



Reasonable and Prudent Parent Standards: What is Required of Maryland?

In September 2014, Congress passed *The Preventing Sex Trafficking and Strengthening Families Act* (commonly referred to as “The Strengthening Families Act”). The law takes important steps to protect and prevent children and youth in foster care from becoming victims of sex trafficking and makes many important improvements to the child welfare system to help improve outcomes for children and youth in foster care. The majority of the bill’s provisions were developed by Congress to address concerns expressed through direct testimony by former and current foster youth during Congressional hearings.

Among other issues, these testimonies highlighted policies and practices of the child welfare system that unnecessarily create barriers for youth to have normal adolescent experiences similar to their peers. For example, many current and former foster youth often cite rules that make it hard for them to participate in sports, stay over at a friend’s house, get a driver’s license, or hold down a part-time job. While these policies and practices are often intended to ensure the youth’s safety, such policies can also further isolate foster youth when they are seeking to integrate into a new family, school, and community.

As a result, a portion of provisions in the Strengthening Families Act focus on promoting “normalcy” among children and youth in foster care – that is, promoting opportunities for youth to engage in age- and developmentally-appropriate activities that their peers may take for granted, and encouraging youth to take a more active role in their case planning.

Although the provisions in the Strengthening Families Act represent significant progress for the field, they will mean little to children and youth unless they are effectively implemented at the state and local levels – across child welfare agencies, in everyday practice, and in the courts.

Reasonable and Prudent Parent Standard

The Strengthening Families Act established a “reasonable and prudent parent standard,” which allows caregivers to give their foster children permission to do daily, age appropriate activities that promote cognitive, emotional, physical and behavioral growth. In addition to providing more “normalcy” for these youth, this standard, in accordance with the federal John H. Chafee Foster Care Independence Program, will help foster youth make the transition to adulthood by providing necessary life skills and developmental growth.

The “reasonable and prudent parent standard” is based on consideration of the child’s age, maturity, mental and physical health, developmental level, behavioral propensities and aptitude,



and provides for a child's caregiver to make decisions about participation in age-appropriate extracurricular, enrichment, and social activities for a child in their care so as to promote the most family-like environment for the child. The Strengthening Families Act defines the standard as follows:

The term 'reasonable and prudent parent standard' means 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 under the responsibility of the State to participate in extracurricular, enrichment, cultural and social activities."

Specific provisions of the law include:

- Allowing caregivers/foster parents to make decisions regarding whether the child may engage in social, extracurricular, enrichment, cultural, and social activities, including sports, field trips, and overnight activities lasting one or more days.
- Allowing caregivers/foster parents the authority to sign permission slips and arrange for transportation for the child to and from extracurricular, enrichment, and social activities.
- Requiring child welfare agencies to provide training to foster parents and caregivers regarding "knowledge and skills relating to the reasonable and prudent parent standard."
- Requiring caregivers to observe and follow court orders and judgments, which may impact those decisions. For example, a child cannot go on a weekend trip if it violates a scheduled visitation time, unless otherwise approved.
- Requiring the state to establish a document that describes the rights of the child with respect to education, health, visitation, and court participation for children in foster care who are 14 years or older.

Importantly, this provision applies to all placement settings, including all foster parents (including those who are currently caring for children in foster care), licensed kinship foster homes, and congregate care placements.

Prudent Parent Standards in Maryland

With the passage of the Strengthening Families Act, Maryland is required to establish or enable prudent parent standards for agencies providing child welfare services by September 29, 2015. Maryland Department of Human Resources (DHR) established in 2012 a Social Services Administration Directive #12-10 that addresses overnights with friends, but more training and education on this requirement is needed. Judges can play a critical role by asking key questions to caseworkers and youth in foster care from the bench to ensure the standard is being met.

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Day and overnight visits with friends: Resource provider is directed to “use appropriate discretion and judgment” when allowing a child in their placement to spend extended visits with friends. It requires the provider to meet the supervising adult and observing the home for safety, having the contact information for the supervising adult; and informing the caseworker. See SSA Directive 12-10 at p. 2. In addition to ensuring the directive is effectively implemented, the state must also:

1. Establish a Foster Youth Bill of Rights
2. Draft “Normalcy” policies which align with the federal standards
3. Encourage and support providers in facilitating increased participation in extracurricular activities for youth in out-of-home placement

Recommendations

Advocates for Children and Youth recommends that the following provisions be considered for inclusion in Maryland's Prudent Parent Policy to ensure normalcy for children and youth in foster care, while still keeping the health, safety, and best interests of the youth as the primary priority:

- Provide a definition of “reasonable and prudent parent,” utilizing the guidelines set forth by the federal law.
- Require all new and existing foster parents, as well as caseworkers and relevant staff, to be provided with training, guidance and other assistance on Maryland's prudent parent standards.
- Require that the prudent parent standard be applied to decisions by foster parents related to:
 - Hiring a babysitter to care for a foster child for limited periods of time
 - Overnight stays with friends (sleepovers) or family
 - Participation in sports and social activities, including related travel
 - Out-of-state travel (with foster parents, friends and for school/social activities)
- Require that decisions cannot trump existing court orders and/or rulings related to visitation, therapy, or other related court schedules unless otherwise approved by the child welfare agency and/or the court.
- Ensure that foster parents are provided with the information and background on the child/youth necessary to make reasonable and prudent decisions.
- When possible and as practical for the best interests of the child, and particularly for cases where reunification is the goal, foster parents and the child welfare agencies should consult with the biological parents and/or family to take into consideration religious/cultural beliefs which may impact or influence the decisions made by foster parents.
- Decisions made under this law/regulation should be included in the discussion during Family Team Decision Making / Family Involvement meetings.

- Provide that a caregiver/foster parent is not liable for harm to the child as a result of the event and/or activity approved by the caregiver/foster parent, as long as the caregiver/foster parent has acted in accordance with the reasonable and prudent parent standard.

Advocates for Children and Youth applaud the work of Congress to ensure foster children can have the same quality childhood all children want and need. We look forward to working with you to make it a reality for children throughout the state.

Advocates for Children and Youth is a statewide non-profit focused on improving the lives and experiences of Maryland's children through policy change and program improvement. We champion solutions to child welfare, education, health, and juvenile justice issues, positioning us to influence the full spectrum of youth experiences. This multi-issue platform helps us to improve the entirety of children's worlds—the systems they touch, the people they interact with, and the environment where they live.

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