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## Early Learning & Human Services Committee

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### ESSB 6479

**Brief Description:** Providing caregivers authority to allow children placed in their care to participate in normal childhood activities based on a reasonable and prudent parent standard.

**Sponsors:** Senate Committee on Human Services & Corrections (originally sponsored by Senators Frockt, Fain, Darneille, Kohl-Welles, Rivers and Kline).

#### Brief Summary of Engrossed Substitute Bill

- Provides caregivers with the authority to provide permission without prior approval of the Department of Social and Health Services or court to allow a child who is 12 years old or older in their care to participate in normal childhood activities based on a certain standard.
- Specifies that the standard caregivers must use in determining whether to allow children in their care to participate in normal childhood activities is a reasonable and prudent parent standard characterized by careful and thoughtful parental decision-making intended to maintain a child's health, safety, and best interest.

**Hearing Date:** 2/20/14

**Staff:** Luke Wickham (786-7146).

#### **Background:**

Children in out-of-home care could be in various living arrangements ranging from foster care, relative care, kinship care, and guardianships. Children placed in foster care are in the legal custody of the Department of Social and Health Services (DSHS). Most guardianships allow a guardian to make decisions regarding social and extracurricular activities and allow a guardian to sign as a parent.

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The DSHS established guidelines for foster child activities that foster parents are to use in determining whether to allow children in their care to participate in daily and overnight activities. For example, an out-of-state vacation requires prior DSHS approval and either parental approval or notification depending on the legal situation. These guidelines also provide direction regarding who can watch foster children when foster parents are away from home. In general, foster children must be cared for in their own foster home by a person over the age of 18 with an acceptable criminal history check or in the home of another childcare or foster care provider. Certain activities, like participation in sports, motorized activities, field trips, driving, and employment require either DSHS or parental notification or approval.

The Secretary of DSHS is required to conduct background checks for those who will or may have unsupervised access to children.

### **Summary of Bill:**

Caregivers have the authority to provide or withhold permission without prior approval of the caseworker, the DSHS, or court to allow a child who is 12 years or older in their care to participate in normal childhood activities based on a reasonable and prudent parent standard. This permission must comply with provisions included in an existing safety plan established by the DSHS or court order and not be in conflict with specific direction provided by the DSHS. Background checks are not required for individuals who will have unsupervised access to children based on the reasonable and prudent parent standard.

Normal childhood activities include extracurricular, enrichment, and social activities, and may include overnight activities outside the direct supervision of the caregiver for periods over 24 hours and up to 72 hours.

The reasonable and prudent parent standard is the standard of care used by a caregiver in determining whether to allow a child in his or her care to participate in normal childhood activities. This standard is characterized by careful and thoughtful parental decision-making that is intended to maintain a child's health, safety, and best interest while encouraging the child's emotional and developmental growth.

Caseworkers must discuss the child's interest in and pursuit of normal childhood activities in their monthly health and safety visits and describe these in the Individual Service and Safety Plan. The interest of parents in the normal childhood activities of their children must be discussed during family team decision meetings and meetings between caseworkers and parents. Caseworkers must communicate the expressed wishes of parents regarding the participation of their children in normal childhood activities to foster parents so that those wishes may be appropriately respected.

Neither the caregiver nor the DSHS may be held liable for injuries to the child that occur as a result of caregivers deciding to allow a child to participate in normal childhood activities unless the action or inaction of the caregiver or the DSHS resulting in injury constitutes willful or wanton misconduct.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.