropriate for a child, based
2 on the development of cognitive, emotional, physical, and behavioral capacities that
3 are typical for an age or age group; and in the case of a specific child, activities or
4 items that are suitable for the child based on the developmental stages attained by the
5 child with respect to the cognitive, emotional, physical, and behavioral capacities of
6 the child.

7 (2) "Caregiver" means a person with whom the child is placed in foster care,
8 or a designated official for a child residential facility licensed by the state.

9 (3) "Department" means the Department of Children and Family Services.

10 (4) "Foster care" shall have the meaning ascribed in Children's Code Article
11 603.

12 (5) "Reasonable and prudent parent standard" means the standard
13 characterized by careful and sensible parental decisions that maintain the health,
14 safety, and best interests of a child while at the same time encouraging the emotional
15 and developmental growth of the child, that a caregiver shall use when determining
16 whether to allow a child in foster care under the responsibility of the state to
17 participate in extracurricular, enrichment, cultural, social, and sporting activities. No
18 decisions shall be made that conflict with the child's parents' residual parental rights.

19 §286.24. Standard of care; application

20 A. It is the policy of this state that each child who enters foster care should
21 be encouraged and supported to participate in age- and developmentally appropriate
22 extracurricular, enrichment, cultural, social, and sporting activities.

23 B.(1) Each caregiver shall use the reasonable and prudent parent standard in
24 determining whether to give permission for a child living in foster care to participate
25 in extracurricular, enrichment, cultural, social, or sporting activities.

26 (2) When using the reasonable and prudent parent standard, the caregiver
27 shall consider all of the following:

28 (a) The child's age, maturity, and developmental level in order to maintain
29 the overall health and safety of the child.

1 (b) The potential risk factors and the appropriateness of the extracurricular,
2 enrichment, cultural, social, or sporting activity.

3 (c) The best interest of the child, based on information known by the
4 caregiver.

5 (d) The importance of encouraging the child's emotional and developmental
6 growth.

7 (e) The importance of providing the child with the most family-like living
8 experience possible.

9 (f) The behavioral history of the child and the child's ability to safely
10 participate in the proposed activity.

11 C. Each child in foster care shall be allowed to travel out of state with his
12 foster parent or another department-approved adult so long as the foster parent
13 confirms with the department in advance of the departure date that no reason exists
14 to prevent such travel, and provides a travel itinerary to the department.

15 D. The department shall verify that private child residential facilities
16 providing foster care services to dependent children have policies in place that are
17 consistent with the provisions of this Subpart, and that these agencies promote and
18 protect the ability of dependent children to participate in age- and
19 developmentally appropriate extracurricular, enrichment, cultural, social, and
20 sporting activities.

21 E.(1) A foster caregiver who approves a foster child's participation in an age-
22 and developmentally appropriate extracurricular, enrichment, cultural, social, or
23 sporting activity is not liable for harm caused to the child at such activity, provided
24 that the caregiver has acted in accordance with the reasonable and prudent parent
25 standard.

26 (2) Nothing in this Section shall be construed to remove or limit any existing
27 liability protection afforded by law.

1 §286.25. Rulemaking

2 The secretary of the department shall promulgate all rules and regulations in
3 accordance with the Administrative Procedure Act as may be necessary to implement
4 the provisions of this Subpart. The rules shall provide caregivers with as much
5 flexibility as possible to enable children in their care to participate in normal life
6 experiences, and shall reflect the considerations provided in this Subpart relative to
7 the reasonable and prudent parent standard.

8 Section 2. The Louisiana State Law Institute is hereby directed to redesignate
9 Subpart D-2 of Part II of Chapter 3 of Title 46 of the Louisiana Revised Statutes of 1950,
10 comprised of R.S. 46:287.1 through 287.9 and entitled "Family Preservation Services", as
11 Subpart D-3 of Part II of Chapter 3 of Title 46 of the Louisiana Revised Statutes of 1950,
12 and is further directed to retain the heading and Section numbering of the Subpart.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 261 Engrossed

2015 Regular Session

Hodges

Abstract: Enacts the Quality Parenting for Children in Foster Care Act and provides for the reasonable and prudent parent standard to apply to decisions by foster caregivers concerning participation by foster children in certain activities.

Present law provides that no contract for foster care services shall be awarded to any person who has not completed a training program approved by the Department of Children and Family Services (DCFS) that includes certain specified topics. Proposed law retains present law and adds to the training topics the "reasonable and prudent parent standard" established by proposed law.

Proposed law to be known as the "Quality Parenting for Children in Foster Care Act" provides findings relative to protecting the health and well-being of foster children. Further provides that the intent of proposed law is to recognize the importance of normalizing the lives of children in foster care while ensuring their health and safety, and to empower caregivers and legal custodians to support and encourage a child's participation in activities.

Proposed law provides that foster children should be encouraged and supported to participate in age- and developmentally appropriate extracurricular, enrichment, cultural, social, and sporting activities.

Proposed law defines "reasonable and prudent parent standard" as the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care

under the responsibility of the state to participate in extracurricular, enrichment, cultural, social, and sporting activities.

Proposed law stipulates that the reasonable and prudent parent standard established by proposed law shall not authorize any decision that conflicts with the child's parents' residual parental rights.

Proposed law requires that foster caregivers use the reasonable and prudent parent standard in determining whether to give permission for a foster child to participate in extracurricular, enrichment, cultural, social, or sporting activities. Provides that when using the reasonable and prudent parent standard, the caregiver shall consider all of the following:

- (1) The child's age, maturity, and developmental level in order to maintain the overall health and safety of the child.
- (2) The potential risk factors and the appropriateness of the extracurricular, enrichment, cultural, social, or sporting activity.
- (3) The best interest of the child, based on information known by the caregiver.
- (4) The importance of encouraging the child's emotional and developmental growth.
- (5) The importance of providing the child with the most family-like living experience possible.
- (6) The behavioral history of the child and the child's ability to safely participate in the proposed activity.

Proposed law authorizes children in foster care to travel out of state with a foster parent or another DCFS-approved adult so long as the foster parent confirms with DCFS in advance of the departure date that no reason exists to prevent such travel, and provides a travel itinerary to the department.

Proposed law requires DCFS to verify that private child residential facilities providing foster care services have policies in place that are consistent with the provisions of proposed law, and that these agencies promote and protect the ability of children to participate in age- and developmentally appropriate extracurricular, enrichment, cultural, social, and sporting activities.

Proposed law stipulates that a foster caregiver is not liable for harm caused to a child who participates in an age- and developmentally appropriate activity approved by the caregiver, provided that the caregiver has acted in accordance with the reasonable and prudent parent standard. Stipulates further that nothing in proposed law shall be construed to remove or limit any existing liability protection afforded by present law.

Proposed law requires DCFS to promulgate rules for implementation of proposed law, and that these rules do all of the following:

- (1) Provide foster caregivers with as much flexibility as possible to enable children in their care to participate in normal life experiences.
- (2) Reflect the considerations provided in proposed law relative to the reasonable and prudent parent standard.

(Amends R.S. 46:283(C)(1)(a)(intro. para.); Adds R.S. 46:283(C)(1)(a)(v) and R.S. 46:286.21-286.25)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Health and Welfare to the original bill:

1. Revise the definitions of "age- or developmentally appropriate" and "reasonable and prudent parent standard" provided in proposed law.
2. Provide within the definition of "reasonable and prudent parent standard" that no decisions shall be made that conflict with the child's parents' residual parental rights.
3. Make technical changes.