
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 477 Session of
2015

INTRODUCED BY HICKERNELL, TOOHIL, BISHOP, COHEN, DUSH, FEE,
HARHART, HEFFLEY, MENTZER, MILLARD, MURT, PICKETT, ROEBUCK,
ROZZI, YOUNGBLOOD AND ZIMMERMAN, FEBRUARY 17, 2015

REFERRED TO COMMITTEE ON CHILDREN AND YOUTH, FEBRUARY 17, 2015

AN ACT

1 Providing for activities and experiences for children in out-of-
2 home placements.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Activities
7 and Experiences for Children in Out-of-Home Placements Act.

8 Section 2. Legislative intent.

9 The General Assembly finds and declares as follows:

10 (1) Parents and guardians make important decisions every
11 day regarding the participation of their children in
12 activities. Caregivers of children in out-of-home placements
13 are faced with making the same decisions for children in
14 their care.

15 (2) When a caregiver of a child in an out-of-home
16 placement makes a decision regarding the child's
17 participation in an activity, the caregiver must consider

1 applicable laws and policies designed to safeguard the
2 child's health and safety. However, these laws and policies
3 are sometimes interpreted to prohibit a child from
4 participating in age-appropriate and developmentally
5 appropriate extracurricular and community activities that are
6 important to healthy child and adolescent development.

7 (3) Participation in activities in school and the
8 community is important to a child's well-being, both
9 emotionally and in terms of developing valuable life skills
10 and building healthy supportive relationships with peers and
11 caring adults. Providing children with age-appropriate and
12 developmentally appropriate opportunities to experience
13 freedom and responsibility are central to making a successful
14 transition to adulthood.

15 (4) It is the intent of the General Assembly to
16 recognize the importance of normalizing the lives of children
17 in out-of-home placements and to empower their caregivers to
18 approve or disapprove a child's participation in activities
19 without prior approval of the department, the child's
20 caseworker or the court.

21 Section 3. Definitions.

22 The following words and phrases when used in this act shall
23 have the meanings given to them in this section unless the
24 context clearly indicates otherwise:

25 "Age-appropriate and developmentally appropriate." The
26 following:

27 (1) activities or items that are generally accepted as
28 suitable for children of the same chronological age or level
29 of maturity or that are determined to be developmentally
30 appropriate for a child, based on the development of

1 cognitive, emotional, physical and behavioral capacities that
2 are typical for an age or age group; or

3 (2) in the case of a specific child, activities or items
4 that are suitable for the child based on the developmental
5 stages attained by the child with respect to the cognitive,
6 emotional, physical and behavioral capacities of the child.

7 "Caregiver." A person with whom the child is placed in an
8 out-of-home placement, including a resource family or an
9 individual designated by a facility licensed under 55 Pa. Code
10 Ch. 3800 (relating to child residential and day treatment
11 facilities) or any other setting in which a dependent child is
12 placed by a court under 42 Pa.C.S. § 6351 (relating to
13 disposition of dependent child).

14 "County agency." The county children and youth social
15 service agency established in accordance with section 405 of the
16 act of June 24, 1937 (P.L.2017, No.396), known as the County
17 Institution District Law, or its successor, and supervised by
18 the department under Article IX of the act of June 13, 1967
19 (P.L.31, No.21), known as the Public Welfare Code.

20 "Department." The Department of Human Services of the
21 Commonwealth.

22 "Out-of-home placement." An out-of-home placement under 42
23 Pa.C.S. 6351.

24 "Private agency." A children and youth social service agency
25 subject to the requirements of 55 Pa. Code Ch. 3680 (relating to
26 administration and operation of a children and youth social
27 service agency).

28 "Reasonable and prudent parent standard." The standard
29 characterized by careful and sensible parental decisions that
30 maintain the health, safety and best interests of a child while

1 encouraging the emotional and developmental growth of the child.

2 Section 4. Access and standard.

3 (a) Access to activities and experiences.--Subject to
4 subsection (b), a child in an out-of-home placement is entitled
5 to engage in, to the greatest extent possible, age-appropriate
6 and developmentally appropriate activities and experiences. A
7 child with a disability or special needs in an out-of-home
8 placement shall have the same access to age-appropriate and
9 developmentally appropriate activities and experiences as the
10 child's nondisabled peers, even if reasonable accommodations are
11 required.

12 (b) Caregiver authority.--Caregivers have the authority to
13 provide or withhold permission for children in their care to
14 participate in and experience age-appropriate and
15 developmentally appropriate activities and experiences in
16 accordance with this section. The authority of a caregiver:

17 (1) Must be exercised using the reasonable and prudent
18 parent standard and in accordance with any applicable court
19 order, individual service plan and family service plan.

20 (2) May be exercised without the prior approval of a
21 county agency or private agency.

22 (c) Reasonable and prudent parent standard.--When using the
23 reasonable and prudent parent standard, a caregiver must
24 consider all of the following:

25 (1) The child's age, maturity and developmental level to
26 maintain the overall health and safety of the child.

27 (2) The potential risk factors and the appropriateness
28 of the extracurricular, enrichment or social activity or
29 experience.

30 (3) The best interest of the child, based on information

1 known by the caregiver.

2 (4) The child's wishes.

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

5 (6) The importance of supporting the child in developing
6 skills to successfully transition to adulthood.

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

9 (8) Any special needs or accommodations that the child
10 may need to safely participate in the activity or experience.

11 (d) Limitation of liability.--A caregiver shall not be
12 liable for harm caused to a child while engaged in an activity
13 or experience approved by the caregiver if:

14 (1) the caregiver has used the reasonable and prudent
15 parent standard in approving the activity or experience; and

16 (2) the approval is in accordance with any applicable
17 court order, individual service plan and family service plan.

18 (e) Other liability protection.--This section shall not
19 remove or limit any existing liability protection afforded by
20 any other law.

21 Section 5. Obligations of department.

22 The Office of Children, Youth and Families of the department
23 shall do all of the following:

24 (1) Require, as a condition of licensure for foster
25 family care agencies and child-care facilities, the
26 development of standards and training relating to the
27 reasonable and prudent parent standard. The standards and
28 training shall include, but are not limited to, the
29 following:

30 (i) knowledge and skills relating to the

1 developmental stages of the cognitive, emotional,
2 physical and behavioral capacities of a child; and

3 (ii) knowledge and skills relating to applying the
4 reasonable and prudent parent standard to:

5 (A) decisions such as whether to allow a child
6 to engage in extracurricular, enrichment, cultural
7 and social activities, including sports, field trips
8 and overnight activities lasting one or more days;
9 and

10 (B) decisions involving the signing of
11 permission slips and arranging transportation for the
12 child to and from extracurricular, enrichment,
13 cultural and social activities.

14 (2) Verify, at yearly licensure reviews, that county and
15 private agencies providing out-of-home placement do all of
16 the following:

17 (i) Promote and protect the ability of a child to
18 participate in age-appropriate and developmentally
19 appropriate activities and experiences.

20 (ii) Implement policies consistent with this act.

21 (3) Develop standards and a process by which individuals
22 employed by child-care facilities are designated to make
23 decisions for children based on the reasonable and prudent
24 parent standard.

25 Section 6. County obligations.

26 A county agency shall do all of the following:

27 (1) Ensure that all out-of-home placement facilities
28 designate an individual to provide decision-making authority
29 under the reasonable and prudent parent standard for children
30 residing in their care. The individual designated should

1 consult with social workers or treatment staff members who
2 are most familiar with the child at the applicable facility
3 in applying and using the reasonable and prudent parent
4 standard.

5 (2) Consistent with its case and placement planning
6 responsibilities under Federal and State law, ensure that the
7 child's individual service plan provides the opportunity to
8 participate in age-appropriate and developmentally
9 appropriate activities and experiences to the greatest extent
10 possible to promote healthy child and adolescent development
11 consistent with Federal law and this act. A child's
12 individual service plan shall include goals and objectives,
13 and the child's progress toward meeting the goals and
14 objectives, for the following:

15 (i) Participation in extracurricular, enrichment,
16 cultural and social activities.

17 (ii) For a child who is 16 years of age or older,
18 providing opportunities to gain experience in mastering
19 independent living skills and managing freedom and
20 responsibility.

21 Section 7. Dispositional review and permanency hearings.

22 At a dispositional review hearing under 42 Pa.C.S. § 6351
23 (relating to disposition of dependent child), the court shall
24 make findings that the child be provided with the opportunity to
25 participate in age-appropriate and developmentally appropriate
26 activities and experiences, to the greatest extent possible, to
27 promote healthy child and adolescent development, consistent
28 with Federal law and this act.

29 Section 8. Notifications.

30 (a) Caregiver.--The appropriate county agency shall provide

1 a caregiver with written notification of the caregiver's
2 responsibilities and rights under this act. The notification
3 shall be provided at the time of the caregiver's licensure or
4 court approval and annually thereafter.

5 (b) Child.--The Office of Children, Youth and Families of
6 the department shall:

7 (1) Explain the rights of children under this act at
8 least annually as part of the family service and permanency
9 planning process and provide a child in an out-of-home
10 placement with a written explanation of the requirements of
11 this act. Consistent with the act of November 23, 2010
12 (P.L.1264, No.119), known as the Children in Foster Care Act,
13 the requirements of this paragraph shall be included in the
14 list of requirements under section 3 of the Children in
15 Foster Care Act, along with the explanation of the grievance
16 policy. A notation that these notifications have been
17 completed must be made in the child's record.

18 (2) Work with interested parties, including children, to
19 develop age-appropriate written materials that explain
20 children's rights under this act.

21 Section 9. This act shall take effect in 60 days.