**ORIGINAL** 

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 relative to training
9	for prospective foster care providers; to provide legislative findings and intent; to
10	provide for rulemaking; and to provide for related 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) and Subpart D-2 of Part II of Chapter 3 of Title 46
14	of the Louisiana Revised Statutes of 1950, comprised of R.S. 46:286.21 through 286.25, are
15	hereby enacted to read as follows:
16	§283. Determination of fitness; award of contract
17	* * *
18	C.(1)(a) After January 1, 1984, no new contract for foster care services shall
19	be awarded to any person who has not completed a training program approved by the
20	department, including that includes but is not limited to the following areas:
21	* * *

## Page 1 of 6

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	(v) Knowledge and skills relating to the reasonable and prudent parent
2	standard provided in the Quality Parenting for Children in Foster Care Act, R.S.
3	<u>46:286.21 et seq.</u>
4	* * *
5	SUBPART D-2. QUALITY PARENTING FOR CHILDREN IN FOSTER CARE
6	<u>§286.21. Short title</u>
7	This Subpart may be cited as the "Quality Parenting for Children in Foster
8	Care Act".
9	§286.22. Findings and intent
10	A. The legislature hereby finds and declares the following:
11	(1) Parents make important decisions every day regarding participation by
12	their children in activities, and caregivers of children in foster care are faced with
13	making the same decisions for their foster children.
14	(2) When a foster caregiver makes decisions, he must consider applicable
15	laws and rules to safeguard the health and safety of a child in his care; and those laws
16	and rules are not intended to be applied in such a manner as to prohibit children in
17	foster care from participating in age- or developmentally appropriate activities.
18	(3) Participation in age- and developmentally appropriate activities is
19	important to a child's well-being, both emotionally and in terms of developing
20	healthy coping mechanisms and valuable life skills.
21	B. It is the intent of the legislature to recognize the importance of
22	normalizing the lives of children in foster care while ensuring their health and safety,
23	and to empower caregivers and legal custodians to support and encourage a child's
24	participation in activities.
25	§286.23. Definitions
26	As used in this Subpart, the following terms have the meaning ascribed to
27	them in this Section:
28	(1)(a) "Age- and developmentally appropriate" means an activity or item that
29	is generally accepted as suitable for a child of the same chronological age or level

1	of maturity, or that is 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.
4	(b) In the case of a specific child, "age- and developmentally appropriate"
5	means an activity or item that is suitable for the child based on the developmental
6	stages attained by the child with respect to his cognitive, emotional, physical, and
7	behavioral capacities.
8	(2) "Caregiver" means a person with whom the child is placed in foster care,
9	or a designated official for a child residential facility licensed by the state.
10	(3) "Department" means the Department of Children and Family Services.
11	(4) "Foster care" shall have the meaning ascribed in Children's Code Article
12	<u>603.</u>
13	(5) "Reasonable and prudent parent standard" means the standard
14	characterized by careful and sensible parental decisions that maintain the health,
15	safety, and best interests of a child and that encourage the emotional and
16	developmental growth of the child.
17	§286.24. Standard of care; application
18	A. It is the policy of this state that each child who enters foster care should
19	be encouraged and supported to participate in age- and developmentally appropriate
20	extracurricular, enrichment, cultural, social, and sporting activities.
21	B.(1) Each caregiver shall use the reasonable and prudent parent standard in
22	determining whether to give permission for a child living in foster care to participate
23	in extracurricular, enrichment, cultural, social, or sporting activities.
24	(2) When using the reasonable and prudent parent standard, the caregiver
25	shall consider all of the following:
26	(a) The child's age, maturity, and developmental level in order to maintain
27	the overall health and safety of the child.
28	(b) The potential risk factors and the appropriateness of the extracurricular,
29	enrichment, cultural, social, or sporting activity.

1	(c) The best interest of the child, based on information known by the
2	caregiver.
3	(d) The importance of encouraging the child's emotional and developmental
4	growth.
5	(e) The importance of providing the child with the most family-like living
6	experience possible.
7	(f) The behavioral history of the child and the child's ability to safely
8	participate in the proposed activity.
9	(3) Nothing in this Subsection shall be construed to authorize any decision
10	that conflicts with the residual parental rights of a natural parent of a child.
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.

HB 261 Original

Hodges

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, comprised of R.S. 46:287.1 through 287.9 and entitled "Family Preservation Services", as 10 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)]

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.

2015 Regular Session

<u>Present law</u> 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. <u>Proposed law</u> retains <u>present law</u> and adds to the training topics the "reasonable and prudent parent standard" established by <u>proposed law</u>.

<u>Proposed law</u> 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 <u>proposed law</u> 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.

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

<u>Proposed law</u> 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 and that encourage the emotional and developmental growth of the child.

<u>Proposed law</u> 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.

<u>Proposed law</u> stipulates that nothing therein shall be construed to authorize any decision that conflicts with the residual parental rights of a natural parent of a child.

<u>Proposed law</u> 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.

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

<u>Proposed law</u> 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 <u>proposed law</u> shall be construed to remove or limit any existing liability protection afforded by <u>present law</u>.

<u>Proposed law</u> requires DCFS to promulgate rules for implementation of <u>proposed law</u>, 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 <u>proposed law</u> 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)