

**ACT No. 310**

2015 Regular Session

HOUSE BILL NO. 261

BY REPRESENTATIVES HODGES, ANDERS, BADON, BROADWATER, BURFORD,  
HENRY BURNS, CARMODY, COX, GISCLAIR, HILL, HOFFMANN,  
HOWARD, JAMES, MIKE JOHNSON, LEBAS, LORUSSO, ORTEGO, POPE,  
REYNOLDS, RICHARD, SEABAUGH, ST. GERMAIN, WHITNEY, AND  
WILLMOTT

1 AN ACT

2 To amend and reenact R.S. 46:283(C)(1)(a)(introductory paragraph), and to enact R.S.  
3 46:283(C)(1)(a)(v), (D), (E), (F), and (G), and Subpart D-2 of Part II of Chapter 3  
4 of Title 46 of the Louisiana Revised Statutes of 1950, to be comprised of R.S.  
5 46:286.21 through 286.23, relative to the well-being of children in foster care; to  
6 establish the reasonable and prudent parent standard for persons and agencies  
7 providing foster care; to provide relative to training for prospective foster care  
8 providers; to limit liability of foster caregivers in certain circumstances; to provide  
9 legislative findings and intent; to provide for rulemaking; and to provide for related  
10 matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 46:283(C)(1)(a)(introductory paragraph) is hereby amended and  
13 reenacted and R.S. 46:283(C)(1)(a)(v), (D), (E), (F), and (G), and Subpart D-2 of Part II of  
14 Chapter 3 of Title 46 of the Louisiana Revised Statutes of 1950, comprised of R.S. 46:286.21  
15 through 286.23, are hereby enacted to read as follows:

16 §283. Determination of fitness; award of contract

17 \* \* \*

1 C.(1)(a) After January 1, 1984, no new contract for foster care services shall  
2 be awarded to any person who has not completed a training program approved by the  
3 department, ~~including~~ that includes but is not limited to the following areas:

4 \* \* \*

5 (v) Knowledge and skills relating to the reasonable and prudent parent  
6 standard for participation by the child in age- or developmentally appropriate  
7 activities as defined in Subsection D of this Section.

8 \* \* \*

9 D.(1) For purposes of this Section, the following definitions shall apply:

10 (a) "Age- or developmentally appropriate" means activities or items that are  
11 generally accepted as suitable for children of the same chronological age or level of  
12 maturity or that are determined to be developmentally appropriate for a child, based  
13 on the development of cognitive, emotional, physical, and behavioral capacities that  
14 are typical for an age or age group; and in the case of a specific child, activities or  
15 items that are suitable for the child based on the developmental stages attained by the  
16 child with respect to the cognitive, emotional, physical, and behavioral capacities of  
17 the child.

18 (b) "Reasonable and prudent parent standard" means the standard  
19 characterized by careful and sensible parental decisions that maintain the health,  
20 safety, and best interests of a child while at the same time encouraging the emotional  
21 and developmental growth of the child, that a caregiver shall use when determining  
22 whether to allow a child in foster care under the responsibility of the state to  
23 participate in extracurricular, enrichment, cultural, social, and sporting activities.

24 (c) "Caregiver" means a person with whom the child is placed in foster care,  
25 or a designated official for a child residential facility licensed by the state.

26 (2) Nothing in this Section shall be construed to authorize any decision that  
27 conflicts with the residual parental rights, as defined in Children's Code Article 116,  
28 of a parent of a child.

1                   E. (1) Each caregiver shall use the reasonable and prudent parent standard  
 2                   in determining whether to give permission for a child living in foster care under the  
 3                   responsibility of the state to participate in extracurricular, enrichment, cultural,  
 4                   social, or sporting activities.

5                   (2) When using the reasonable and prudent parent standard, the caregiver  
 6                   shall consider all of the following:

7                   (a) The child's age, maturity, and developmental level in order to maintain  
 8                   the overall health and safety of the child.

9                   (b) The potential risk factors and the appropriateness of the extracurricular  
 10                  enrichment, cultural, social, or sporting activity.

11                  (c) The best interest of the child, based on information known by the  
 12                  caregiver.

13                  (d) The importance of encouraging the child's emotional and developmental  
 14                  growth.

15                  (e) The importance of providing the child with the most family-like living  
 16                  experience possible.

17                  (f) The behavioral history of the child and the child's ability to safely  
 18                  participate in the proposed activity.

19                  F. Each child in foster care shall be allowed to travel out of state with his  
 20                  foster parent or another department-approved adult so long as the foster parent  
 21                  confirms with the department in advance of the departure date that no reason exists  
 22                  to prevent such travel, and provides a travel itinerary to the department.

23                  G.(1) A foster caregiver who approves a foster child's participation in an age-  
 24                  and developmentally appropriate extracurricular, enrichment, cultural, social, or  
 25                  sporting activity is not liable for harm caused to the child at such activity, provided  
 26                  that the caregiver has acted in accordance with the reasonable and prudent parent  
 27                  standard.

28                  (2) Nothing in this Section shall be construed to remove or limit any existing  
 29                  liability protection afforded by law.

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\* \* \*

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

SUBPART D-2. QUALITY PARENTING FOR CHILDREN IN FOSTER CARE§286.21. Short title

This Subpart may be cited as the "Quality Parenting for Children in Foster Care Act".

§286.22. Findings and intentA. The legislature hereby finds and declares the following:

(1) Parents make important decisions every day regarding participation by their children in activities, and caregivers of children in foster care are faced with making the same decisions for their foster children.

(2) When a foster caregiver makes decisions, he must consider applicable laws and rules to safeguard the health and safety of a child in his care; and those laws and rules are not intended to be applied in such a manner as to prohibit children in foster care from participating in age- or developmentally appropriate activities.

(3) Participation in age- and developmentally appropriate activities is important to a child's well-being, both emotionally and in terms of developing healthy coping mechanisms and valuable life skills.

B. It is the intent of the legislature to recognize the importance of normalizing the lives of children in foster care while ensuring their health and safety, and to empower caregivers and legal custodians to support and encourage a child's participation in activities.

§286.23. Standard of care; application

A. It is the policy of this state that each child who enters foster care should be encouraged and supported to participate in age- and developmentally appropriate extracurricular, enrichment, cultural, social, and sporting activities.

B.(1) Each caregiver shall use the reasonable and prudent parent standard as defined in R.S. 46:283(D) in determining whether to give permission for a child living in foster care under the responsibility of the state to participate in extracurricular, enrichment, cultural, social, or sporting activities.

(2) When using the reasonable and prudent parent standard, the caregiver shall consider all of the factors provided in R.S. 46:283(E).

1           Section 2. The Louisiana State Law Institute is hereby directed to redesignate  
2           Subpart D-2 of Part II of Chapter 3 of Title 46 of the Louisiana Revised Statutes of 1950,  
3           comprised of R.S. 46:287.1 through 287.9 and entitled "Family Preservation Services", as  
4           Subpart D-3 of Part II of Chapter 3 of Title 46 of the Louisiana Revised Statutes of 1950,  
5           and is further directed to retain the heading and Section numbering of the Subpart.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_