

Sub. H.B. 33

As Passed by the Senate

JFSCD44

moved to amend as follows:

In line 56 of the title, after "2151.231," insert "2151.315,"	1
In line 174 of the title, after "5103.05," insert "5103.162,"	2
In line 803, after "2151.231," insert "2151.315,"	3
In line 889, after "5103.05," insert "5103.162,"	4
After line 34840, insert:	5
 "Sec. 2151.315. (A) As used in this section—:	6
(1) " age-appropriate <ins>Age-appropriate</ins> " means activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity. Age appropriateness is based on the development of cognitive, emotional, physical, and behavioral capacity that is typical for an age or age group.	7 8 9 10 11
(2) " <ins>Resource caregiver</ins> " has the same meaning as in section 5103.02 of the Revised Code.	12 13
(B) A child who is <ins>placed with a resource caregiver or who is</ins> subject to out-of-home care for alleged or adjudicated abused, neglected, or dependent children is entitled to participate in age-appropriate extracurricular, enrichment, and social activities.	14 15 16 17 18

(C) A <u>resource caregiver or</u> a person or facility that is providing out-of-home care for an alleged or adjudicated abused, neglected, or dependent child shall consider all of the following when determining whether to give permission for that child to participate in extracurricular, enrichment, or social activities:	19 20 21 22 23
(1) The child's age, maturity, and developmental level to maintain the overall health and safety of the child;	24 25
(2) The potential risk factors and the appropriateness of the extracurricular, enrichment, or social activity;	26 27
(3) The best interest of the child based on information known by the <u>resource caregiver or</u> a person or facility providing out-of-home care for an alleged or adjudicated abused, neglected, or dependent the child;	28 29 30 31
(4) The importance of encouraging the child's emotional and developmental growth;	32 33
(5) The importance of providing the child with the most family-like living experience possible;	34 35
(6) The behavioral history of the child and the child's ability to safely participate in the extracurricular, enrichment, or social activity.	36 37 38
(D) A <u>resource caregiver or</u> person or facility that provides out-of-home care to an alleged or adjudicated abused, neglected, or dependent child shall be immune from liability in a civil action to recover damages for injury, death, or loss to person or property caused to the child who participates in an extracurricular, enrichment, or social activity approved by the <u>resource caregiver, person,</u> or facility provided that the <u>resource caregiver, person,</u> or facility considered the factors described in division (C) of this section."	39 40 41 42 43 44 45 46 47

After line 98133, insert:	48
" Sec. 5103.162. (A) Except as provided in division (B) of this section, a foster <u>resource</u> caregiver shall be immune from liability in a civil action to recover damages for injury, death, or loss to person or property allegedly caused by an act or omission in connection with a power, duty, responsibility, or authorization under this chapter or under rules adopted under authority of this chapter.	49 50 51 52 53 54 55
(B) The immunity described in division (A) of this section does not apply to a foster <u>resource</u> caregiver if, in relation to the act or omission in question, any of the following applies:	56 57 58
(1) The act or omission was manifestly outside the scope of the foster <u>resource</u> caregiver's power, duty, responsibility, or authorization.	59 60 61
(2) The act or omission was with malicious purpose, in bad faith, or in a wanton or reckless manner.	62 63
(3) Liability for the act or omission is expressly imposed by a section of the Revised Code.	64 65
(C)(1) A foster <u>resource</u> caregiver shall use a reasonable and prudent parent standard when considering whether to authorize a foster child who resides in the foster <u>resource</u> home to participate in extracurricular, enrichment, and social activities.	66 67 68 69
(2) A public children services agency, private child placing agency, or private noncustodial agency that serves as the child's custodian or as the supervising agency for the foster <u>resource</u> caregiver shall be immune from liability in a civil action to recover damages for injury, death, or loss to person or property that result from a foster <u>resource</u> caregiver's or agency's	70 71 72 73 74 75

decisions using a reasonable and prudent parent standard in 76
accordance with division (C)(1) of this section. 77

(3) Nothing in this section shall affect, limit, abridge, or 78
otherwise modify the immunities and defenses available to a public 79
children services agency as a political subdivision under Chapter 80
2744. of the Revised Code. 81

(4) As used in this section, "reasonable and prudent parent 82
standard" means the standard characterized by careful and sensible 83
parental decisions that maintain the child's health, safety, and 84
best interests while at the same time encouraging the child's 85
emotional and developmental growth, that a caregiver or agency 86
shall use when determining whether to allow a child in the care of 87
a ~~foster~~ resource caregiver to participate in extracurricular, 88
enrichment, and social activities." 89

In line 124626, after "2151.231," insert "2151.315," 90

In line 124712, after "5103.05," insert "5103.162," 91

The motion was _____ agreed to.

SYNOPSIS

Resource caregiver immunity and authority 92

R.C. 2151.315 and 5103.162 93

Restores provisions of the House-passed version of the bill 94
that do all of the following: 95

-- Expand the general immunity granted to foster caregivers 96
for acts authorized under the public welfare law to persons who 97
are kinship caregivers. 98

-- Specify that any alleged abused, neglected, or dependent child placed with a resource caregiver (which includes a foster caregiver or a kinship caregiver) is entitled to participate in age-appropriate extracurricular, enrichment, and social activities.	99 100 101 102 103
-- Require a resource caregiver to consider certain factors when determining whether to give permission for a child to participate in extracurricular, enrichment, and social activities.	104 105 106
-- Clarify that a resource caregiver who grants permission for a child to participate in those activities is immune from liability in a civil action.	107 108 109