

BILL ANALYSIS

C.S.H.B. 3530
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Juvenile Justice & Family Issues
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Children and youth in foster care are often burdened with laws, policies, guidelines, and rules that effectively restrict their activities or require a cumbersome and lengthy approval process. Interested parties assert that it would be possible to ensure a greater amount of normalcy for foster children while they are in out-of-home care by establishing a reasonable and prudent parent standard under which substitute caregivers are allowed to approve or disapprove a child's participation in activities based on the caregiver's own assessment without prior approval of the Department of Family and Protective Services. C.S.H.B. 3530 seeks to establish such a standard to encourage foster youth to participate in age-appropriate normalcy activities.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3530 amends the Family Code to require the Department of Family and Protective Services (DFPS) to use its best efforts to normalize the lives of children in the managing conservatorship of DFPS by allowing substitute caregivers, without DFPS's prior approval, to make decisions similar to those a parent would be entitled to make regarding a child's participation in age-appropriate normalcy activities, defined by the bill as an activity or experience that is generally accepted as suitable for a child's age or level of maturity or that is determined to be developmentally appropriate for a child based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for the age or age group and in which a child who is not in the conservatorship of the state is generally allowed to participate, including extracurricular activities, in-school and out-of-school social activities, cultural and enrichment activities, and employment opportunities. The bill requires a substitute caregiver to exercise the standard of care of a reasonable and prudent parent, defined by the bill as the standard of care that a parent of reasonable judgment, skill, and caution would exercise in addressing the health, safety, and welfare of a child while encouraging the emotional and developmental growth of the child, in determining whether to allow a child in the managing conservatorship of DFPS to participate in an activity.

C.S.H.B. 3530 requires DFPS to adopt and implement policies promoting a substitute caregiver's ability to make decisions regarding age-appropriate normalcy activities and to identify and review any DFPS policy or procedure that may impede a substitute caregiver's ability to make such decisions. The bill requires DFPS to require licensed child placing agency personnel,

residential child care licensing staff, conservatorship caseworkers, and other persons as may be determined by DFPS to complete a course of training regarding the importance of a child's participation in age-appropriate normalcy activities and the benefits of such activities to a child's well-being, mental health, and social, emotional, and developmental growth, and regarding substitute caregiver decision-making under the standard of care of a reasonable and prudent parent.

C.S.H.B. 3530 grants a foster parent, other substitute caregiver, family relative or other designated caregiver, or licensed child placing agency caring for a child in the managing conservatorship of DFPS immunity from liability for harm caused to the child resulting from the child's participation in an age-appropriate normalcy activity approved by the caregiver if, in approving the child's participation in the activity, the caregiver exercised the standard of care of a reasonable and prudent parent. The bill establishes that a licensed child placing agency is not subject to adverse action by DFPS, including contractual action or licensing or other regulatory action, arising out of the conduct of a foster parent who has exercised the standard of care of a reasonable and prudent parent.

C.S.H.B. 3530 requires the court, at each permanency hearing and at each placement review hearing, to review DFPS's efforts to ensure that the child has regular, ongoing opportunities to engage in age-appropriate normalcy activities, including activities not listed in the child's service plan.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3530 differs from the original in minor or nonsubstantive ways by conforming to certain bill drafting conventions.