



SENATE BILL 423: Foster Care Family Act

2015-2016 General Assembly

Committee:

Introduced by:

Analysis of: S.L. 2015-135

Date:

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Staff Attorney

SUMMARY: *S.L. 2015-135 modifies laws concerning foster care families by:*

- *Effective October 1, 2015, creating a reasonable and prudent parent standard in foster care.*
- *Providing liability insurance for foster parents.*
- *Effective October 1, 2015, reducing the barriers to obtain a driver's license by foster children.*
- *Directing the Department of Health and Human Services to study a Medicaid waiver for children with serious emotional disturbance and to report findings and recommendations to the Joint Legislative Oversight Committee on Health and Human Services by December 1, 2015.*

Except as otherwise provided, this act became effective July 2, 2015.

BILL ANALYSIS:

Part II. "Reasonable and Prudent Parent Standard in Foster Care."

Section 2.1 of the act creates a new section in Chapter 131D of the General Statutes to establish the reasonable and prudent parent standard in foster care, in order to conform to the provisions of federal law (42 U.S.C., as enacted by P.L. 113-183/H.R. 4980. [Link: <http://www.gpo.gov/fdsys/pkg/PLAW-113publ183/pdf/PLAW-113publ183.pdf> .] The following applies to a caregiver:

- Must apply the reasonable and prudent parent standard when determining whether to allow a child to participate in specified activities.
- Is subject to liability for an act or omission of the child if the caregiver fails to act in accordance with the reasonable and prudent parent standard.
- Has the authority to provide or withhold permission to allow a child to participate in normal childhood activities as described in the section.
- Is not subject to liability for injuries to the child occurring as a result of acting in accordance with the reasonable and prudent parent standard.
- Does not have immunity for injuries to the child caused by gross negligence, willful and wanton conduct, or intentional wrongdoing, or that arises out of the operation of a motor vehicle.

The burden of proof for a breach of the reasonable and prudent parent standard is by clear and convincing evidence.

Section 2.2 amends a provision in the Juvenile Code to require the county department of social services to make diligent efforts to notify relatives and any custodial parents of the juvenile's siblings that the juvenile is in nonsecure custody and of nonsecure custody hearings.

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Section 2.3 requires the court to consider whether relatives or parents with custody of a sibling of the juvenile have been identified and notified as potential resources for placement and support.

Section 2.4 modifies the statute in the Juvenile Code concerning dispositional hearings to require the court to inquire about efforts made to identify and notify relatives or parents or other persons with legal custody of a sibling of the juvenile as potential resources for placement or support.

Section 2.5 creates a new section in the Juvenile Code to authorize a county department of social services (DSS) with custody of a juvenile to make decisions about matters generally made by a juvenile's custodian, including making educational decisions and consenting to the sharing of the juvenile's information, and authorizes the delegation of this authority to a juvenile's parent, foster parent, or another individual. It also authorizes DSS to provide or withhold permission to allow a juvenile to participate in normal childhood activities. This section also establishes certain notice and hearing requirements relating to juveniles who are removed from the home and placed in DSS custody.

Section 2.6 sets out specific requirements for every permanency planning hearing for a juvenile 14 years of age and older in the custody of DSS, including a directive that the court inquire and make written findings regarding the child's transition to adulthood, the use of the reasonable prudent parenting standard, and whether Another Planned Permanent Living Arrangement (APPLA) would be an appropriate permanent plan for the juvenile.

Part III. "Liability Insurance for Foster Parents."

Section 3.1 adds new provisions in the Insurance Law to require the Rate Bureau develop an optional policy form or endorsement to provide liability insurance for licensed foster parents, and sets out what coverage must be provided. This section of the bill provides that the liability insurance is not required to cover acts or omissions of a foster parent that results from gross negligence, willful and wanton conduct, or intentional wrongdoing that results in injury to the child.

Part IV. "Reduce Driving Barriers for Foster Children."

Section 4.1 adds a new section to Article 1 of Chapter 48A of the General Statutes, "Minors," to provide that minors 16 years of age or older and in the legal custody of DSS are qualified and competent to contract for the purchase of an automobile insurance policy with the consent of the court. The minor is responsible for paying the insurance premiums and is liable for damages caused by his or her negligent operation of a motor vehicle.

Section 4.2 amends G.S. 20-11(i) to clarify who must sign an application for a learner's permit or provisional driver's license for a minor in the legal custody of the DSS.

Section 4.3 enacts a new section in the Motor Vehicle Act to allow a foster parent to meet the financial responsibility requirements for vehicle registration, even if a foster child residing in the household is excluded under the parent's policy, as long as the child is insured under some other policy of liability insurance or a named non-owner's liability policy. The Rate Bureau must establish, with the Commissioner's approval, a named driver exclusion endorsement for foster children.

Section 4.4 makes a conforming change to G.S. 20-279.21(b).

Part V. "Study Medicaid Waiver for Children with Serious Emotional Disturbance."

Section 5.1(a) requires the Department of Health and Human Services, Division of Medical Assistance, to design and draft a 1915(c) Medicaid waiver to serve children with Serious Emotional Disturbance in home and community-based settings.

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Section 5.1.(b) requires DHHS to report the draft waiver, other findings, and any other options or recommendations to best serve children with Serious Emotional Disturbance, to the Joint Legislative Oversight Committee on Health and Human Services by December 1, 2015.

EFFECTIVE DATE: Parts 2 and 4 of this act became effective on October 1, 2015. The remainder of the act became effective when the Governor signed it into law on July 2, 2015.