

CHAPTER 363
FORMERLY
SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 247

AN ACT TO AMEND TITLE 13 OF THE DELAWARE CODE RELATING TO CHILDREN IN DSCYF CUSTODY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Amend Chapter 25 of the Delaware Code by making deletions as shown by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 2502 Definitions.

For the purposes of this chapter, unless the context indicates differently:

(4) "Caregiver" means a person with whom the child is placed while in DSCYF custody including any licensed home or facility, including group homes, or any relative or non-relative placement, including those not licensed by DSCYF. Caregiver shall not include secure facilities, facilities primarily operated for the detention of children adjudicated delinquent, accredited psychiatric residential treatment facilities or hospitals.

(18) "Reasonable and prudent parent standard" shall mean the standard characterized by careful and sensible parental decisions that maintain the health, safety and best interests of a child, while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child placed in his or her care while in DSCYF custody to participate in extracurricular, enrichment, cultural, and social activities:

§ 2514. Court Findings for Children in DSCYF Custody

Should the Court find the elements of Section 2512(b) of this Title, have been met, the Court shall make findings and issue orders at each subsequent hearing regarding the following:

- (1) What the permanency plan is, and whether DSCYF has made reasonable efforts to finalize that permanency plan;
- (2) If the permanency plan is another planned permanent living arrangement,
 - a. Whether the child is at least 16 years of age, as this plan is prohibited for any child less than age 16.
 - b. Whether DSCYF has documented its intensive, ongoing, and, as of the date of the hearing, unsuccessful efforts made by DSCYF to return the child home or secure placement of the child with a fit and willing relative, including adult siblings, a legal guardian, or an adoptive parent, including thorough efforts that utilize search technology including social media, to find biological family members for the child.
 - c. What the child's desired permanency outcome is by asking the child, or where not feasible, the child's legal representative.
 - d. What are the compelling reasons that it continues to not be in the child's best interests to be returned home, adopted, placed with a legal guardian or with a fit and willing relative.
- (3) Whether DSCYF has ensured:
 - a. the caregiver is exercising the reasonable and prudent parent standard.
 - b. the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities, and that any barriers to participation have been identified and addressed.
 - c. the child has been consulted in an age-appropriate manner about the opportunities of the child to participate in the activities.

§ 2521 Powers and duties of the DSCYF as custodian of the child.

(4) To consent to educational decisions, subject to applicable state and federal law, including but not limited to, disciplinary proceedings and consequences, and academic needs ~~and extracurricular activities of the child,~~ and to request the appointment of an educational surrogate parent when appropriate DSCYF shall make

reasonable efforts to obtain the consent of the parent, and to notify the guardian ad litem, prior to making any educational decisions on behalf of the child;

(5) To request a credit report for the child annually after the child reaches the age of ~~16~~ 14 years old and to inspect the credit report for any potential identity theft as described in § 854 of Title 11, and, from ages 18 through 21, to assist the ~~child~~ youth who was previously in DSCYF's custody and continues to receive independent living services through a DSCYF-contracted provider in reviewing and repairing the ~~child's~~ youth's credit, ~~upon request of the provider and with written consent of the child, unless otherwise prohibited by law; and~~

(6) To ensure, consistent with DSCYF case and placement planning responsibilities under Federal and State law, that the child's service plan provides the opportunity to participate in age appropriate or developmentally appropriate activities and experiences to promote healthy child and adolescent development.

(7) To ensure standards and policies are in place, consistent with the reasonable and prudent parent standard.

(8) To provide training and monitoring to all caregivers, regardless of whether they are required to meet the DSCYF licensing requirements, on the reasonable and prudent parent standard. Training on the reasonable and prudent parent standard shall include parenting skills for children who have experienced trauma, healthy sexual development, and implementing the standard for children with special needs. Such training shall be provided annually to all licensed caregivers, and upon placement, to all non-licensed caregivers.

~~(9)~~ (9) To maintain any other powers and duties as conferred by statute in the Delaware Code.

§ 2522 Rights of children in DSCYF custody.

(8) To participate in the formation and maintenance of their foster care service, independent living and transition plans, where applicable; and beginning at age 14,

a. to be actively engaged and consulted in the development and implementation of those services and plans, as well as in any revisions or additions to those services or plans; and

b. at the option of the child, to involve two individuals in case planning that are selected by the child and who are not a foster parent or caseworker for the child, except that DSCYF may reject an individual so selected by the child if DSCYF has good cause to believe the individual would not act in the best interests of the child, and one individual so selected by the child may be designated to be the child's advisor and, as necessary, advocate with respect to the application of the reasonable and prudent parent standard to the child;

(13) To have the opportunity to participate in age appropriate or developmentally appropriate activities and experiences to promote healthy development, and to have those opportunities explained to them in an age and developmentally appropriate manner, consistent with the reasonable and prudent parent standard.

~~(14)~~ (15) To have these rights explained in an age appropriate manner, and for youth age 14 and older to sign an acknowledgement that the rights have been explained, and to receive a copy of the rights set forth in this section.

2523. Duties, Authority and Liability protection of caregivers to children in DSCYF Custody.

(a) Caregivers of children in DSCYF custody have the responsibility and authority to exercise the reasonable and prudent parent standard to provide or withhold permission for children in their care to participate in and experience age appropriate or developmentally appropriate activities and experiences, including extracurricular, cultural and social enrichment. The authority of a caregiver:

(1) must be exercised using the reasonable and prudent parent standard and his or her actions do not conflict with any applicable court order or service plan; and

(2) may be exercised without the prior approval of DSCYF or the Court.

(b) In determining whether a decision of a caregiver is reasonable and prudent according to Section 2502 of this Title, the following should be considered:

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

- (2) The potential risk factors to the child or to others and the appropriateness of the activity and experience for extracurricular, cultural or social enrichment.
- (3) The wishes of the child.
- (4) The wishes of the parent.
- (5) The best interests of the child based on information known by the caregiver.
- (6) The importance of encouraging the child's emotional and developmental growth;
- (7) The importance of supporting the child in developing skills to successfully transition to adulthood, including guidance on healthy sexual development.
- (8) The importance of providing the child with the most family-like living experience possible.
- (9) Any special needs or accommodations that the child may need to safely participate in the activity or experience.

Approved August 03, 2016