A BILL TO BE ENTITLED
AN ACT TO ALIGN STATE LAW WITH FEDERAL LAW BY PROVIDING FOR THE
SUPPORT OF HEALTHY DEVELOPMENT OF YOUTH IN FOSTER CARE
THROUGH IMPLEMENTATION OF A REASONABLE AND PRUDENT PARENT
STANDARD FOR DECISIONS MADE BY A FOSTER PARENT OR A DESIGNATED
OFFICIAL FOR A CHILD CARE INSTITUTION AND REVISING TO THE JUVENILE
CODE UNDER THE LAWS PERTAINING TO ABUSE, NEGLECT, AND
DEPENDENCY REGARDING JUVENILE PLACEMENT; TO PROVIDE LIABILITY
INSURANCE FOR FOSTER PARENTS; TO REDUCE BARRIERS TO OBTAINING A
DRIVERS LICENSE FOR FOSTER CHILDREN BY PROVIDING THAT MINORS
AGED SIXTEEN AND OVER IN THE CUSTODY OF THE DEPARTMENT OF
HEALTH AND HUMAN SERVICES ARE COMPETENT TO CONTRACT FOR
AUTOMOBILE INSURANCE, BY SPECIFYING PERSONS OTHER THAN THE
FOSTER PARENT WHO MAY SIGN FOR A FOSTER CHILD TO OBTAIN A
LEARNER'S PERMIT OR PROVISIONAL DRIVERS LICENSE, AND BY
CLARIFYING THAT FOSTER PARENTS DO NOT VIOLATE FINANCIAL
RESPONSIBILITY REQUIREMENTS BY ALLOWING FOSTER CHILDREN WITH
THEIR OWN INSURANCE COVERAGE TO OPERATE A VEHICLE OWNED BY THE
FOSTER PARENT; AND TO REQUIRE THE DEPARTMENT OF HEALTH AND
HUMAN SERVICES TO STUDY A MEDICAID WAIVER FOR CHILDREN WITH
SERIOUS EMOTIONAL DISTURBANCE.

The General Assembly of North Carolina enacts:

PART I. SHORT TITLE
SECTION 1.1. This act shall be known and may be cited as the "Foster Care
Family Act."

PART II. REASONABLE AND PRUDENT PARENTING STANDARD IN FOSTER
CARE
SECTION 2.1. Part 1 of Article 1A of Chapter 131D of the General Statutes is
amended by adding a new section to read:
"§ 131D-10.2A. Reasonable and prudent parenting standard.
(a) The reasonable and prudent parenting standard is characterized by careful and
sensible parental decisions that maintain a child's health, safety, and best interests while
encouraging the child's emotional and developmental growth.
(b) Every child care institution shall designate an on-site official who is authorized to apply the reasonable and prudent parenting standard pursuant to this section.

(c) A caregiver, including the child's foster parent, whether the child is in a family foster home or a therapeutic foster home, or the designated official at a child care institution where the child is placed, or the Department of Health and Human Services must use the reasonable and prudent parenting standard when determining whether to allow a child in foster care to participate in extracurricular, enrichment, and social activities.

(d) A caregiver, including the child's foster parent, whether the child is in a family foster home or a therapeutic foster home, or the designated official at a child care institution where the child is placed, or the Department of Health and Human Services with custody of or placement authority over a child in foster care shall not be held liable for an act or omission of the child if the caregiver or county department of social services is acting in accordance with the reasonable and prudent parenting standard under this section.

(e) Unless otherwise ordered by a court with jurisdiction pursuant to G.S. 7B-200, a caregiver, including the child's foster parent, whether the child is in a family foster home or a therapeutic foster home, exercising the reasonable and prudent parenting standard has the authority to provide or withhold permission, without prior approval of the court or a county department of social services, allowing a child in foster care, in the custody of a county department of social services or under the placement authority of a county department of social services through a voluntary placement agreement, to participate in normal childhood activities. Normal childhood activities shall include, but are not limited to, extracurricular, enrichment, and social activities, and may include overnight activities outside the direct supervision of the caregiver for periods of over 24 hours and up to 72 hours.

(f) The caregiver, including the child's foster parent, whether the child is in a family foster home or a therapeutic foster home, or the designated official at a child care institution where the child is placed, or the Department of Health and Human Services, shall not be liable for injuries to the child that occur as a result of the reasonable and prudent parenting standard. The caregiver, including the child's foster parent, whether the child is in a family foster home or a therapeutic foster home, or the designated official at a child care institution where the child is placed, or the county department of social services or the Department of Health and Human Services, shall be liable for any action or inaction of gross negligence, willful and wanton conduct, or intentional wrongdoing that results in the injury to the child."

SECTION 2.2. G.S. 7B-505(b) reads as rewritten:

"(b) The court shall order the Department to make diligent efforts to notify relatives and any custodial parents of the juvenile's siblings that the juvenile is in nonsecure custody and of any hearings scheduled to occur pursuant to G.S. 7B-506, unless the court finds such notification would be contrary to the best interests of the juvenile. In placing a juvenile in nonsecure custody under this section, the court shall first consider whether a relative of the juvenile is willing and able to provide proper care and supervision of the juvenile in a safe home. If the court finds that the relative is willing and able to provide proper care and supervision in a safe home, then the court shall order placement of the juvenile with the relative unless the court finds that placement with the relative would be contrary to the best interests of the juvenile."

SECTION 2.3. G.S. 7B-800.1(a)(4) reads as rewritten:

"(a) Prior to the adjudicatory hearing, the court shall consider the following:

... (4) Whether relatives or parents with custody of a sibling of the juvenile have been identified and notified as potential resources for placement or support."
"§ 7B-901. Dispositional hearing.

The dispositional hearing shall take place immediately following the adjudicatory hearing and shall be concluded within 30 days of the conclusion of the adjudicatory hearing. The dispositional hearing may be informal and the court may consider written reports or other evidence concerning the needs of the juvenile. The juvenile and the juvenile's parent, guardian, or custodian shall have the right to present evidence, and they may advise the court concerning the disposition they believe to be in the best interests of the juvenile. The court may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, including testimony or evidence from any person who is not a party, that the court finds to be relevant, reliable, and necessary to determine the needs of the juvenile and the most appropriate disposition. The court may exclude the public from the hearing unless the juvenile moves that the hearing be open, which motion shall be granted.

At the dispositional hearing, the court shall inquire as to the identity and location of any missing parent and whether paternity is at issue. The court shall include findings of the efforts undertaken to locate the missing parent and to serve that parent and efforts undertaken to establish paternity when paternity is an issue. The order may provide for specific efforts in determining the identity and location of any missing parent and specific efforts in establishing paternity. The court shall also inquire about efforts made to identify and notify relatives, including parents with custody of a sibling of the juvenile, as potential resources for placement or support."

SECTION 2.5. Article 9 of Chapter 7B of the General Statutes is amended by adding the following new sections to read:

"§ 7B-903.1. Juvenile placed in custody of a county department of social services.

(a) To the extent authorized by federal law, a county department of social services with custody of a juvenile is authorized to make decisions about matters not addressed in this section that are generally made by a juvenile's custodian, including, but not limited to, educational decisions and consenting to the sharing of the juvenile's information. The county department of social services may delegate any part of this authority to the juvenile's parent, foster parent, or another individual.

(b) When a juvenile is in the custody or placement responsibility of a county department of social services, the placement provider may, in accordance with G.S. 131D-10.2A, provide or withhold permission, without prior approval of the court or county department of social services, allowing a juvenile to participate in normal childhood activities. If such authorization is not in the juvenile's best interest, the court shall set forth alternative parameters for approving normal childhood activities.

"§ 7B-912. Juveniles 14 years of age and older; Another Planned Permanent Living Arrangement.

(a) In addition to the permanency planning requirements under G.S. 7B-906.1, at every permanency planning hearing for a juvenile in the custody of a county department of social services who has attained the age of 14 years, the court shall inquire and make written findings regarding each of the following:

1. The services provided to assist the juvenile in making a transition to adulthood.

2. The steps the county department of social services is taking to ensure that the foster family or other licensed placement provider follows the reasonable and prudent parenting standard as provided in G.S. 131D-10.2A.

3. Whether the juvenile has regular opportunities to engage in age- or developmentally appropriate activities.

(b) At or before the last scheduled permanency planning hearing, but at least 90 days before a juvenile attains 18 years of age, the court shall (i) inquire as to whether the juvenile has a copy of the juvenile's birth certificate, Social Security card, health insurance information,
drivers license or other identification card, and any educational or medical records the juvenile
requests and (ii) determine the person or entity that should assist the juvenile in obtaining these
documents before the juvenile attains the age of 18 years.

c) If the court finds each of the following conditions applies, the court shall approve
Another Planned Permanent Living Arrangement (APPLA) as the juvenile's primary permanent
plan:

(1) The juvenile is 16 or 17 years old.
(2) The county department of social services has made diligent efforts to place
the juvenile permanently with a parent or relative or in a guardianship or
adoptive placement.
(3) Compelling reasons exist that it is not in the best interest of the juvenile to
be placed permanently with a parent or relative or in a guardianship or
adoptive placement.
(4) APPLA is the best permanency plan for the juvenile.
(d) If the court approves APPLA as the juvenile's permanent plan, the court shall, after
questioning the juvenile, make written findings addressing the juvenile’s desired permanency
outcome.”

PART III. LIABILITY INSURANCE FOR FOSTER PARENTS

SECTION 3.1. Article 36 of Chapter 58 of the General Statutes is amended by
adding a new section to read:

"§ 58-36-43. Development of policy form or endorsement for personal liability insurance
for foster parents.
(a) The Rate Bureau shall develop an optional policy form or endorsement to be filed
with the Commissioner for approval no later than May 1, 2016, that provides liability insurance
for foster parents licensed under Article 1A of Chapter 131D of the General Statutes to provide
foster care in a family foster home or therapeutic foster home. The policy form or endorsement
shall provide coverage for acts or omissions of the foster parent while the parent is acting in his
or her capacity as a foster parent in a licensed family foster home or therapeutic foster home
licensed under Article 1A of Chapter 131D of the General Statutes.
(b) Nothing in this section is intended to require that the liability insurance policy or
endorsement required by this section cover an act or omission that results from any action or
inaction of gross negligence, willful and wanton conduct, or intentional wrongdoing that results
in injury to the child.”

PART IV. REDUCE DRIVING BARRIERS FOR FOSTER CHILDREN

SECTION 4.1. Article 1 of Chapter 48A of the General Statutes is amended by
adding a new section to read:

A minor who is 16 years of age or older and who is in the legal custody of the Department
of Health and Human Services, Division of Social Services, shall be qualified and competent to
contract for the purchase of an automobile insurance policy with the consent of the court with
continuing jurisdiction over the minor's placement under G.S. 7B-1000(b). The minor shall be
responsible for paying the costs of the insurance premiums and shall be liable for damages
caused by the minor's negligent operation of a motor vehicle. No State or local government
agency, foster parent, or entity providing services to the minor under contract or at the direction
of a State or local government agency shall be responsible for paying any insurance premiums
or liable for damages of any kind as a result of the operation of a motor vehicle by the minor;"

SECTION 4.2. G.S. 20-11(i) reads as rewritten:

"(i) Application. — An application for a permit or license authorized by this section
must be signed by both the applicant and another person. That person must be:
The applicant's parent or guardian;
A person approved by the applicant's parent or guardian; or
A person approved by the Division.
With respect to minors in the legal custody of the Department of Health and Human Services, Division of Social Services, any of the following:

a. A guardian ad litem or attorney advocate appointed to advocate for the minor.
b. A case manager or other type of caseworker assigned to work with the minor.
c. If no person listed in sub-subdivision a. or b. of this subdivision is available, the court with continuing jurisdiction over the minor's placement under G.S. 7B-1000(b)."

SECTION 4.3. G.S. 20-309 is amended by adding a new subsection to read:

"(a2) The owner of a motor vehicle who is a foster parent providing foster care to a person between the ages of 16 and 21 shall not violate the requirements of this Article by allowing the motor vehicle to be operated by the person if the person is covered by a non-owner motor vehicle insurance policy issued by the North Carolina Reinsurance Facility as authorized by G.S. 58-37-35(g)(13). Nothing in this section is intended to prevent a foster parent from including a foster child on the parent's own motor vehicle insurance policy."

PART V. STUDY MEDICAID WAIVER FOR CHILDREN WITH SERIOUS EMOTIONAL DISTURBANCE (SED)

SECTION 5.1.(a) The Department of Health and Human Services, Division of Medical Assistance, shall design and draft, but not submit, a 1915(c) Medicaid waiver to serve children with Serious Emotional Disturbance (SED) in home and community-based settings. The Department may submit drafts of the waiver to the Centers for Medicare and Medicaid Services (CMS) to solicit feedback but shall not submit the waiver for CMS approval until authorized by the General Assembly.

SECTION 5.1.(b) The Department shall report the draft waiver, other findings, and any other options or recommendations to best serve children with SED to the Joint Legislative Oversight Committee on Health and Human Services by December 1, 2015. Specifically, the report shall provide an in-depth analysis of the cost per slot, including an analysis of the estimated number of waiver recipients who would be transitioned from a facility to a home and community-based setting and the estimated number of waiver recipients who would avoid placement in a facility.

PART VI. EFFECTIVE DATE

SECTION 6.1. Parts 2 and 4 of this act become effective October 1, 2015. The remainder of this act is effective when it becomes law.