

HOUSE BILL REPORT

ESSB 6479

As Passed House - Amended:
March 5, 2014

Title: An act relating to providing caregivers authority to allow children placed in their care to participate in normal childhood activities based on a reasonable and prudent parent standard.

Brief Description: Providing caregivers authority to allow children placed in their care to participate in normal childhood activities based on a reasonable and prudent parent standard.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Frockt, Fain, Darneille, Kohl-Welles, Rivers and Kline).

Brief History:

Committee Activity:

Early Learning & Human Services: 2/20/14, 2/26/14 [DPA].

Floor Activity:

Passed House - Amended: 3/5/14, 97-0.

Brief Summary of Engrossed Substitute Bill
(As Amended by House)

- Provides caregivers with the authority to give permission without prior approval of the Department of Social and Health Services or court to allow a child in their care to participate in normal childhood activities based on a certain standard.
- Specifies that the standard caregivers must use in determining whether to allow children in their care to participate in normal childhood activities is a reasonable and prudent parent standard characterized by careful and thoughtful parental decision-making intended to maintain a child's health, safety, and best interest.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: Do pass as amended. Signed by 12 members: Representatives Kagi, Chair; Freeman, Vice Chair; Walsh, Ranking Minority Member; Scott, Assistant Ranking Minority Member; Fagan, Goodman, Ortiz-Self, Roberts, Sawyer, Senn, Young and Zeiger.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Luke Wickham (786-7146).

Background:

Children in out-of-home care could be in various living arrangements ranging from foster care, relative care, kinship care, and guardianships. Children placed in foster care are in the legal custody of the Department of Social and Health Services (DSHS). Most guardianships allow a guardian to make decisions regarding social and extracurricular activities and allow a guardian to sign as a parent.

The DSHS established guidelines for foster child activities that foster parents are to use in determining whether to allow children in their care to participate in daily and overnight activities. For example, an out-of-state vacation requires prior DSHS approval and either parental approval or notification depending on the legal situation. These guidelines also provide direction regarding who can watch foster children when foster parents are away from home. In general, foster children must be cared for in their own foster home by a person over the age of 18 with an acceptable criminal history check or in the home of another childcare or foster care provider. Certain activities, like participation in sports, motorized activities, field trips, driving, and employment require either DSHS or parental notification or approval.

The Secretary of DSHS is required to conduct background checks for those who will or may have unsupervised access to children.

Summary of Amended Bill:

Caregivers have the authority to provide or withhold permission without prior approval of the caseworker, the DSHS, or court to allow a child in their care to participate in normal childhood activities based on a reasonable and prudent parent standard. This permission must comply with provisions included in an existing safety plan established by the DSHS or court order. Background checks are not required for individuals who will have unsupervised access to children based on the reasonable and prudent parent standard.

Normal childhood activities include extracurricular, enrichment, and social activities, and may include overnight activities outside the direct supervision of the caregiver for periods over 24 hours and up to 72 hours.

The reasonable and prudent parent standard is the standard of care used by a caregiver in determining whether to allow a child in his or her care to participate in normal childhood activities. This standard is characterized by careful and thoughtful parental decision-making that is intended to maintain a child's health, safety, and best interest while encouraging the child's emotional and developmental growth.

Caseworkers must discuss the child's interest in and pursuit of normal childhood activities in their monthly health and safety visits and describe these in the Individual Service and Safety Plan. The interest of parents in the normal childhood activities of their children must be reviewed during monthly meetings between caseworkers and parents. Caseworkers must communicate the opinions of parents regarding the participation of their children in normal childhood activities to foster parents so that those wishes may be appropriately considered.

Neither the caregiver nor the DSHS may be held liable for injuries to the child that occur as a result of caregivers deciding to allow a child to participate in normal childhood activities unless the action or inaction of the caregiver or the DSHS resulting in injury constitutes willful or wanton misconduct.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Children with promising football careers who are in foster care often cannot get approval to participate in athletics. Foster children also have difficulty participating in field trips. This bill addresses an issue that comes up with foster youth across the state every year. Children in their parents care take for granted the opportunity to participate in extracurricular activities. It is often difficult for foster kids to spend the night at the house of a friend because of the approval that is currently required. This bill will help foster children lead more normal lives. There are many issues with the 12 year age limit that will restrict the options for foster children.

(In support with concerns) There are concerns about the Senate version of this bill, particularly the 12 year age threshold. Family Decision Team Meetings are held at the beginning of the case and whenever there is a placement change. It is not necessarily appropriate to discuss a child's pursuit of normal childhood activities with parents at these meetings. There is also a concern that based on the current language in this bill, some parents who refuse to provide permission for anything could prevent the flexibility this bill is trying to accomplish.

(Opposed) None.

Persons Testifying: (In support) Senator Frockt, prime sponsor; Jon Brumbach and Miracle Yando, Mockingbird Society; and Laurie Lippold, Partners for Our Children.

(In support with concerns) Jennifer Strus, Department of Social and Health Services.

Persons Signed In To Testify But Not Testifying: None.