§ 383-a. Immunity from liability for application of the reasonable and prudent parent standard. 1. Legislative intent. It is the intent of the legislature to promote a safe and nurturing environment for children in foster care that, among other things, allows them to engage in age and developmentally appropriate activities with their peers. It is also the intent of the legislature to encourage caregivers to allow foster children to participate in such activities by providing training, guidance, and appropriate liability protections when caregivers make reasonable and prudent decisions with regard to such activities. It is not the intent of the legislature to relieve caregivers or any other person of any duty or responsibility owed to a foster child.

2. Definitions. As used in this section, the following terms shall have the following meanings:

(a) "Caregiver" shall mean the following person or entity at the time that such person or entity was responsible for the care of the foster child or children:

(i) a foster parent who has been trained in the reasonable and prudent parent standard in accordance with 42 U.S.C. 671 as amended by P.L. 113-183 and the regulations of the office of children and family services; or

(ii) the employee of a child care facility operated by an authorized agency that is designated to apply the reasonable and prudent parent standard who has been trained in the reasonable and prudent parent standard in accordance with 42 U.S.C. 671 as amended by P.L. 113-183 and the regulations of the office of children and family services.

(b) "Child" shall mean a child who is in foster care or who was in foster care at the time the reasonable and prudent parent standard was applied.

(c) "Child care facility" shall mean an institution, group residence, group home, agency operated boarding home, or supervised setting, including a supervised independent living program.

(d) "Reasonable and prudent parent standard" shall mean, in accordance with 42 U.S.C. 675 as amended by P.L. 113-183, 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 in foster care to participate in extracurricular, enrichment, cultural or social activities.

(e) "Age or developmentally-appropriate" shall mean:

(i) activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally-appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and

(ii) in the case of a specific child, activities or items that are suitable for the child based on the developmental stage attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child.

3. Caregivers shall apply the reasonable and prudent parent standard when deciding whether or not to allow a child in foster care to participate in age or developmentally appropriate extracurricular, enrichment, cultural, or social activities. Where such decisions require the input or permission of a local department of social services or a voluntary authorized agency, such department or agency shall also apply the reasonable and prudent parent standard in making a decision about participation in such activities.

4. Whether or not a caregiver is liable for injuries to the child that occur as a result of participation in age or developmentally appropriate extracurricular, enrichment, cultural, or social activities shall be determined based upon whether such decision to allow participation was made in compliance with the standard defined in paragraph (d) of subdivision two of this section and any other factors as required by law. Where such child is injured as a result of the decision to allow participation in such activities, a caregiver shall not be liable for such injuries if the decision to allow such participation was made in compliance with the reasonable and prudent parent standard as set forth herein. Provided however nothing in this section shall otherwise limit the ability of a child to bring an action against a caregiver or any other party whose acts or omissions result in injury to such child. Where a local department of social services or voluntary authorized

agency has made or been involved in the decisions under subdivision three of this section, the liability standards for caregivers shall apply to such district or agency.