

2015 Regular Session

HOUSE BILL NO. 261

BY REPRESENTATIVES HODGES, ANDERS, BADON, BROADWATER, BURFORD, HENRY BURNS, CARMODY, COX, GISCLAIR, HILL, HOFFMANN, HOWARD, JAMES, MIKE JOHNSON, LEBAS, LORUSSO, ORTEGO, POPE, REYNOLDS, RICHARD, SEABAUGH, ST. GERMAIN, WHITNEY, AND WILLMOTT

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 \* \* \*

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

4 \* \* \*

5 (v) Knowledge and skills relating to the reasonable and prudent parent  
6 standard provided in the Quality Parenting for Children in Foster Care Act, R.S.  
7 46:286.21 et seq.

8 \* \* \*

9 SUBPART D-2. QUALITY PARENTING FOR CHILDREN IN FOSTER CARE

10 §286.21. Short title

11 This Subpart may be cited as the "Quality Parenting for Children in Foster  
12 Care Act".

13 §286.22. Findings and intent

14 A. The legislature hereby finds and declares the following:

15 (1) Parents make important decisions every day regarding participation by  
16 their children in activities, and caregivers of children in foster care are faced with  
17 making the same decisions for their foster children.

18 (2) When a foster caregiver makes decisions, he must consider applicable  
19 laws and rules to safeguard the health and safety of a child in his care; and those laws  
20 and rules are not intended to be applied in such a manner as to prohibit children in  
21 foster care from participating in age- or developmentally appropriate activities.

22 (3) Participation in age- and developmentally appropriate activities is  
23 important to a child's well-being, both emotionally and in terms of developing  
24 healthy coping mechanisms and valuable life skills.

25 B. It is the intent of the legislature to recognize the importance of  
26 normalizing the lives of children in foster care while ensuring their health and safety,  
27 and to empower caregivers and legal custodians to support and encourage a child's  
28 participation in activities.

1        §286.23. Definitions

2                As used in this Subpart, the following terms have the meaning ascribed to  
3        them in this Section:

4                (1) "Age- or developmentally appropriate" means activities or items that are  
5        generally accepted as suitable for children of the same chronological age or level of  
6        maturity or that are determined to be developmentally appropriate for a child, based  
7        on the development of cognitive, emotional, physical, and behavioral capacities that  
8        are typical for an age or age group; and in the case of a specific child, activities or  
9        items that are suitable for the child based on the developmental stages attained by the  
10       child with respect to the cognitive, emotional, physical, and behavioral capacities of  
11       the child.

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

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

15               (4) "Foster care" shall have the meaning ascribed in Children's Code Article  
16       603.

17               (5) "Reasonable and prudent parent standard" means the standard  
18       characterized by careful and sensible parental decisions that maintain the health,  
19       safety, and best interests of a child while at the same time encouraging the emotional  
20       and developmental growth of the child, that a caregiver shall use when determining  
21       whether to allow a child in foster care under the responsibility of the state to  
22       participate in extracurricular, enrichment, cultural, social, and sporting activities.

23        §286.24. Standard of care; application

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

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

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

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

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

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

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

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

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

15          (3) Nothing in this Section shall be construed to authorize any decision that  
16          conflicts with the residual parental rights, as defined in Children's Code Article 116,  
17          of a parent of a child.

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

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

28          E.(1) A foster caregiver who approves a foster child's participation in an age-  
29          and developmentally appropriate extracurricular, enrichment, cultural, social, or

1 sporting activity is not liable for harm caused to the child at such activity, provided  
2 that the caregiver has acted in accordance with the reasonable and prudent parent  
3 standard.

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

6 §286.25. Rulemaking

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

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

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#### 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)]

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HB 261 Reengrossed

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 residual parental rights of a parent of a child.

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.

The House Floor Amendments to the engrossed bill:

1. Relocate within proposed law a provision stipulating that the reasonable and prudent parent standard established by proposed law shall not authorize any decision that conflicts with the residual parental rights of a parent of a child.