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CHAPTER 2013-21

Committee Substitute for House Bill No. 215

An act relating to dependent children; providing a short title; creating s. 39.4091, F.S.; providing legislative findings and intent; providing definitions; providing for participation in age-appropriate extracurricular, enrichment, and social activities by children in out-of-home care; providing for use of a reasonable and prudent parent standard for decisionmaking about such activities; providing rulemaking authority; amending s. 39.522, F.S.; clarifying the standard for reunification and for changing custody; amending s. 409.1451, F.S.; providing for use of reasonable and prudent parent standard in certain decisionmaking; requiring submission of plan for judicial review; providing a definition; providing rulemaking authority; providing an effective date.

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

Section 1. This act may be cited as the “Quality Parenting for Children in Foster Care Act.”

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

39.4091 Participation in childhood activities.—

(1) FINDINGS AND INTENT.—

(a) The Legislature finds that every day parents make important decisions about their child’s participation in activities and that caregivers for children in out-of-home care are faced with making the same decisions for a child in their care.

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

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

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

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

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

(b) “Caregiver” means a person with whom the child is placed in out-of-home care, or a designated official for group care facilities licensed by the Department of Children and Families pursuant to s. 409.175.

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

(3) REQUIREMENTS FOR DECISIONMAKING.—

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

(b) Caregivers must use a reasonable and prudent parent standard in determining whether to give permission for a child in out-of-home care to participate in extracurricular, enrichment, and social activities. When using the reasonable and prudent parent standard, the caregiver shall consider:

1. The child’s age, maturity, and developmental level to maintain the overall health and safety of the child.

2. The potential risk factors and the appropriateness of the extracurricular, enrichment, and social activity.

3. The best interest of the child based on information known by the caregiver.

4. The importance of encouraging the child’s emotional and developmental growth.

5. The importance of providing the child with the most family-like living experience possible.

6. The behavioral history of the child and the child’s ability to safely participate in the proposed activity, as with any other child.

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

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

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

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

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

(3) In cases where the issue before the court is whether a child who is placed in the custody of a parent should be reunited with the other parent upon a finding of substantial compliance with the terms of the case plan, the standard shall be that the safety, well-being, and physical, mental, and emotional health of the child would not be endangered by reunification and that reunification would be in the best interest of the child.

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

409.1451 Independent living transition services.—

(3) PREPARATION FOR INDEPENDENT LIVING.—

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

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

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

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

3. ~~Establish~~ Develop ~~procedures to maximize~~ the authority of foster parents, family foster homes, residential child-caring agencies, or other authorized caregivers to approve participation in age-appropriate activities of children in their care according to a reasonable and prudent parent standard. ~~The age-appropriate activities and the authority of the foster parent, family foster home, residential child-caring agency, or caregiver shall be developed into a written plan that the foster parent, family foster home, residential child-caring agency, or caregiver, the child, and the case manager all develop together, sign, and follow. This plan must include specific goals and objectives and be reviewed and updated no less than quarterly. Foster parents, family foster homes, residential child-caring agencies, or other authorized caregivers employing the reasonable and prudent parent standard in their decisionmaking who have developed a written plan as described in this subparagraph shall not be held responsible under administrative rules or laws pertaining to state licensure or have their licensure status in any manner jeopardized as a result of the actions of a child engaged in the approved age-appropriate activities specified in the written plan. Goals and objectives for participation in extracurricular, enrichment, and social activities, as well as specific information on the child's progress toward meeting those objectives, shall be incorporated into the agency's written judicial social study report and shall be reviewed by the court at each hearing conducted pursuant to s. 39.701.~~

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

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

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

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

after issuance. The department shall adopt rules to govern the payments and conditions related to payments for services to youth or young adults provided under this section.

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

Approved by the Governor April 11, 2013.

Filed in Office Secretary of State April 11, 2013.