

REASONABLE and PRUDENT PARENT STANDARD

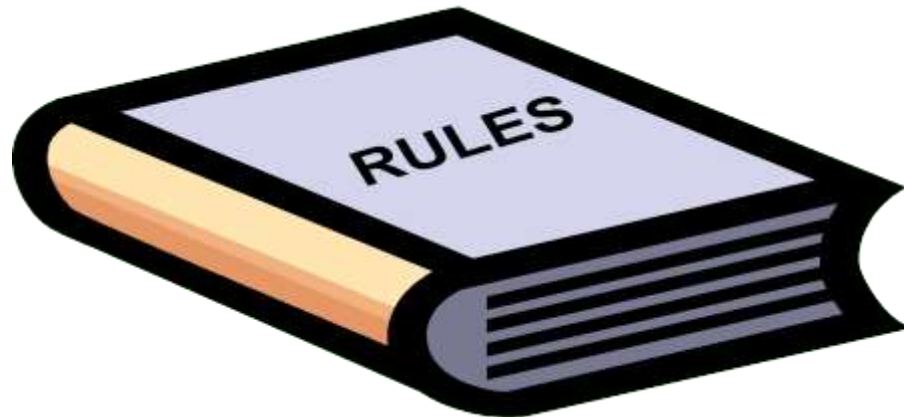


The following information was first shared with licensed foster parents in a presentation on January 28, 2016.

Public Law 113-183

Preventing Sex Trafficking and Strengthening Families Act

- ▶ Law enacted 14 September 2014
- ▶ Section 111- created Supporting Normalcy for Children in Foster Care
- ▶ Act indicated that states which receive Title IV-E funds had to apply the standards (Normalcy for Children in Foster Care). The states had one year to enact the new requirements but allowed for a delay if state legislation was required. North Carolina is now in compliance with federal law due to the enactment.



NC LAW: FOSTER CARE FAMILY ACT

- ▶ (a) The reasonable and prudent parent standard is the standard characterized by careful and sensible parental decisions that are reasonably intended to maintain the health, safety, and best interests of the child while at the same time encouraging the emotional and developmental growth of the child that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the State to participate in extracurricular, enrichment, cultural, and social activities.
- ▶ ***NCSG §131D-10.2A***



PURPOSE

- ▶ The purpose of the Act is to “provide juveniles in foster care with access to normal childhood experiences and empower the placement provider to engage in activities which promote the juvenile’s well being.”
- ▶ *NC DHHS manual*



Who does this apply to?

- ▶ A caregiver
 - ▶ the child's foster parent (regular or therapeutic)
 - ▶ the designated official at a child care institution/ residential child care institution
 - ▶ YFS
 - ▶ Relative

must use the reasonable and prudent parent standard when determining whether to allow a child in foster care to participate in extracurricular, enrichment, and social activities.

What can I do?

- ▶ Caregiver can, unless otherwise ordered by the court, using the reasonable prudent and parent standard has the authority to provide or withhold permission **WITHOUT PRIOR APPROVAL** of the court or YFS, allow a foster care juvenile, in YFS custody, or under the placement authority of YFS, allow a juvenile to participate in “normal childhood activities.”
- ▶ Caregiver can sign permission and/or waivers for the juvenile to participate in activity.

Normal Childhood activities



Normal Childhood Activities

- ▶ Not defined in North Carolina Law
- ▶ Not defined in state statute but Federal law gives guidance
- ▶ "age or developmentally appropriate activities that are generally accepted as suitable for children of the same chronological age or level of maturity or are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group."
- ▶ **42 U.S.C. § 675 (11)(A) (i)**
- ▶ State Law example: Normal childhood activities shall include, but are not limited to, extracurricular, enrichment, and social activities and may include overnight activities outside the direct supervision of the caregiver for periods of over 24 hours and up to 72 hours. **NCGS § 131D-10.2 (e)**
- ▶ Activities that are generally accepted as suitable for a child of the same age or maturity level. Look at the cognitive, emotional, physical and behavioral capacity of the juvenile. *(Adapted from the Florida's Caregiver's Guide to Normalcy)*

How reported

- ▶ Information presented to the court during the court hearings
- ▶ If the foster care juvenile is 14 years or older, the court has to receive evidence and make findings regarding the “steps YFS is taking to ensure that the foster family or other licensed provider follows the reasonable and prudent parent standard
- ▶ If the foster care juvenile is 14 years or older, “whether the juvenile has regular opportunities to engage in age appropriate or developmentally appropriate activities.”

NCGS §7B-912

What if something happens to the juvenile?

- ▶ Caregiver can be held liable for an act or omission of the child if the caregiver fails to act in accordance with the reasonable and prudent parent standard
- ▶ Caregiver shall NOT be held liable for injuries to the juvenile that occur as a result of acting in accordance with the reasonable and prudent parent standard.

Development of policy form or endorsement for personal liability insurance for foster parents

- ▶ Allows for the creation of optional liability insurance policy for licensed foster parents to provide coverage for the acts or omissions of the foster parents while the foster parent is acting in the foster parent's capacity as a foster parent in a licensed family foster home or therapeutic foster home.
- ▶ “Nothing in this section is intended to require that the liability insurance policy or endorsement required by this section cover an act or omission that results from any action or inaction of gross negligence, willful and wanton conduct, or intentional wrongdoing that results in injury to the child.”
- ▶ ***NCGS § 58-36-44***

LIABILITY INSURANCE

- ▶ Rate Bureau required to develop an optional liability insurance policy for licensed foster parents for acts or omissions of the foster parent to be filed with the Commission for approval no later than 1 May 2016.
- ▶ NCGS §58-36-44

§ 7B-903.1 (b)

- ▶ Authorization may be limited.
 - ▶ If the court finds that it is not in the juvenile's best interest to allow the foster parents the authority to withhold or provide consent, then the court "shall set out alternative parameters for approving normal childhood activities."

Examples

- ▶ Foster care juvenile placed in YFS custody. Juvenile involved in band. Juvenile wants to continue participating. As the caregiver, are you able to consent to activity?
- ▶ Foster juvenile wants to spend night with neighborhood juvenile. As the caregiver, do you have to seek YFS permission prior to the sleepover? What if the foster juvenile wants to go on a spring break trip with the neighborhood juvenile's family?
- ▶ Foster juvenile wants to go to the target/shooting range to practice shooting? What about practice shooting on the caregiver's property? Is the caregiver able to consent?

Examples

- ▶ Foster care juvenile wants to play on the local sports team (football). Is the caregiver able to consent without biological parent's approval or court approval or YFS approval?
- ▶ Foster care juvenile wants to obtain a babysitting job. Is the caregiver able to consent?
- ▶ Foster care juvenile wants to obtain a perm/ relaxer, haircut etc.. change in appearance. Does the caregiver need permission to change?
- ▶ Foster parent wants to leave a juvenile home alone. Is the caregiver able to consent?

When in Doubt?

- ▶ If you have questions, please ask the YFS Social Worker



DRIVING PRIVILEGES

- ▶ Juvenile 16 or 17 years old in the legal custody of YFS may contract for his/her own car insurance, with the consent of the court.
- ▶ Juvenile is responsible for paying the premiums and any damage caused by negligent operation of the vehicle
- ▶ Foster parents or local governmental agency shall not be responsible for paying insurance premiums or liable for damages of any kind as a result of the operation of a motor vehicle by the juvenile.

NCGS §48A-4

- ▶ Juvenile in YFS custody may apply for driver's permit or license provided that the application is signed by the juvenile AND juvenile's appointed GAL or Attorney Advocate, YFS director or designee or the Court
- ▶ ***NCGS § 20-11 (a) (i) (4)***

Con'd

- ▶ Foster parent can exclude from endorsement of his or her insurance a foster child residing in the household upon proof that juvenile in foster care has his/her own insurance.
- ▶ ***NCGS §20-39 (a)2***



RUNAWAYS

Agency Plan for Runaway- NC DHHS Policy requirement

YFS SW is required to maintain close communication with foster parents, group home staff, and GAL

Immediately notify the YFS SW

YFS SW is required to immediately notify law enforcement, the juvenile's family, and GAL

Information that YFS SW has share with law enforcement

- Names and address of present and former foster parents, placement staff, and acquaintances
- Locations the juvenile tends to frequent
- Suspected destinations and accomplices
- Prior disappearances and outcomes



Continued

- ▶ Within 48 hours, YFS SW is required to provide written notification to law enforcement
- ▶ Within 10-14 days have to file a motion to get the matter back into court- during the hearing have to notify the Court of runaway status and efforts being made towards locating the juvenile.
- ▶ YFS has to document in writing, YFS's continuing efforts to locate the juvenile and to work with law enforcement, GAL, and family

MEDICAL/ THERAPEUTIC CHANGES

- ▶ (a) Unless the court orders otherwise, when a juvenile is placed in the Nonsecure custody of a county department of social services, the director may arrange for, provide, or consent to any of the following:
 - ▶ (1) Routine medical and dental care or treatment.
 - ▶ (2) Emergency medical, surgical, psychiatric, psychological, or mental health care or treatment.
 - ▶ (3) Testing and evaluation in exigent circumstances.

NCGS § 7B-505.1 and 903.1



Continued

- ▶ (c) The director shall obtain consent from the juvenile's parent, guardian, or custodian for all care or treatment not covered by subsection (a) or (b) of this section, except that the court may authorize the director to provide consent after a hearing at which the court finds by clear and convincing evidence that the care, treatment, or evaluation requested is in the juvenile's best interest. Care and treatment covered by this subsection includes:
 - ▶ (1) Prescriptions for psychotropic medications.
 - ▶ (2) Participation in clinical trials.
 - ▶ (3) Immunizations when it is known that the parent has a bona fide religious objection to the standard schedule of immunizations.
 - ▶ (4) Child Medical Evaluations not governed by subsection (b) of this section, comprehensive clinical assessments, or other mental health evaluations.
 - ▶ (5) Surgical, medical, or dental procedures or tests that require informed consent.
 - ▶ (6) Psychiatric, psychological, or mental health care or treatment that requires informed consent.

NCGS § 7B-505.1 and 903.1

Continued

- ▶ (d) For any care or treatment provided, the director shall make reasonable efforts to promptly notify the parent, guardian, or custodian that care or treatment will be or has been provided and give the parent or guardian frequent status reports on the juvenile's treatment and the care provided. Upon request of the juvenile's parent, guardian, or custodian, the director shall make available to the parent, guardian, or custodian any results or records of the aforementioned evaluations, except when prohibited by [G.S. 122C-53\(d\)](#). The results of a Child Medical Evaluation shall only be disclosed according to the provisions of [G.S. 7B-700](#).

NCGS § 7B-505.1 and 903.1

If you have any questions, please
contact your Licensure Social Worker.

