

# HOUSE BILL No. 5023

September 27, 2017, Introduced by Rep. Kosowski and referred to the Committee on Families, Children, and Seniors.

A bill to amend 1994 PA 203, entitled  
"Foster care and adoption services act,"  
(MCL 722.951 to 722.960) by adding section 3a.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1        SEC. 3A. (1) EACH CHILD WHO COMES INTO CARE UNDER THIS ACT IS  
2        ENTITLED TO PARTICIPATE IN AGE-APPROPRIATE EXTRACURRICULAR,  
3        ENRICHMENT, AND SOCIAL ACTIVITIES. NO STATE OR LOCAL REGULATION OR  
4        POLICY MAY PREVENT, OR CREATE A BARRIER TO, PARTICIPATION IN THOSE  
5        ACTIVITIES. EACH STATE AND LOCAL ENTITY SHALL ENSURE THAT EACH  
6        CHILD PLACING AGENCY PROVIDING FOSTER CARE SERVICES TO A FOSTER  
7        CHILD HAS POLICIES CONSISTENT WITH THIS SECTION AND THAT THE CHILD  
8        PLACING AGENCY PROMOTES AND PROTECTS THE ABILITY OF A FOSTER CHILD  
9        TO PARTICIPATE IN AGE-APPROPRIATE EXTRACURRICULAR, ENRICHMENT, AND  
10       SOCIAL ACTIVITY.

11       (2) A CAREGIVER MUST USE A REASONABLE AND PRUDENT PARENT

1 STANDARD IN DETERMINING WHETHER TO GIVE PERMISSION FOR A CHILD IN  
2 FOSTER CARE TO PARTICIPATE IN EXTRACURRICULAR, ENRICHMENT, OR  
3 SOCIAL ACTIVITY. WHEN USING THE REASONABLE AND PRUDENT PARENT  
4 STANDARD, THE CAREGIVER SHALL CONSIDER ALL OF THE FOLLOWING:

5 (A) THE CHILD'S AGE, MATURITY, AND DEVELOPMENTAL LEVEL, IN  
6 ORDER TO MAINTAIN THE OVERALL HEALTH AND SAFETY OF THE CHILD.

7 (B) THE POTENTIAL RISK FACTORS AND THE APPROPRIATENESS OF THE  
8 EXTRACURRICULAR, ENRICHMENT, OR SOCIAL ACTIVITY.

9 (C) THE BEST INTEREST OF THE CHILD BASED ON INFORMATION KNOWN  
10 BY THE CAREGIVER.

11 (D) THE IMPORTANCE OF ENCOURAGING THE CHILD'S EMOTIONAL AND  
12 DEVELOPMENTAL GROWTH.

13 (E) THE IMPORTANCE OF PROVIDING THE CHILD WITH THE MOST  
14 FAMILY-LIKE LIVING EXPERIENCE POSSIBLE.

15 (F) THE BEHAVIORAL HISTORY OF THE CHILD AND THE CHILD'S  
16 ABILITY TO SAFELY PARTICIPATE IN THE PROPOSED ACTIVITY, AS WITH ANY  
17 OTHER CHILD.

18 (3) THE DEPARTMENT AND COMMUNITY-BASED CARE LEAD AGENCIES ARE  
19 REQUIRED TO VERIFY THAT A CHILD PLACING AGENCY PROVIDING FOSTER  
20 CARE SERVICES TO A FOSTER CHILD HAS POLICIES CONSISTENT WITH THIS  
21 SECTION AND THAT THE CHILD PLACING AGENCY PROMOTES AND PROTECTS THE  
22 ABILITY OF A FOSTER CHILD TO PARTICIPATE IN AGE-APPROPRIATE  
23 EXTRACURRICULAR, ENRICHMENT, AND SOCIAL ACTIVITY.

24 (4) A CAREGIVER IS NOT LIABLE FOR HARM CAUSED TO A CHILD IN  
25 CARE WHO PARTICIPATES IN AN ACTIVITY APPROVED BY THE CAREGIVER,  
26 PROVIDED THAT THE CAREGIVER HAS ACTED AS A REASONABLE AND PRUDENT  
27 PARENT. THIS SECTION DOES NOT REMOVE OR LIMIT ANY EXISTING

1 LIABILITY PROTECTION AFFORDED BY ANY OTHER APPLICABLE STATUTE.

2 (5) AS USED IN THIS SECTION:

3 (A) "AGE-APPROPRIATE" MEANS AN ACTIVITY OR ITEM THAT IS  
4 GENERALLY ACCEPTED AS SUITABLE FOR A CHILD OF THE SAME  
5 CHRONOLOGICAL AGE OR LEVEL OF MATURITY. AGE APPROPRIATENESS IS  
6 BASED ON THE DEVELOPMENT OF COGNITIVE, EMOTIONAL, PHYSICAL, AND  
7 BEHAVIORAL CAPACITY THAT IS TYPICAL FOR AN AGE OR AGE GROUP.

8 (B) "CAREGIVER" MEANS A PERSON WITH WHOM THE CHILD IS PLACED  
9 IN FOSTER CARE. CAREGIVER INCLUDES A FOSTER PARENT OR A RELATIVE  
10 CAREGIVER.

11 (C) "REASONABLE AND PRUDENT PARENT STANDARD" MEANS THE  
12 STANDARD CHARACTERIZED BY CAREFUL AND SENSIBLE PARENTAL DECISIONS  
13 THAT MAINTAIN THE CHILD'S HEALTH, SAFETY, AND BEST INTERESTS WHILE  
14 AT THE SAME TIME ENCOURAGING THE CHILD'S EMOTIONAL AND  
15 DEVELOPMENTAL GROWTH, THAT A CAREGIVER MUST USE WHEN DETERMINING  
16 WHETHER TO ALLOW A CHILD IN FOSTER CARE TO PARTICIPATE IN  
17 EXTRACURRICULAR, ENRICHMENT, OR SOCIAL ACTIVITY.

18 Enacting section 1. This amendatory act takes effect 90 days  
19 after the date it is enacted into law.