

1 **FOSTER CHILDREN AMENDMENTS**

2 2014 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Johnny Anderson**

5 Senate Sponsor: Allen M. Christensen

7 **LONG TITLE**

8 **General Description:**

9 This bill enacts provisions related to normalizing the life of a child in state custody.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ defines terms;

13 ▶ requires the ~~H~~→ ~~[division]~~ Division of Child and Family Services (the division) ←~~H~~ to

13a make efforts to normalize the life of a child in the division's

14 custody and to empower a caregiver to approve or disapprove a child's participation

15 in activities based on the caregiver's own assessment using a reasonable and prudent

16 parent standard, without prior approval of the division;

17 ▶ requires the division to verify that private agencies providing out-of-home

18 placement ~~H~~→ under contract with the division ←~~H~~ promote and protect the ability of a child to

18a participate in age-appropriate

19 activities; and

20 ▶ provides that a caregiver is not liable for harm caused to a child in an out-of-home

21 placement, if the child participates in an activity approved by the caregiver,

22 provided that the caregiver has acted in accordance with a reasonable and prudent

23 parent standard.

24 **Money Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 ~~S~~→ ~~[None]~~ This bill provides an immediate effective date. ←~~S~~



28 **Utah Code Sections Affected:**

29 ENACTS:

30 **62A-4a-210**, Utah Code Annotated 1953

31 **62A-4a-211**, Utah Code Annotated 1953

32 **62A-4a-212**, Utah Code Annotated 1953



34 *Be it enacted by the Legislature of the state of Utah:*

35 Section 1. Section **62A-4a-210** is enacted to read:

36 **62A-4a-210. Definitions.**

37 As used in this part:

38 (1) "Activity" means an extracurricular, enrichment, or social activity.

39 (2) "Age-appropriate" means a type of activity that is generally accepted as suitable for
40 a child of the same age or level of maturity, based on the development of cognitive, emotional,
41 physical, and behavioral capacity that is typical for the child's age or age group.

42 (3) "Caregiver" means a person with whom a child is placed in an out-of-home
43 placement.

44 (4) "Division" means the Division of Child and Family Services.

45 (5) "Out-of-home placement" means the placement of a child in the division's custody
46 outside of the child's home, including placement in a foster home, a residential treatment
47 program, proctor care, or with kin.

48 (6) "Reasonable and prudent parent standard" means the standard characterized by
49 careful and sensible parental decisions to maintain a child's health, safety, and best interest
50 while at the same time encouraging the child's emotional and developmental growth.

51 Section 2. Section **62A-4a-211** is enacted to read:

52 **62A-4a-211. Division responsibilities -- Normalizing lives of children.**

53 (1) A child who comes into care under this chapter is entitled to participate in
54 age-appropriate activities for the child's emotional well-being and development of valuable
55 life-coping skills.

56 (2) The division shall make efforts to normalize the lives of children in the division's
57 custody and to empower a caregiver to approve or disapprove a child's participation in
58 activities based on the caregiver's own assessment using a reasonable and prudent parent

59 standard, without prior approval of the division.

60 (3) The division shall allow a caregiver to make important decisions, similar to the
 61 decisions that a parent is entitled to make, regarding the child's participation in activities.

62 Section 3. Section **62A-4a-212** is enacted to read:

63 **62A-4a-212. Requirements for decision making -- Rulemaking authority.**

64 (1) (a) A caregiver shall use a reasonable and prudent parent standard in determining
 65 whether to permit a child to participate in an activity.

66 (b) A caregiver shall consider:

67 (i) the child's age, maturity, and developmental level to maintain the overall health and
 68 safety of the child;

69 (ii) potential risk factors and the appropriateness of the activity;

70 (iii) the best interest of the child based on the caregiver's knowledge of the child;

71 (iv) the importance of encouraging the child's emotional and developmental growth;

72 (v) the importance of providing the child with the most family-like living experience
 73 possible; and

74 (vi) the behavioral history of the child and the child's ability to safely participate in the
 75 proposed activity.

76 (c) The division shall verify that private agencies providing out-of-home placement
 76a **Ĥ→ under contract with the division ←Ĥ :**

77 (i) promote and protect the ability of a child to participate in age-appropriate activities;
 78 and

79 (ii) implement policies consistent with this section.

80 (d) (i) A caregiver is not liable for harm caused to a child in an out-of-home placement
 81 if the child participates in an activity approved by the caregiver, when the caregiver has acted
 82 in accordance with a reasonable and prudent parent standard.

83 (ii) This section does not remove or limit any existing liability protection afforded by
 84 statute.

85 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 86 division shall adopt rules establishing the procedures for verifying that private agencies
 86a **Ĥ→ providing out-of-home placement under contract with the division ←Ĥ** comply
 87 with and promote this part.

87a **Ŝ→ Section 4. Effective Date.**

87b **If approved by two-thirds of all the members elected to each house, this bill takes effect upon**
 87c **approval by the governor, or the day following the constitutional time limit of Utah**
 87d **Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,**
 87e **the date of veto override. ←Ŝ**

Legislative Review Note
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Office of Legislative Research and General Counsel