2015 Regular Session

HOUSE BILL NO. 261

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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

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), (D), (E), (F), and (G), and Subpart D-2 of Part II of Chapter 3 4 of Title 46 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 5 46:286.21 through 286.23, relative to the well-being of children in foster care; to establish the reasonable and prudent parent standard for persons and agencies 6 7 providing foster care; to provide relative to training for prospective foster care 8 providers; to limit liability of foster caregivers in certain circumstances; to provide 9 legislative findings and intent; to provide for rulemaking; and to provide for related 10 matters. 11 Be it enacted by the Legislature of Louisiana: 12 Section 1. R.S. 46:283(C)(1)(a)(introductory paragraph) is hereby amended and 13 reenacted and R.S. 46:283(C)(1)(a)(v), (D), (E), (F), and (G), and Subpart D-2 of Part II of 14 Chapter 3 of Title 46 of the Louisiana Revised Statutes of 1950, comprised of R.S. 46:286.21 15 through 286.23, are hereby enacted to read as follows: 16 §283. Determination of fitness; award of contract 17

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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 for participation by the child in age- or developmentally appropriate
7	activities as defined in Subsection D of this Section.
8	* * *
9	D.(1) For purposes of this Section, the following definitions shall apply:
10	(a) "Age- or developmentally appropriate" means activities or items that are
11	generally accepted as suitable for children of the same chronological age or level of
12	maturity or that are determined to be developmentally appropriate for a child, based
13	on the development of cognitive, emotional, physical, and behavioral capacities that
14	are typical for an age or age group; and in the case of a specific child, activities or
15	items that are suitable for the child based on the developmental stages attained by the
16	child with respect to the cognitive, emotional, physical, and behavioral capacities of
17	the child.
18	(b) "Reasonable and prudent parent standard" means the standard
19	characterized by careful and sensible parental decisions that maintain the health,
20	safety, and best interests of a child while at the same time encouraging the emotional
21	and developmental growth of the child, that a caregiver shall use when determining
22	whether to allow a child in foster care under the responsibility of the state to
23	participate in extracurricular, enrichment, cultural, social, and sporting activities.
24	(c) "Caregiver" means a person with whom the child is placed in foster care,
25	or a designated official for a child residential facility licensed by the state.
26	(2) Nothing in this Section shall be construed to authorize any decision that
27	conflicts with the residual parental rights, as defined in Children's Code Article 116,

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of a parent of a child.

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1	E. (1) Each caregiver shall use the reasonable and prudent parent standard
2	in determining whether to give permission for a child living in foster care under the
3	responsibility of the state to participate in extracurricular, enrichment, cultural,
4	social, or sporting activities.
5	(2) When using the reasonable and prudent parent standard, the caregiver
6	shall consider all of the following:
7	(a) The child's age, maturity, and developmental level in order to maintain
8	the overall health and safety of the child.
9	(b) The potential risk factors and the appropriateness of the extracurricular
10	enrichment, cultural, social, or sporting activity.
11	(c) The best interest of the child, based on information known by the
12	caregiver.
13	(d) The importance of encouraging the child's emotional and developmental
14	growth.
15	(e) The importance of providing the child with the most family-like living
16	experience possible.
17	(f) The behavioral history of the child and the child's ability to safely
18	participate in the proposed activity.
19	F. Each child in foster care shall be allowed to travel out of state with his
20	foster parent or another department-approved adult so long as the foster parent
21	confirms with the department in advance of the departure date that no reason exists
22	to prevent such travel, and provides a travel itinerary to the department.
23	G.(1) A foster caregiver who approves a foster child's participation in an age-
24	and developmentally appropriate extracurricular, enrichment, cultural, social, or
25	sporting activity is not liable for harm caused to the child at such activity, provided
26	that the caregiver has acted in accordance with the reasonable and prudent parent
27	standard.
28	(2) Nothing in this Section shall be construed to remove or limit any existing
29	liability protection afforded by law.
30	* * *

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1	SUBPART D-2. QUALITY PARENTING FOR CHILDREN IN FOSTER CARE
2	§286.21. Short title
3	This Subpart may be cited as the "Quality Parenting for Children in Foster
4	Care Act".
5	§286.22. Findings and intent
6	A. The legislature hereby finds and declares the following:
7	(1) Parents make important decisions every day regarding participation by
8	their children in activities, and caregivers of children in foster care are faced with
9	making the same decisions for their foster children.
10	(2) When a foster caregiver makes decisions, he must consider applicable
1	laws and rules to safeguard the health and safety of a child in his care; and those laws
12	and rules are not intended to be applied in such a manner as to prohibit children in
13	foster care from participating in age- or developmentally appropriate activities.
14	(3) Participation in age- and developmentally appropriate activities is
15	important to a child's well-being, both emotionally and in terms of developing
16	healthy coping mechanisms and valuable life skills.
17	B. It is the intent of the legislature to recognize the importance of
18	normalizing the lives of children in foster care while ensuring their health and safety,
19	and to empower caregivers and legal custodians to support and encourage a child's
20	participation in activities.
21	§286.23. Standard of care; application
22	A. It is the policy of this state that each child who enters foster care should
23	be encouraged and supported to participate in age- and developmentally appropriate
24	extracurricular, enrichment, cultural, social, and sporting activities.
25	B.(1) Each caregiver shall use the reasonable and prudent parent standard as
26	defined in R.S. 46:283(D) in determining whether to give permission for a child
27	living in foster care under the responsibility of the state to participate in
28	extracurricular, enrichment, cultural, social, or sporting activities.
29	(2) When using the reasonable and prudent parent standard, the caregiver
30	shall consider all of the factors provided in R.S. 46:283(E).

Section 2. The Louisiana State Law Institute is hereby directed to redesignate

Subpart D-2 of Part II of Chapter 3 of Title 46 of the Louisiana Revised Statutes of 1950,

comprised of R.S. 46:287.1 through 287.9 and entitled "Family Preservation Services", as

Subpart D-3 of Part II of Chapter 3 of Title 46 of the Louisiana Revised Statutes of 1950,

and is further directed to retain the heading and Section numbering of the Subpart.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

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APPROVED: \_\_\_\_\_