



# SENATE BILL 423: Foster Care Family Act

2015-2016 General Assembly

<b>Committee:</b>	House Judiciary III	<b>Date:</b>	June 10, 2015
<b>Introduced by:</b>	Sens. Barringer, Harrington, Tucker	<b>Prepared by:</b>	Janice Paul
<b>Analysis of:</b>	Fourth Edition		Committee Counsel

**SUMMARY:** *Senate Bill 423 would modify laws concerning foster care families by creating a reasonable and prudent parent standard, providing liability insurance for foster parents, reducing barriers to the obtaining of a driver license by foster children, and directing the Department of Health and Human Services (DHHS) to study a Medicaid waiver for children with serious emotional disturbance.*

[As introduced, this bill was identical to H407, as introduced by Reps. Stevens, Glazier, which is currently in the Committee on Rules and Operations of the Senate.]

## BILL ANALYSIS:

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

**Section 2.1** of the bill would create 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 would apply to a caregiver:

- Must apply the standard when determining whether to allow a child to participate in extracurricular, enrichment, and social activities.
- Would not be liable for an act or omission of a foster child, nor for injuries to the child, if the caregiver was acting in accordance with the reasonable and prudent parent standard.
- Would have the authority to provide or withhold permission to allow a child to participate in normal childhood activities as described in the section.
- Would be liable for any action or inaction of gross negligence, willful and wanton conduct, or intentional wrongdoing that results in injury to the child.

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

**Section 2.2** would amend 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.

**Section 2.3** would require 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** would modify 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.



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**Section 2.5** of SB 423 would enact 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 would also authorize a DSS to provide or withhold permission to allow a juvenile to participate in normal childhood activities.

**Section 2.6** would set 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** would add 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** would add 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 would be responsible for paying the insurance premiums and would be liable for damages caused by his or her negligent operation of a motor vehicle.

**Section 4.2** would amend 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** would enact 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 would establish, with the Commissioner's approval, a named driver exclusion endorsement for foster children.

**Section 4.4** would make 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)** would require 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.

**Section 5.1.(b)** would require 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 would become effective on October 1, 2015. The remainder of this act is effective when it becomes law.