

Children in Foster Care, “Normal Childhood Activities,” and the “Reasonable and Prudent Parent” Standard

On October 1, 2015, several new statutes affecting abuse, neglect, and dependency cases went into effect. Three new statutes specifically address decision-making standards related to social and cultural activities for children who are placed in a county department’s custody because of abuse, neglect, or dependency. The new statutes were created by [S.L. 2015-135](#) and are

- G.S. 131D-10.2A: Reasonable and Prudent Parent Standard,
- G.S. 7B-903.1: Juvenile Placed in Custody of Department of Social Services, and
- G.S. 48A-4: Certain Minors Competent to Contract.

The Reasonable and Prudent Parent Standard

This standard is defined as “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.” G.S. 131D-10.2A quoting 42 U.S.C. § 675(10)(A). The child’s placement provider must use this standard when deciding whether to allow the child to participate in extracurricular, enrichment, cultural, and social activities. G.S. 131D-10.2A(c).

The placement provider is authorized to give or deny permission for a child’s participation in “normal childhood activities” without having to first seek approval from a county department or the court that has jurisdiction over the abuse, neglect, and dependency action. G.S. 131D-10.2A(e), 7B-903.1(b). If the court in the abuse, neglect, and dependency action finds it is not in the child’s best interests for the placement provider to have this decision-making authority, the court may order alternative parameters for how the child’s participation in normal childhood activities will be approved. G.S. 7B-903.1(b), 131D-10.2A(e).

The county department is also authorized to make decisions about the child that are generally made by a juvenile’s custodian, unless prohibited by federal law. G.S. 7B-903.1(a). For example, a county department may make educational decisions, but the Individual with Disabilities in Education Act specifically prohibits the county department from acting as the child’s surrogate parent regarding decisions made for a child’s special education eligibility and/or services. [20 U.S.C.A. § 1415\(b\)\(2\)\(A\)](#). Medical decisions for the child that are made by the county department are limited to the requirements of another new statute: G.S. 7B-505.1 (enacted October 1, 2015 pursuant to [S.L. 2015-136 § 5](#)). Although the county department has the authority to make decisions generally made by a child’s custodian, the court may delegate any or all of this decision-making authority to a designated individual, including a parent or foster parent. G.S. 7B-903.1(a).

“Normal Childhood Activities”

The Juvenile Code does not define “normal childhood activities,” but federal law defines “age or developmentally-appropriate” activities as those “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). Statutory examples of normal childhood activities are extracurricular, enrichment, and social activities, including overnights (i.e., a children’s sleepover) outside of the caregiver’s home for 24 to 72 hours. G.S. 131D-10.2(e).

Driving Privileges

Obtaining a driver’s permit, learning to drive, and getting a driver’s license are all normal childhood activities for older teens. A teen in the legal custody of a county department may apply for a driver’s permit or license by having the application signed by him/herself and

- the guardian ad litem or attorney advocate,
- the county department director or designee, or
- the court that has jurisdiction over the abuse, neglect, and dependency case.

G.S. 20-11(i)(4).

With the court’s approval, a 16 or 17 year old in the custody of a county department is competent to contract for car insurance. G.S. 48A-4. The teen is responsible for paying the insurance premiums and is liable for any damages that are caused by the teen’s negligent driving. *Id.*

Guidance

Although the reasonable and prudent parent standard must be applied to each specific child or teen, the North Carolina Division of Social Services has created a [Guide](#). Activities that are discussed include: family recreation, water activities, hunting, social and extracurricular activities, motorized activities, driving, travel, cell phones, employment, religious participation, appearance, and leaving the child home alone. The Division of Social Services has also provided a [list of twenty questions](#) for a placement provider to consider when applying the reasonable and prudent parent standard.

Why the Changes?

On September 14, 2014, Congress enacted the Preventing Sex Trafficking and Strengthening Families Act, [P.L. 113-183](#). Subtitle B of that act created the reasonable and prudent parent standard for age and developmentally-appropriate activities. The Act requires states who receive

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federal Title IV-E funds to apply these standards. States had one year to enact these new requirements but allowed for a delay if state legislation was required. With these statutory amendments, North Carolina is in compliance with the federal requirements. The statutory changes for driving privileges were not specifically required by federal law. These changes do, however, address age appropriate activities for older youth in foster care.