

By Senator Detert

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1 A bill to be entitled
2 An act relating to children in foster care; creating
3 the "Quality-Parenting for Children in Foster Care
4 Act"; creating s. 39.409, F.S.; providing legislative
5 findings and intent; providing definitions;
6 establishing and providing for the application of a
7 "reasonable and prudent parent" standard; directing
8 the Department of Children and Families to adopt
9 rules; amending s. 39.522, F.S.; specifying that the
10 standard for reunification from "endangerment" to "the
11 best interest of the child" in certain circumstances;
12 amending s. 409.1451, F.S.; providing for the
13 application of the reasonable and prudent parent
14 standard to independent living transition services;
15 specifying that department rules must reflect the
16 considerations of the reasonable and prudent parent
17 standard; directing the department to adopt rules;
18 providing an effective date.

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20 Be It Enacted by the Legislature of the State of Florida:

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22 Section 1. This act may be cited as the "Quality Parenting
23 for Children in Foster Care Act."

24 Section 2. Section 39.409, Florida Statutes, is created to
25 read:

26 39.409 Participation in childhood activities.-

27 (1) FINDINGS AND INTENT.-

28 (a) The Legislature finds that parents make important
29 decisions every day regarding their child's participation in

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30 activities and that caregivers of children in out-of-home care
31 are faced with making the same decisions for a child in their
32 care.

33 (b) The Legislature also finds that when a caregiver makes
34 decisions, he or she must consider applicable laws and rules to
35 safeguard the health and safety of a child in his or her care
36 and that those laws and rules have been interpreted to prohibit
37 children in care from participating in extracurricular
38 activities.

39 (c) The Legislature further finds that participation in
40 extracurricular activities is important to the child's well-
41 being, both emotionally and in terms of developing valuable
42 life-coping skills.

43 (d) It is the intent of the Legislature to recognize the
44 importance of normalizing the lives of children in out-of-home
45 care and to empower caregivers to approve or disapprove a
46 child's participation in activities without prior approval of
47 the department, the caseworker, or the court.

48 (2) DEFINITIONS.—As used in this section, the term:

49 (a) "Age-appropriate" means an activity or item that is
50 generally accepted as suitable for a child of the same
51 chronological age or level of maturity. Age appropriateness is
52 based on the development of cognitive, emotional, physical, and
53 behavioral capacity which is typical for an age or age group.

54 (b) "Caregiver" means a person with whom the child is
55 placed in out-of-home care, or a designated official for a group
56 care facility licensed by the Department of Children and
57 Families pursuant to Rule 65C-14, Florida Administrative Code.

58 (c) "Reasonable and prudent parent standard" means the

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59 standard of care used by a caregiver in determining whether to
60 allow a child in his or her care to participate in
61 extracurricular, enrichment, and social activities. This
62 standard is characterized by careful and thoughtful parental
63 decisionmaking that is intended to maintain a child's health,
64 safety, and best interest while encouraging the child's
65 emotional and developmental growth.

66 (3) APPLICATION OF STANDARD OF CARE.-

67 (a) Every child who comes into out-of-home care pursuant to
68 this chapter is entitled to participate in age-appropriate
69 extracurricular, enrichment, and social activities.

70 (b) Each caregiver shall use the reasonable and prudent
71 parent standard in determining whether to give permission for a
72 child living in out-of-home care to participate in
73 extracurricular, enrichment, or social activities. When using
74 the reasonable and prudent parent standard, the caregiver must
75 consider:

76 1. The child's age, maturity, and developmental level to
77 maintain the overall health and safety of the child.

78 2. The potential risk factors and the appropriateness of
79 the extracurricular, enrichment, or social activity.

80 3. The best interest of the child, based on information
81 known by the caregiver.

82 4. The importance of encouraging the child's emotional and
83 developmental growth.

84 5. The importance of providing the child with the most
85 family-like living experience possible.

86 6. The behavioral history of the child and the child's
87 ability to safely participate in the proposed activity.

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88 (c) The department and each community-based care lead
89 agency is required to verify that private agencies providing
90 out-of-home care services to dependent children have policies in
91 place that are consistent with this section and that these
92 agencies promote and protect the ability of dependent children
93 to participate in age-appropriate extracurricular, enrichment,
94 and social activities.

95 (d) A caregiver is not liable for harm caused to a child
96 who participates in an activity approved by the caregiver,
97 provided that the caregiver has acted in accordance with the
98 reasonable and prudent parent standard. This paragraph may not
99 be interpreted as removing or limiting any existing liability
100 protection afforded by law.

101 (4) RULEMAKING.—The department shall adopt rules to
102 administer this section.

103 Section 3. Section 39.522, Florida Statutes, is amended to
104 read:

105 39.522 Postdisposition relief; postdisposition change of
106 custody.—The court may change the temporary legal custody or the
107 conditions of protective supervision at a postdisposition
108 hearing, without the necessity of another adjudicatory hearing.

109 (1) A child who has been placed in the child's own home
110 under the protective supervision of an authorized agent of the
111 department, in the home of a relative, in the home of a legal
112 custodian, or in some other place may be brought before the
113 court by the department or by any other interested person, upon
114 the filing of a petition alleging a need for a change in the
115 conditions of protective supervision or the placement. If the
116 parents or other legal custodians deny the need for a change,

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117 the court must ~~shall~~ hear all parties in person or by counsel,
118 or both. Upon the admission of a need for a change or after such
119 hearing, the court must ~~shall~~ enter an order changing the
120 placement, modifying the conditions of protective supervision,
121 or continuing the conditions of protective supervision as
122 ordered. The standard for changing custody of the child is ~~shall~~
123 ~~be~~ the best interest of the child. When applying this standard,
124 the court must ~~shall~~ consider the continuity of the child's
125 placement in the same out-of-home residence as a factor when
126 determining the best interests of the child. If the child is not
127 placed in foster care, then the new placement for the child must
128 meet the home study criteria and court approval pursuant to this
129 chapter.

130 (2) In cases where the issue before the court is whether a
131 child should be reunited with a parent, the court must ~~shall~~
132 determine whether the parent has substantially complied with the
133 terms of the case plan to the extent that the safety, well-
134 being, and physical, mental, and emotional health of the child
135 is not endangered by the return of the child to the home.

136 (3) In cases in which the issue before the court is whether
137 a child who has been placed in the custody of a parent should be
138 reunited with the other parent upon a finding of substantial
139 compliance with the terms of the case plan, the applicable
140 standard is not endangerment, but the best interest of the
141 child.

142 Section 4. Paragraph (a) of subsection (3) and subsection
143 (10) of section 409.1451, Florida Statutes, are amended to read:
144 409.1451 Independent living transition services.—

145 (3) PREPARATION FOR INDEPENDENT LIVING.—

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146 (a) It is the intent of the Legislature that ~~for~~ the
147 Department of Children and Families ~~Family Services~~ to assist
148 older children in foster care and young adults who exit foster
149 care at age 18 in making the transition to independent living
150 and self-sufficiency as adults. The department shall provide
151 such children and young adults with opportunities to participate
152 in life skills activities in their foster families and
153 communities which are reasonable and appropriate for their
154 respective ages or for any special needs they may have and shall
155 provide them with services to build life skills and increase
156 their ability to live independently and become self-sufficient.
157 To support the provision of opportunities for participation in
158 age-appropriate life skills activities, the department shall:

159 1. Develop a list of age-appropriate activities and
160 responsibilities to be offered to all children involved in
161 independent living transition services and their foster parents.

162 2. Provide training for staff and foster parents to address
163 the issues of older children in foster care in transitioning to
164 adulthood, which includes ~~shall include~~ information on high
165 school completion, grant applications, vocational school
166 opportunities, supporting education and employment
167 opportunities, and opportunities to participate in appropriate
168 daily activities.

169 3. Establish ~~Develop~~ ~~procedures to maximize~~ the authority
170 of foster parents, family foster homes, residential child-caring
171 agencies, or other authorized caregivers to approve
172 participation in age-appropriate activities of children in their
173 care in accordance with the reasonable and prudent parent
174 standard established in s. 39.409. ~~The age-appropriate~~

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175 ~~activities and the authority of the foster parent, family foster~~
176 ~~home, residential child-caring agency, or caregiver shall be~~
177 ~~developed into a written plan that the foster parent, family~~
178 ~~foster home, residential child-caring agency, or caregiver, the~~
179 ~~child, and the case manager all develop together, sign, and~~
180 ~~follow. This plan must include specific goals and objectives and~~
181 ~~be reviewed and updated no less than quarterly. Foster parents,~~
182 ~~family foster homes, residential child-caring agencies, or other~~
183 ~~authorized caregivers~~ who use the reasonable and prudent parent
184 standard in their decisionmaking are ~~who have developed a~~
185 ~~written plan as described in this subparagraph shall not be held~~
186 ~~responsible under administrative rules or laws pertaining to~~
187 ~~state licensure~~ and ~~or have~~ their licensure status may not be ~~in~~
188 ~~any manner~~ jeopardized as a result of the actions of a child
189 engaged in the approved age-appropriate activities ~~specified in~~
190 ~~the written plan.~~ Goals and objectives for participation in
191 extracurricular, enrichment, and social activities, as well as
192 specific information on the child's progress toward meeting
193 those objectives, must be incorporated into the agency's written
194 judicial social study report and must be reviewed by the court
195 at each hearing conducted pursuant to s. 39.701.

196 4. Provide opportunities for older children in foster care
197 to interact with mentors.

198 5. Develop and implement procedures for older children to
199 directly access and manage the personal allowance they receive
200 from the department in order to learn responsibility and
201 participate in age-appropriate life skills activities to the
202 extent feasible.

203 6. Make a good faith effort to fully explain, before ~~prior~~

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204 ~~to~~ execution of any signature, if required, any document,
205 report, form, or other record, whether written or electronic,
206 presented to a child or young adult pursuant to this chapter and
207 allow for the recipient to ask any appropriate questions
208 necessary to fully understand the document. It is ~~shall be~~ the
209 responsibility of the person presenting the document to the
210 child or young adult to comply with this subparagraph.

211 (10) RULEMAKING.—The department shall adopt rules to ~~by~~
212 ~~rule procedures to~~ administer this section. The rules must
213 provide, including balancing the goals of normalcy and safety
214 for the youth and providing the caregivers with as much
215 flexibility as possible to enable children in their care ~~the~~
216 youth to participate in normal life experiences and must reflect
217 the considerations cited in s. 39.409(3)(b) in connection with
218 the reasonable and prudent parent standard established in that
219 section. The department shall engage in appropriate planning to
220 prevent, to the extent possible, a reduction in awards after
221 issuance. The department shall adopt rules to govern the
222 payments and conditions related to payments for services to
223 youth or young adults provided under this section.

224 Section 5. This act shall take effect July 1, 2013.