

1 A bill to be entitled
 2 An act relating to dependent children; providing a
 3 short title; creating s. 39.4091, F.S.; providing
 4 legislative findings and intent; providing
 5 definitions; providing for participation in age-
 6 appropriate extracurricular, enrichment, and social
 7 activities by children in out-of-home care; providing
 8 for use of a reasonable and prudent parent standard
 9 for decisionmaking about such activities; providing
 10 rulemaking authority; amending s. 39.522, F.S.;
 11 clarifying the standard for reunification and for
 12 changing custody; amending s. 409.1451, F.S.;
 13 providing for use of reasonable and prudent parent
 14 standard in certain decisionmaking; requiring
 15 submission of plan for judicial review; providing a
 16 definition; providing rulemaking authority; providing
 17 an effective date.

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

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

23 Section 2. Section 39.4091, Florida Statutes, is created
 24 to read:

25 39.4091 Participation in childhood activities.-

26 (1) FINDINGS AND INTENT.-

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

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

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

38 (c) The Legislature further finds that participation in
39 these types of activities is important to the child's well-
40 being, not only emotionally, but in developing valuable life-
41 coping skills.

42 (d) It is the intent of the Legislature to recognize the
43 importance of making every effort to normalize the lives of
44 children in out-of-home care and to empower a caregiver to
45 approve or disapprove a child's participation in activities
46 based on the caregiver's own assessment using a reasonable and
47 prudent parent standard, without prior approval of the
48 department, the caseworker, or the court.

49 (2) DEFINITIONS.—When used in this section, the term:

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

55 (b) "Caregiver" means a person with whom the child is
56 placed in out-of-home care, or a designated official for group

57 care facilities licensed by the Department of Children and
58 Families pursuant to s. 409.175.

59 (c) "Reasonable and prudent parent standard" means the
60 standard characterized by careful and sensible parental
61 decisions that maintain the child's health, safety, and best
62 interests while at the same time encouraging the child's
63 emotional and developmental growth, that a caregiver shall use
64 when determining whether to allow a child in out-of-home care to
65 participate in extracurricular, enrichment, and social
66 activities.

67 (3) REQUIREMENTS FOR DECISIONMAKING.—

68 (a) Each child who comes into care under this chapter is
69 entitled to participate in age-appropriate extracurricular,
70 enrichment, and social activities.

71 (b) Caregivers must use a reasonable and prudent parent
72 standard in determining whether to give permission for a child
73 in out-of-home care to participate in extracurricular,
74 enrichment, and social activities. When using the reasonable and
75 prudent parent standard, the caregiver shall 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, and 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, as with
88 any other child.

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

95 (d) A caregiver as defined in this section is not liable
96 for harm caused to a child in care who participates in an
97 activity approved by the caregiver, provided that the caregiver
98 has acted as a reasonable and prudent parent. This section does
99 not remove or limit any existing liability protection afforded
100 by statute.

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

103 Section 3. Subsection (3) is added to section 39.522,
104 Florida Statutes, to read:

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

109 (3) In cases where the issue before the court is whether a
110 child who is placed in the custody of a parent should be
111 reunited with the other parent upon a finding of substantial
112 compliance with the terms of the case plan, the standard shall

113 be that the safety, well-being, and physical, mental, and
114 emotional health of the child would not be endangered by
115 reunification and that reunification would be in the best
116 interest of the child.

117 Section 4. Paragraph (a) of subsection (3) and subsection
118 (10) of section 409.1451, Florida Statutes, are amended to read:

119 409.1451 Independent living transition services.—

120 (3) PREPARATION FOR INDEPENDENT LIVING.—

121 (a) It is the intent of the Legislature for the Department
122 of Children and Families ~~Family Services~~ to assist older
123 children in foster care and young adults who exit foster care at
124 age 18 in making the transition to independent living and self-
125 sufficiency as adults. The department shall provide such
126 children and young adults with opportunities to participate in
127 life skills activities in their foster families and communities
128 which are reasonable and appropriate for their respective ages
129 or for any special needs they may have and shall provide them
130 with services to build life skills and increase their ability to
131 live independently and become self-sufficient. To support the
132 provision of opportunities for participation in age-appropriate
133 life skills activities, the department shall:

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

137 2. Provide training for staff and foster parents to
138 address the issues of older children in foster care in
139 transitioning to adulthood, which shall include information on
140 high school completion, grant applications, vocational school

141 opportunities, supporting education and employment
142 opportunities, and opportunities to participate in appropriate
143 daily activities.

144 3. Establish ~~Develop~~ procedures to maximize the authority
145 of foster parents, family foster homes, residential child-caring
146 agencies, or other authorized caregivers to approve
147 participation in age-appropriate activities of children in their
148 care according to a reasonable and prudent parent standard. ~~The~~
149 ~~age-appropriate activities and the authority of the foster~~
150 ~~parent, family foster home, residential child-caring agency, or~~
151 ~~caregiver shall be developed into a written plan that the foster~~
152 ~~parent, family foster home, residential child-caring agency, or~~
153 ~~caregiver, the child, and the case manager all develop together,~~
154 ~~sign, and follow. This plan must include specific goals and~~
155 ~~objectives and be reviewed and updated no less than quarterly.~~
156 Foster parents, family foster homes, residential child-caring
157 agencies, or other authorized caregivers employing the
158 reasonable and prudent parent standard in their decisionmaking
159 ~~who have developed a written plan as described in this~~
160 ~~subparagraph~~ shall not be held responsible under administrative
161 rules or laws pertaining to state licensure or have their
162 licensure status in any manner jeopardized as a result of the
163 actions of a child engaged in the approved age-appropriate
164 activities ~~specified in the written plan~~. Goals and objectives
165 for participation in extracurricular, enrichment, and social
166 activities, as well as specific information on the child's
167 progress toward meeting those objectives, shall be incorporated
168 into the agency's written judicial social study report and shall

169 | be reviewed by the court at each hearing conducted pursuant to
 170 | s. 39.701.

171 | 4. Provide opportunities for older children in foster care
 172 | to interact with mentors.

173 | 5. Develop and implement procedures for older children to
 174 | directly access and manage the personal allowance they receive
 175 | from the department in order to learn responsibility and
 176 | participate in age-appropriate life skills activities to the
 177 | extent feasible.

178 | 6. Make a good faith effort to fully explain, prior to
 179 | execution of any signature, if required, any document, report,
 180 | form, or other record, whether written or electronic, presented
 181 | to a child or young adult pursuant to this chapter and allow for
 182 | the recipient to ask any appropriate questions necessary to
 183 | fully understand the document. It shall be the responsibility of
 184 | the person presenting the document to the child or young adult
 185 | to comply with this subparagraph.

186 | (10) RULEMAKING.—The department shall adopt rules ~~by rule~~
 187 | ~~procedures~~ to administer this section. The rules must provide,
 188 | ~~including balancing the goals of normalcy and safety for the~~
 189 | ~~youth and providing the~~ caregivers with as much flexibility as
 190 | possible to enable the children in their care ~~youth~~ to
 191 | participate in normal life experiences and must reflect the
 192 | considerations listed in s. 39.4091(3)(b) in connection with the
 193 | reasonable and prudent parent standard established in that
 194 | section. The department shall engage in appropriate planning to
 195 | prevent, to the extent possible, a reduction in awards after
 196 | issuance. The department shall adopt rules to govern the

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197 | payments and conditions related to payments for services to
198 | youth or young adults provided under this section.

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