

By the Committee on Children, Families, and Elder Affairs; and  
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.

19  
20 Be It Enacted by the Legislature of the State of Florida:

21  
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 under s.409.175.

57 (c) "Reasonable and prudent parent standard" means the  
58 standard of care used by a caregiver in determining whether to

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

65 (3) APPLICATION OF STANDARD OF CARE.—

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

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

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

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

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

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

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

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

87 (c) The department and each community-based care lead

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

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

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

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

104 39.522 Postdisposition relief; postdisposition change of  
105 custody.—The court may change the temporary legal custody or the  
106 conditions of protective supervision at a postdisposition  
107 hearing, without the necessity of another adjudicatory hearing.

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

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

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

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

143 Section 4. Paragraph (a) of subsection (3) and subsection  
144 (10) of section 409.1451, Florida Statutes, are amended to read:  
145 409.1451 Independent living transition services.-

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146 (3) PREPARATION FOR INDEPENDENT LIVING.—

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

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

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

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

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175 standard established in s. 39.409. ~~The age-appropriate~~  
176 ~~activities and the authority of the foster parent, family foster~~  
177 ~~home, residential child-caring agency, or caregiver shall be~~  
178 ~~developed into a written plan that the foster parent, family~~  
179 ~~foster home, residential child-caring agency, or caregiver, the~~  
180 ~~child, and the case manager all develop together, sign, and~~  
181 ~~follow. This plan must include specific goals and objectives and~~  
182 ~~be reviewed and updated no less than quarterly.~~ Foster parents,  
183 family foster homes, residential child-caring agencies, or other  
184 authorized caregivers who use the reasonable and prudent parent  
185 standard in their decisionmaking are ~~who have developed a~~  
186 ~~written plan as described in this subparagraph shall not be held~~  
187 responsible under administrative rules or laws pertaining to  
188 state licensure and ~~or have~~ their licensure status may not be ~~in~~  
189 ~~any manner~~ jeopardized as a result of the actions of a child  
190 engaged in the approved age-appropriate activities ~~specified in~~  
191 ~~the written plan.~~ Goals and objectives for participation in  
192 extracurricular, enrichment, and social activities, as well as  
193 specific information on the child's progress toward meeting  
194 those objectives, must be incorporated into the agency's written  
195 judicial social study report and must be reviewed by the court  
196 at each hearing conducted pursuant to s. 39.701.

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

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

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

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

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