

1-1 By: Schwertner S.B. No. 1407
 1-2 (In the Senate - Filed March 12, 2015; March 18, 2015, read
 1-3 first time and referred to Committee on Health and Human Services;
 1-4 March 30, 2015, reported favorably by the following vote: Yeas 8,
 1-5 Nays 0; March 30, 2015, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16			X	

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to encouraging age-appropriate normalcy activities for
 1-20 children in the managing conservatorship of the state.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 263.001(a), Family Code, is amended by
 1-23 amending Subdivision (1-a) and adding Subdivision (1-b) to read as
 1-24 follows:

1-25 (1-a) "Age-appropriate normalcy activity" has the
 1-26 meaning assigned by Section 264.001.

1-27 (1-b) "Department" means the Department of Family and
 1-28 Protective Services.

1-29 SECTION 2. Section 263.306, Family Code, is amended by
 1-30 adding Subsection (c) to read as follows:

1-31 (c) In addition to the requirements of Subsection (a), at
 1-32 each permanency hearing the court shall review the department's
 1-33 efforts to ensure that the child has regular, ongoing opportunities
 1-34 to engage in age-appropriate normalcy activities, including
 1-35 activities not listed in the child's service plan.

1-36 SECTION 3. Section 263.503, Family Code, is amended by
 1-37 adding Subsection (c) to read as follows:

1-38 (c) In addition to the requirements of Subsection (a), at
 1-39 each placement review hearing the court shall review the
 1-40 department's efforts to ensure that the child has regular, ongoing
 1-41 opportunities to engage in age-appropriate normalcy activities,
 1-42 including activities not listed in the child's service plan.

1-43 SECTION 4. Section 264.001, Family Code, is amended by
 1-44 amending Subdivision (1) and adding Subdivisions (1-a) and (5) to
 1-45 read as follows:

1-46 (1) "Age-appropriate normalcy activity" means an
 1-47 activity or experience:

1-48 (A) that is generally accepted as suitable for a
 1-49 child's age or level of maturity or that is determined to be
 1-50 developmentally appropriate for a child based on the development of
 1-51 cognitive, emotional, physical, and behavioral capacities that are
 1-52 typical for the age or age group; and

1-53 (B) in which a child who is not in the
 1-54 conservatorship of the state is generally allowed to participate,
 1-55 including extracurricular activities, in-school and out-of-school
 1-56 social activities, cultural and enrichment activities, and
 1-57 employment opportunities.

1-58 (1-a) "Department" means the Department of Family and
 1-59 Protective Services.

1-60 (5) "Standard of care of a reasonable and prudent
 1-61 parent" means the standard of care that a parent of reasonable

2-1 judgment, skill, and caution would exercise in addressing the
2-2 health, safety, and welfare of a child while encouraging the
2-3 emotional and developmental growth of the child, taking into
2-4 consideration:

2-5 (A) the overall health and safety of the child;
2-6 (B) the child's age, maturity, and development
2-7 level;

2-8 (C) the best interest of the child based on the
2-9 caregiver's knowledge of the child;

2-10 (D) the appropriateness of a proposed activity
2-11 and any potential risk factors;

2-12 (E) the behavioral history of the child and the
2-13 child's ability to safely participate in a proposed activity;

2-14 (F) the importance of encouraging the child's
2-15 social, emotional, and developmental growth; and

2-16 (G) the importance of providing the child with
2-17 the most family-like living experience possible.

2-18 SECTION 5. The heading to Section 264.114, Family Code, is
2-19 amended to read as follows:

2-20 Sec. 264.114. IMMUNITY FROM LIABILITY; ADVERSE
2-21 DEPARTMENTAL ACTION PROHIBITED.

2-22 SECTION 6. Section 264.114, Family Code, is amended by
2-23 adding Subsections (c) and (d) to read as follows:

2-24 (c) A foster parent, other substitute caregiver, family
2-25 relative or other designated caregiver, or licensed child placing
2-26 agency caring for a child in the managing conservatorship of the
2-27 department is not liable for harm caused to the child resulting from
2-28 the child's participation in an age-appropriate normalcy activity
2-29 approved by the caregiver if, in approving the child's
2-30 participation in the activity, the caregiver exercised the standard
2-31 of care of a reasonable and prudent parent.

2-32 (d) A licensed child placing agency is not subject to
2-33 adverse action by the department, including contractual action or
2-34 licensing or other regulatory action, arising out of the conduct of
2-35 a foster parent who has exercised the standard of care of a
2-36 reasonable and prudent parent.

2-37 SECTION 7. Subchapter B, Chapter 264, Family Code, is
2-38 amended by adding Section 264.125 to read as follows:

2-39 Sec. 264.125. AGE-APPROPRIATE NORMALCY ACTIVITIES;
2-40 STANDARD OF CARE. (a) The department shall use its best efforts to
2-41 normalize the lives of children in the managing conservatorship of
2-42 the department by allowing substitute caregivers, without the
2-43 department's prior approval, to make decisions similar to those a
2-44 parent would be entitled to make regarding a child's participation
2-45 in age-appropriate normalcy activities.

2-46 (b) In determining whether to allow a child in the managing
2-47 conservatorship of the department to participate in an activity, a
2-48 substitute caregiver must exercise the standard of care of a
2-49 reasonable and prudent parent.

2-50 (c) The department shall adopt and implement policies
2-51 consistent with this section promoting a substitute caregiver's
2-52 ability to make decisions described by Subsection (a). The
2-53 department shall identify and review any departmental policy or
2-54 procedure that may impede a substitute caregiver's ability to make
2-55 such decisions.

2-56 (d) The department shall require licensed child placing
2-57 agency personnel, residential child care licensing staff,
2-58 conservatorship caseworkers, and other persons as may be determined
2-59 by the department to complete a course of training regarding:

2-60 (1) the importance of a child's participation in
2-61 age-appropriate normalcy activities and the benefits of such
2-62 activities to a child's well-being, mental health, and social,
2-63 emotional, and developmental growth; and

2-64 (2) substitute caregiver decision-making under the
2-65 standard of care of a reasonable and prudent parent.

2-66 SECTION 8. The changes in law made by this Act to Sections
2-67 263.306 and 263.503, Family Code, apply only to a permanency
2-68 hearing or a placement review hearing conducted under Chapter 263,
2-69 Family Code, on or after the effective date of this Act. A

3-1 permanency hearing or a placement review hearing conducted before
3-2 the effective date of this Act is governed by the law in effect on
3-3 the date the hearing was conducted, and the former law is continued
3-4 in effect for that purpose.

3-5 SECTION 9. This Act takes effect September 1, 2015.

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