

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

HOUSE BILL

No. 477 Session of  
2015

---

INTRODUCED BY HICKERNELL, TOOIL, BISHOP, COHEN, DUSH, FEE,  
HARHART, HEFFLEY, MENTZER, MILLARD, MURT, PICKETT, ROEBUCK,  
ROZZI, YOUNGBLOOD, ZIMMERMAN AND KORTZ, FEBRUARY 17, 2015

---

SENATOR BROOKS, AGING AND YOUTH, IN SENATE, AS AMENDED, NOVEMBER  
17, 2015

---

AN ACT

1 Providing for activities and experiences for children in out-of-  
2 home placements.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Activities  
7 and Experiences for Children in Out-of-Home Placements Act.

8 Section 2. Legislative intent.

9 The General Assembly finds and declares as follows:

10 (1) Parents and guardians make important decisions every  
11 day regarding the participation of their children in  
12 activities. Caregivers of children in out-of-home placements  
13 are faced with making the same decisions for children in  
14 their care.

15 (2) When a caregiver of a child in an out-of-home  
16 placement makes a decision regarding the child's

1 participation in an activity, the caregiver must consider  
2 applicable laws and policies designed to safeguard the  
3 child's health and safety. However, these laws and policies  
4 are sometimes interpreted to prohibit a child from  
5 participating in age-appropriate or developmentally  
6 appropriate extracurricular and community activities that are  
7 important to healthy child and adolescent development.

8 (3) Participation in activities in school and the  
9 community is important to a child's well-being, both  
10 emotionally and in terms of developing valuable life skills  
11 and building healthy supportive relationships with peers and  
12 caring adults. Providing children with age-appropriate or  
13 developmentally appropriate opportunities to experience  
14 freedom and responsibility are central to making a successful  
15 transition to adulthood.

16 (4) It is the intent of the General Assembly to  
17 recognize the importance of normalizing the lives of children  
18 in out-of-home placements and to empower their caregivers to  
19 approve or disapprove a child's participation in activities  
20 without prior approval of the department, the child's county  
21 agency or private agency caseworker or the court.

## 22 Section 3. Definitions.

23 The following words and phrases when used in this act shall  
24 have the meanings given to them in this section unless the  
25 context clearly indicates otherwise:

26 "Age-appropriate or developmentally appropriate." The  
27 following:

28 (1) activities or items that are generally accepted as  
29 suitable for children of the same chronological age or level  
30 of maturity or that are determined to be developmentally

1 appropriate for a child, based on the development of  
2 cognitive, emotional, physical and behavioral capacities that  
3 are typical for an age or age group; and

4 (2) in the case of a specific child, activities or items  
5 that are suitable for the child based on the developmental  
6 stages attained by the child with respect to the cognitive,  
7 emotional, physical and behavioral capacities of the child.

8 "Caregiver." A person with whom the child is placed in an  
9 out-of-home placement, including a resource family or an  
10 individual designated by a county agency or private agency. The  
11 resource family is the caregiver for any child placed with them.

12 "County agency." The county children and youth social  
13 service agency established in accordance with section 405 of the  
14 act of June 24, 1937 (P.L.2017, No.396), known as the County  
15 Institution District Law, or its successor, and supervised by  
16 the department under Article IX of the act of June 13, 1967  
17 (P.L.31, No.21), known as the Public Welfare Code.

18 "Department." The Department of Human Services of the  
19 Commonwealth.

20 "Out-of-home placement." A setting that provides 24-hour  
21 substitute care for a child away from the child's parents or  
22 guardians and for whom the county agency has placement care and  
23 responsibility. The term includes resource family homes and  
24 supervised settings in which a child is living, and, for a child  
25 who has attained 18 years of age, a supervised setting in which  
26 the individual is living independently. The term does not  
27 include secure facilities, facilities operated primarily for the  
28 detention of children who have been adjudicated delinquent,  
29 accredited psychiatric residential treatment facilities or  
30 hospitals.

1 "Private agency." An entity that provides out-of-home  
2 placement services to children under a contract with a county  
3 agency.

4 "Reasonable and prudent parent standard." The standard,  
5 characterized by careful and sensible parental decisions that  
6 maintain the health, safety and best interests of a child while  
7 encouraging the emotional and developmental growth of the child,  
8 that a caregiver must use when determining whether to allow a  
9 child in an out-of-home placement under the responsibility of  
10 the county agency to participate in extracurricular, enrichment,  
11 cultural and social activities.

12 "Resource family." As defined under section 3 of the act of  
13 November 22, 2005 (P.L.404, No.73), known as the Resource Family  
14 Care Act.

15 Section 4. Access and standard.

16 (a) Access to activities and experiences.--Subject to  
17 subsection (b), a child in an out-of-home placement is allowed  
18 and afforded an opportunity to engage in, to the greatest extent  
19 possible, age-appropriate or developmentally appropriate  
20 activities and experiences. A child with a disability or special  
21 needs in an out-of-home placement shall have the same access to  
22 age-appropriate or developmentally appropriate activities and  
23 experiences as the child's nondisabled peers, even if reasonable  
24 accommodations are required.

25 (b) Caregiver authority.--Caregivers have the authority to  
26 provide or withhold permission for children in their care to  
27 participate in and experience age-appropriate or developmentally  
28 appropriate activities and experiences in accordance with this  
29 section. The authority of a caregiver:

30 (1) Must be exercised using the reasonable and prudent

1 parent standard and does not conflict with any applicable  
2 court order or service plan.

3 (2) May be exercised without the prior approval of a  
4 county agency or private agency or the court.

5 (c) Reasonable and prudent parent standard.--When using the  
6 reasonable and prudent parent standard, a caregiver must <--  
7 consider all of the following:

8 ~~(1) The child's age, maturity and developmental level to~~  
9 ~~maintain the overall health and safety of the child.~~

10 ~~(2) The potential risk factors to the child or to others~~  
11 ~~and the appropriateness of the extracurricular, enrichment,~~  
12 ~~cultural or social activity or experience.~~

13 ~~(3) The best interest of the child, based on information~~  
14 ~~known by the caregiver.~~

15 ~~(4) The child's wishes.~~

16 ~~(5) The importance of encouraging the child's emotional~~  
17 ~~and developmental growth.~~

18 ~~(6) The importance of supporting the child in developing~~  
19 ~~skills to successfully transition to adulthood.~~

20 ~~(7) The importance of providing the child with the most~~  
21 ~~family like living experience possible.~~

22 ~~(8) Any special needs or accommodations that the child~~  
23 ~~may need to safely participate in the activity or experience.~~

24 STANDARD: <--

25 (1) A CAREGIVER MUST CONSIDER ALL OF THE FOLLOWING:

26 (I) THE CHILD'S AGE, MATURITY AND DEVELOPMENTAL  
27 LEVEL TO MAINTAIN THE OVERALL HEALTH AND SAFETY OF THE  
28 CHILD.

29 (II) THE POTENTIAL RISK FACTORS TO THE CHILD OR TO  
30 OTHERS AND THE APPROPRIATENESS OF THE EXTRACURRICULAR,

1 ENRICHMENT, CULTURAL OR SOCIAL ACTIVITY OR EXPERIENCE.

2 (III) THE BEST INTEREST OF THE CHILD, BASED ON  
3 INFORMATION KNOWN BY THE CAREGIVER.

4 (IV) THE IMPORTANCE OF ENCOURAGING THE CHILD'S  
5 EMOTIONAL AND DEVELOPMENTAL GROWTH.

6 (V) THE IMPORTANCE OF SUPPORTING THE CHILD IN  
7 DEVELOPING SKILLS TO SUCCESSFULLY TRANSITION TO  
8 ADULTHOOD.

9 (VI) THE IMPORTANCE OF PROVIDING THE CHILD WITH THE  
10 MOST FAMILY-LIKE LIVING EXPERIENCE POSSIBLE.

11 (VII) ANY SPECIAL NEEDS OR ACCOMMODATIONS THAT THE  
12 CHILD MAY NEED TO SAFELY PARTICIPATE IN THE ACTIVITY OR  
13 EXPERIENCE.

14 (2) THE CHILD'S WISHES, THOUGH NOT DETERMINATIVE, MAY  
15 ALSO BE CONSIDERED.

16 (d) Limitation of liability.--A caregiver, county agency and  
17 private agency shall not be liable for harm caused to a child  
18 while engaged in an activity or experience approved by the  
19 caregiver if:

20 (1) the caregiver has completed the required training  
21 relating to the reasonable and prudent parent standard;

22 (2) the caregiver has made a good faith effort to use  
23 the reasonable and prudent parent standard in approving the  
24 activity or experience; and

25 (3) the approval does not conflict with any applicable  
26 court order or service plan.

27 (e) Other liability protection.--This section shall not  
28 remove or limit any existing liability protection afforded by  
29 any other law.

30 Section 5. Obligations of department.

1 The Office of Children, Youth and Families of the department  
2 shall do all of the following:

3 (1) Require, as a condition of licensure for county and  
4 private foster family care agencies and facilities providing  
5 out-of-home placements, the development of standards and  
6 training relating to the reasonable and prudent parent  
7 standard. The standards and training shall include, but are  
8 not limited to, the following:

9 (i) knowledge and skills relating to the  
10 developmental stages of the cognitive, emotional,  
11 physical and behavioral capacities of a child; and

12 (ii) knowledge and skills relating to applying the  
13 reasonable and prudent parent standard to:

14 (A) decisions such as whether to allow a child  
15 to engage in extracurricular, enrichment, cultural  
16 and social activities, including sports, field trips  
17 and overnight activities lasting one or more days;

18 (B) decisions involving the signing of  
19 permission slips and arranging transportation for the  
20 child to and from extracurricular, enrichment,  
21 cultural and social activities; and

22 (C) Methods for appropriately considering the  
23 concerns of the biological parents of a child in  
24 decisions related to participation of the child in  
25 activities, with the understanding that those  
26 concerns should not necessarily determine the  
27 participation of the child in any activity.

28 (2) Verify, at yearly licensure reviews, that county and  
29 private agencies providing out-of-home placement do all of  
30 the following:

1 (i) Promote and protect the ability of a child to  
2 participate in age-appropriate or developmentally  
3 appropriate activities and experiences.

4 (ii) Implement policies consistent with this act.

5 (iii) Provide and document that the required  
6 training under paragraph (1) has been provided to  
7 caregivers.

8 (3) Develop standards and a process by which individuals  
9 employed by facilities providing out-of-home placements are  
10 designated to make decisions for children based on the  
11 reasonable and prudent parent standard.

12 (4) Develop a template for the required training related  
13 to the reasonable and prudent parent standard in accordance  
14 with this act.

15 (5) Work with interested parties, including children, to  
16 develop age-appropriate written materials that explain the  
17 requirements under this act.

18 Section 6. County obligations.

19 A county agency shall do all of the following:

20 (1) Ensure that all county-operated out-of-home  
21 placement settings other than a resource family home  
22 designate an individual to provide decision-making authority  
23 under the reasonable and prudent parent standard for children  
24 residing in their care. The individual designated should  
25 consult with county agency caseworkers or staff members who  
26 are most familiar with the child in applying and using the  
27 reasonable and prudent parent standard.

28 (2) Ensure that contracts for purchased services between  
29 the county and a private agency that operates an out-of-home  
30 placement setting other than a resource family home include a



1 requirement for the agency to designate an individual to  
2 provide decision-making authority under the reasonable and  
3 prudent parent standard for children residing in their care  
4 in accordance with staffing and supervision requirements  
5 applicable to the setting. The individual designated should  
6 consult with county agency and private agency caseworkers or  
7 staff members who are most familiar with the child in  
8 applying and using the reasonable and prudent parent  
9 standard.

10 (3) Ensure that contracts for purchased services between  
11 the county and a private agency include a requirement for the  
12 private agency to provide training and monitoring of resource  
13 families regarding the application and use of the reasonable  
14 and prudent parent standard.

15 (4) Provide training and monitoring of county agency  
16 resource families regarding the application and use of the  
17 reasonable and prudent parent standard.

18 (5) Consistent with its case and placement planning  
19 responsibilities under Federal and State law, ensure that the  
20 child's service plan provides the opportunity to participate  
21 in age-appropriate or developmentally appropriate activities  
22 and experiences to the greatest extent possible to promote  
23 healthy child and adolescent development. A child's service  
24 plan shall include goals and objectives, and the child's  
25 progress toward meeting the goals and objectives, for the  
26 following:

27 (i) Participation in extracurricular, enrichment,  
28 cultural and social activities.

29 (ii) For a child who is 14 years of age or older,  
30 providing opportunities to gain experience in mastering

1 skills needed to transition to successful adulthood and  
2 managing freedom and responsibility.

3 Section 7. Notifications.

4 (a) Caregiver.--The appropriate county agency shall ensure  
5 that a caregiver is provided with a written notification of the  
6 caregiver's responsibilities and rights under this act. The  
7 notification shall be provided at the time of a resource family  
8 home certification or the designation of a caregiver by a county  
9 agency or private agency and annually thereafter.

10 (b) Child.--The county agency shall ensure that children in  
11 out-of-home placement have their opportunities under this act  
12 explained to them in a manner appropriate to the child's age,  
13 development and maturity and that the children are provided with  
14 a written explanation of the requirements of this act at initial  
15 placement, for any subsequent move, and at least annually as  
16 part of the family service and permanency planning process.  
17 Consistent with the act of November 23, 2010 (P.L.1264, No.119),  
18 known as the Children in Foster Care Act, the requirements of  
19 this subsection shall be included in the list of requirements  
20 under section 3 of the Children in Foster Care Act, along with  
21 the explanation of the grievance policy. A notation that these  
22 notifications have been completed must be made in the child's  
23 record.

24 Section 8. Training.

25 The reasonable and prudent parent standard training required  
26 under this act must be completed as follows:

27 (1) A current caregiver must complete the training by  
28 December 31, 2015.

29 (2) An individual who becomes a caregiver after the  
30 effective date of this section must complete the training

1 prior to a child's placement, unless there is an emergency  
2 placement.

3 (3) If a child is placed in an emergency placement after  
4 the effective date of this section, the caregiver shall  
5 complete the training within 60 days of the emergency  
6 placement.

7 Section 9. This act shall take effect immediately.