

SENATE BILL NO. 245

BY SENATOR ERDEY

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

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AN ACT

To amend and reenact Children's Code Article 675(B) and R.S. 46:283(C)(1), and to enact R.S. 46:283(D),(E),(F) and (G), relative to foster parenting; to provide relative to foster care case plans; to provide relative to the reasonable and prudent parent standard; to provide relative to the greatest opportunity for normalcy in a foster child's life; to provide relative to the authority of caregivers making day-to-day decisions affecting a foster child; to provide for certain factors to be considered when making decisions regarding a foster child; to provide relative to extracurricular, enrichment, cultural, social or sporting activities for foster children; to provide relative to residual parental rights; to provide relative to out-of-state travel for a foster child; to provide regarding certain immunities; to provide for certain definitions, terms, requirements and procedures; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Children's Code Article 675(B) is hereby amended and reenacted to read as follows:

Art. 675. Case plan purpose; contents

\* \* \*

B. The case plan shall at least include all of the following:

(1) A description of the type of home or institution in which the child is placed, including a discussion of the child's health and safety, the appropriateness of the placement, and the reasons why the placement, if a substantial distance from the home of the parents or in a different state, is in the best interests of the child.

(2) A plan for assuring that the child receives safe and proper care and that services are provided to the parents, child, and foster parents in order to improve the

1 conditions in the parents' home, facilitate the safe return of the child to his own home  
 2 or other permanent placement of the child, or both, and address the needs of the child  
 3 while in foster care, including a plan for visitation and a discussion of the  
 4 appropriateness of the services that have been provided to the child under the plan.

5 **(3) A plan for assuring that the child is afforded the greatest opportunity**  
 6 **for normalcy through engagement in age- or developmentally-appropriate**  
 7 **activities on a regular basis. The child shall be consulted in an age-appropriate**  
 8 **manner about his interests and opportunities available to him. Recognizing the**  
 9 **greatest opportunity for normalcy lies in the day-to-day decisions affecting the**  
 10 **child's activities, the child's caretaker should be supported in making those**  
 11 **decisions through the use of the reasonable and prudent parent standard as set**  
 12 **forth in R.S. 46:283.**

13 **(4)** If the child has been committed to the custody of a person other than the  
 14 parents, the plan shall recommend an amount the parents are obligated to contribute  
 15 for the cost of care and treatment of their child in accordance with Article 685. When  
 16 appropriate for a child fifteen years of age or older, the plan shall include a written  
 17 description of the programs and services which will help the child prepare for the  
 18 transition from foster care to independent living.

19 ~~(3)~~**(5)** For a child fifteen years of age or older the plan shall include a  
 20 written, individualized, and thorough transitional plan, developed in collaboration  
 21 with the child and any agency, department, or individual assuming his custody, care,  
 22 or responsibility.

23 (a) The transitional plan shall identify the programs, services, and facilities  
 24 that will be used to assist the child in achieving a successful transition. The  
 25 transitional plan shall address the needs of the child, including but not limited to  
 26 education, health, permanent connections, living arrangements, and, if appropriate,  
 27 independent living skills and employment.

28 (b) The department shall ensure that all records in its files relevant to  
 29 securing needed services in the community in which the child will live shall be  
 30 immediately transmitted to the appropriate service provider.

1                   (4)(6) Documentation of the efforts the agency is making to safely return the  
 2 child home or to finalize the child's placement in an alternative safe and permanent  
 3 home in accordance with the child's permanent plan. For children whose permanent  
 4 plan is adoption or placement in another permanent home, this documentation shall  
 5 include child-specific recruitment efforts such as the use of state, regional, and  
 6 national adoption exchanges, including electronic exchange systems, to facilitate  
 7 orderly and timely in-state and interstate placements. For children whose permanent  
 8 plan is guardianship, the documentation shall include the facts and circumstances  
 9 supporting guardianship, including the reasons that the plan is in the best interest of  
 10 the child and that reunification with a parent and adoption are not appropriate  
 11 permanent plans. The documentation shall also address the suitability and  
 12 commitment of the proposed guardian to offer a wholesome, stable home for the  
 13 child throughout minority.

14                   (5)(7) Assessment of the child's relationships with his parents, grandparents,  
 15 and siblings, including a plan for assuring that continuing contact with any relative  
 16 by blood, adoption, or affinity with whom the child has an established and significant  
 17 relationship is preserved while the child is in foster care. The preservation of such  
 18 relationships shall be considered when the child's permanent plan is adopted.

19                   (6)(8) Documentation of the compelling reasons for determining that filing  
 20 a petition for termination of parental rights would not be in the best interest of the  
 21 child, when appropriate.

22                   Section 2. R.S. 46:283(C)(1) is hereby amended and reenacted and R.S. 46:283(D),  
 23 (E), (F) and (G) are hereby enacted to read as follows:

24                   §283. Determination of fitness; award of contract

25                                   \*       \*       \*

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

- 29                   (i) Obtaining needed services for foster children.
- 30                   (ii) Discipline and foster children.

1 (iii) Legal aspects of foster care.

2 (iv) Working with parents and the agency.

3 **(v) Knowledge and skills relating to the reasonable and prudent parent**  
 4 **standard for participation by the child in age- or developmentally-appropriate**  
 5 **activities as defined in Subsection D of this Section.**

6 (b) The Department of Children and Family Services shall provide such  
 7 training through its own personnel or by contracting with outside persons or  
 8 agencies.

9 \* \* \*

10 **D.(1) For purposes of this Section, the following definitions shall apply:**

11 **(a) "Age- or developmentally-appropriate" means activities or items**  
 12 **that are generally accepted as suitable for children of the same chronological**  
 13 **age or level of maturity, or that are determined to be developmentally**  
 14 **appropriate for a child, based on the development of cognitive, emotional,**  
 15 **physical, and behavioral capacities that are typical for an age or age group; and**  
 16 **in the case of a specific child, activities or items that are suitable for the child**  
 17 **based on the developmental stages attained by the child with respect to the**  
 18 **cognitive, emotional, physical, and behavioral capacities of the child.**

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

26 **(c) "Caregiver" means a person with whom the child is placed in foster**  
 27 **care, or a designated official for a child residential facility licensed by the state.**

28 **(2) Nothing in this Section shall be construed to authorize any decision**  
 29 **that conflicts with the residual parental rights, as defined in Children's Code**  
 30 **Article 116, of a parent of a child.**

1           E.(1) Each caregiver shall use the reasonable and prudent parent  
2           standard to determine whether to give permission for a child living in foster  
3           care under the responsibility of the state to participate in extracurricular,  
4           enrichment, cultural, social, or sporting activities.

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

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

9           (b) The potential risk factors and the appropriateness of the  
10          extracurricular 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  
14          developmental growth.

15          (e) The importance of providing the child with the most family-like  
16          living 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  
20          his foster parent or another department-approved adult so long as the foster  
21          parent confirms with the department in advance of the departure date that no  
22          reason exists to prevent such travel and provides a travel itinerary to the  
23          department.

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

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

1           Section 3. This Act shall become effective upon signature by the governor, or if not  
2 signed by the governor, upon expiration of the time for bills to become law without signature  
3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
5 effective on the day following such approval.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

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