

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~~7~~: 6

(1) "~~age-appropriate~~ Age-appropriate" means activities or 7  
items that are generally accepted as suitable for children of the 8  
same chronological age or level of maturity. Age appropriateness 9  
is based on the development of cognitive, emotional, physical, and 10  
behavioral capacity that is typical for an age or age group. 11

(2) "Resource caregiver" has the same meaning as in section 12  
5103.02 of the Revised Code. 13

(B) A child who is placed with a resource caregiver or who is 14  
subject to out-of-home care for alleged or adjudicated abused, 15  
neglected, or dependent children is entitled to participate in 16  
age-appropriate extracurricular, enrichment, and social 17  
activities. 18

(C) A resource caregiver or 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:

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

(2) The potential risk factors and the appropriateness of the extracurricular, enrichment, or social activity;

(3) The best interest of the child based on information known by the resource caregiver or a person or facility providing out-of-home care for ~~an alleged or adjudicated abused, neglected, or dependent~~ the child;

(4) The importance of encouraging the child's emotional and developmental growth;

(5) The importance of providing the child with the most family-like living experience possible;

(6) The behavioral history of the child and the child's ability to safely participate in the extracurricular, enrichment, or social activity.

(D) A resource caregiver or 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 resource caregiver, person, or facility provided that the resource caregiver, person, or facility considered the factors described in division (C) of this section."

After line 98133, insert: 48

"**Sec. 5103.162.** (A) Except as provided in division (B) of 49  
this section, a ~~foster~~ resource caregiver shall be immune from 50  
liability in a civil action to recover damages for injury, death, 51  
or loss to person or property allegedly caused by an act or 52  
omission in connection with a power, duty, responsibility, or 53  
authorization under this chapter or under rules adopted under 54  
authority of this chapter. 55

(B) The immunity described in division (A) of this section 56  
does not apply to a ~~foster~~ resource caregiver if, in relation to 57  
the act or omission in question, any of the following applies: 58

(1) The act or omission was manifestly outside the scope of 59  
the ~~foster~~ resource caregiver's power, duty, responsibility, or 60  
authorization. 61

(2) The act or omission was with malicious purpose, in bad 62  
faith, or in a wanton or reckless manner. 63

(3) Liability for the act or omission is expressly imposed by 64  
a section of the Revised Code. 65

(C)(1) A ~~foster~~ resource caregiver shall use a reasonable and 66  
prudent parent standard when considering whether to authorize a 67  
foster child who resides in the ~~foster~~ resource home to 68  
participate in extracurricular, enrichment, and social activities. 69

(2) A public children services agency, private child placing 70  
agency, or private noncustodial agency that serves as the child's 71  
custodian or as the supervising agency for the ~~foster~~ resource 72  
caregiver shall be immune from liability in a civil action to 73  
recover damages for injury, death, or loss to person or property 74  
that result from a ~~foster~~ resource caregiver's or agency's 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  
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-- 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  
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-- 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  
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