



SENATE BILL 423: Foster Care Family Act

**This Bill Analysis
reflects the contents
of the bill as it was
presented in
committee.**

2015-2016 General Assembly

Committee:	Senate Insurance	Date:	April 23, 2015
Introduced by:	Sens. Barringer, Harrington, Tucker	Prepared by:	Kristen Harris
Analysis of:	PCS to Second Edition S423-CSTU-13		Committee Counsel

SUMMARY:

[As introduced, this bill was identical to H407, as introduced by Reps. Stevens, Glazier, which is currently in House Appropriations.]

The Proposed Committee Substitute for Senate Bill 423 would amend the law applying to foster care families through: 1) the implementation of a reasonable and prudent parent standard; 2) providing liability insurance for foster parents; 3) reducing barriers to obtaining a driver's license for foster children; and 4) requiring the Department of Health and Human Services (DHHS) to study a Medicaid waiver for children with serious emotional disturbance.

BILL ANALYSIS:

Section 2.1 would establish the reasonable and prudent parenting standard for foster care caregivers. A caregiver must apply the standard when determining if a child can participate in extracurricular, enrichment, or social activities. A caregiver has the authority to provide or withhold permission to participate in normal childhood activities, which includes sleepovers, without prior approval of the court or a county department of social services.

Under the new section, a caregiver would not be liable for 1) an act or omission of a foster child if the caregiver or county department of social services acted in accordance with the reasonable and prudent parenting standard or 2) for injuries to the child that occur as a result of reasonable and prudent parenting standard. The burden of proof for a breach of the reasonable and prudent parenting standard would be by clear and convincing evidence.

The caregiver would be liable for any action or inaction of gross negligence, willful and wanton conduct, or intentional wrongdoing that results in injury.

Section 2.2 would require DHHS 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, prior to the adjudicatory hearing, whether 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 require the court to inquire, at dispositional hearings, about efforts made to identify and notify parents with custody of a sibling of the juvenile as potential resources for placement or support.

Section 2.5 would first 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 and to provide or withhold permission to allow a juvenile to participate in normal childhood activities.



Senate Bill 423

Page 2

Second, it would add requirements for every permanency planning hearing for a juvenile in the custody of DSS who has reached the age of 14, including that the court inquire and make written findings regarding the child's transition to adulthood and whether Another Planned Permanent Living Arrangement (APPLA) would be an appropriate plan for the juvenile.

Section 3.1 would require the Rate Bureau to develop an optional policy form or endorsement to be filed with the Commissioner of Insurance for approval no later than May 1, 2016 that provides liability insurance to licensed foster parents.

Section 4.1 would declare minors 16 years or older in the legal custody of DSS 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 for the insurance and be liable for damages caused by his or her negligent operation of a vehicle.

Section 4.2 would state 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 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 confirming changes to G.S. 20-279.21(b) ("Motor vehicle liability policy" defined) consistent with Section 4.3.

Section 5.1(a) would require the DHHS, Division of Medical Assistance to design and draft, but not submit, a 1915 (c) Medicaid waiver to serve children with Serious Emotional Disturbance (SED) in home and community-based settings.

Section 5.1(b) would require the DHHS to report the draft waiver, other findings, and any other options or recommendations to best serve children with SED 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.

Staff Attorney Tawanda Foster substantially contributed to this summary.