

ORIGINAL HOUSE
BILL NO. HB0118

ENROLLED ACT NO. 41, HOUSE OF REPRESENTATIVES

SIXTY-THIRD LEGISLATURE OF THE STATE OF WYOMING
2016 BUDGET SESSION

AN ACT relating to children; specifying the reasonable and prudent parent standard and related provisions as required by federal law amendments relating to foster care and permanency; adding additional requirements to permanency hearings and reviews as required by federal law amendments relating to foster care and permanency; providing definitions; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 14-13-101 through 14-13-104 are created to read:

CHAPTER 13
REASONABLE AND PRUDENT PARENT STANDARD

14-13-101. Definitions.

(a) As used in this chapter:

(i) "Age appropriate or developmentally appropriate activities and experiences" means activities and experiences that are:

(A) 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; or

(B) In the case of a specific child, suitable for that child based on the developmental stages

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attained by the child with respect to the cognitive, emotional, physical and behavioral capacities of the child.

(ii) "Caregiver" means a foster parent, a designated official for a child caring facility certified pursuant to W.S. 14-4-101 through 14-4-117 or any other person with whom the child is placed by court order in an out-of-home placement or any other placement pursuant to chapter 3, article 4 of this title and chapter 6, articles 2 and 4 of this title;

(iii) "Department" means the Wyoming department of family services;

(iv) "Foster care" means twenty-four (24) hour substitute care for children placed away from their parents or guardians and for whom the department has placement and care responsibilities, including but not limited to placements in:

- (A) Foster family homes;
- (B) Foster homes of relatives;
- (C) Group homes;
- (D) Emergency shelters;
- (E) Residential facilities;
- (F) Pre-adoptive homes;
- (G) Child care institutions.

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(v) "Out-of-home placement" means a placement of a child physically out of his home pursuant to W.S. 14-3-201 through 14-3-216, the Child Protection Act, W.S. 14-3-401 through 14-3-441, 14-6-102, the Juvenile Justice Act, W.S. 14-6-201 through 14-6-252, or the Children in Need of Supervision Act, W.S. 14-6-401 through 14-6-440;

(vi) "Reasonable and prudent parent standard" means careful and sensible parental decisions that maintain the health, safety, well-being and best interests of a child while encouraging the emotional and developmental growth of the child;

(vii) "Residual parental rights and duties" means those rights and duties remaining with the parents after legal custody, guardianship of the person or both have been vested in another person, agency or institution. Residual parental rights and duties include but are not limited to:

(A) The duty to support and provide necessities of life;

(B) The right to consent to adoption;

(C) The right to reasonable visitation unless restricted or prohibited by court order;

(D) The right to determine the minor's religious affiliation; and

(E) The right to petition on behalf of the minor.

14-13-102. Access and standards.

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(a) Subject to subsections (b) and (d) of this section, a child in an out-of-home placement is entitled to engage in, to the greatest extent possible, age appropriate or developmentally appropriate activities and experiences as he would otherwise be able to experience in his own home. A child with a disability or special needs in an out-of-home placement shall have the same access to age appropriate or developmentally appropriate activities and experiences as the child's nondisabled peers, even if reasonable accommodations are required.

(b) Subject to subsection (d) of this section and if not in conflict with any residual parental rights and duties, applicable court order or department case plan, a caregiver shall use the reasonable and prudent parent standard when determining whether to allow a child in foster care under the responsibility of the department or in an out-of-home placement to participate in extracurricular, enrichment, cultural or social activities.

(c) Under the reasonable and prudent parent standard, a caregiver shall give consideration to the following when deciding whether to allow a child to participate in an activity or experience:

(i) A parent or custodian's wishes, when appropriate;

(ii) The child's age, maturity and development level to ensure the child's overall health and safety;

(iii) The potential risk factors and appropriateness of the activity or experience;

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(iv) The best interest of the child based on information known by the caregiver;

(v) The child's wishes;

(vi) The importance of encouraging the child's emotional and developmental growth;

(vii) The importance of supporting the child in developing skills to successfully transition to adulthood;

(viii) The importance of providing the child with the most family like living experience possible; and

(ix) Any special needs or accommodations that the child may need to safely participate in the activity or experience.

(d) A caregiver may provide or withhold permission for children in his care to participate in and experience age appropriate or developmentally appropriate activities and experiences. A caregiver's ability to grant or withhold permission:

(i) Shall not override or conflict with a parent's residual parental rights and duties to make decisions regarding his child's participation in activities and experiences or with rights as determined by court order;

(ii) Shall be exercised using the reasonable prudent parent standard;

(iii) Shall not conflict with any applicable court order or department case plan;

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(iv) May be exercised without the prior approval of the department if exercising caregiver authority is consistent with the department case plan.

14-13-103. Limitation of liability.

(a) A caregiver shall not be liable for harm caused to a child as the result of his participation in an activity or experience approved by the caregiver if the caregiver complies with the requirements of W.S. 14-13-102(d).

(b) In addition to the liability protection provided under subsection (a) of this section, this section shall not remove or limit any other applicable liability protection conferred upon caregivers by any other law.

14-13-104. Obligations of the department of family services.

(a) As a condition of certification for foster care, the department shall require the implementation of standards and training meant to assure compliance with the reasonable and prudent parent standard. To meet this requirement, the department shall provide information and education concerning:

(i) The developmental stages of the child's cognitive, emotional, physical and behavioral capacities;

(ii) Whether to allow a child to engage in extracurricular, enrichment, cultural or social activities including sports, field trips and overnight activities lasting one (1) day or longer; and

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(iii) The signing of permission slips and arranging transportation for the child to and from extracurricular, enrichment, cultural and social activities.

(b) At certification and recertification reviews, the department shall verify that caregivers providing out-of-home placement promote and protect the ability of a child to participate in age appropriate or developmentally appropriate activities and experiences.

(c) The department shall develop standards and a process by which individuals employed by facilities providing out-of-home placements are designated to make decisions for children under the reasonable and prudent parent standard.

Section 2. W.S. 14-3-402(a) by creating a new paragraph (xxiv) and by renumbering (xxiv) as (xxv), 14-3-431(j) and (k), 14-6-201(a) by creating a new paragraph (xxvi) and by renumbering (xxvi) as (xxvii), 14-6-229(e)(ii)(B), 14-6-402(a) by creating a new paragraph (xxiii) and 14-6-429(c)(i)(B) are amended to read:

14-3-402. Definitions.

(a) As used in this act:

(xxiv) "Another planned permanent living arrangement" means a permanency plan for youth sixteen (16) years of age or older other than reunification, adoption, legal guardianship or placement with a fit and willing relative;

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~~(xxiv)~~ (xxv) "This act" means W.S. 14-3-401 through 14-3-440.

14-3-431. Duration of orders of disposition; termination of orders; permanency hearings; petition for termination of parental rights.

(j) At the permanency hearing, the department of family services shall present to the court:

(i) Efforts made to:

(A) Effectuate the permanency plan for the child, address the options for the child's permanent placement, examine the reasons for excluding other permanency options and set forth the proposed plan to carry out the placement decision, including specific times for achieving the permanency plan; ~~The department of family services shall provide the court and~~

(B) Ensure the child be provided, to the greatest extent possible, the opportunity to participate in age appropriate or developmentally appropriate activities and experiences as defined in W.S. 14-13-101(a)(i) to promote healthy child and adolescent development consistent with W.S. 14-13-101 through 14-13-104.

(ii) If the permanency plan is classified as another planned permanent living arrangement:

(A) A compelling reason for establishing a permanency plan other than reunification, adoption or legal guardianship. another planned permanent living arrangement; and

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(B) Documentation of the ongoing and unsuccessful efforts to return the child home, place the child for adoption or with a legal guardian or a fit and willing relative for purposes of guardianship or adoption, including evidence of efforts to use social media or other search technology to find biological family members for the child.

(k) At the permanency hearing, the court shall:

(i) Determine whether the permanency plan is in the best interest of the child and whether the department of family services has made reasonable efforts to finalize the plan;~~The court shall~~

(ii) Order the department of family services to take any additional steps necessary to effectuate the terms of the permanency plan;~~=~~

(iii) Ask the child about his desired permanency outcome if it is determined that the child should be present at the hearing;

(iv) Ask the child's guardian ad litem or other legal representative about the child's desired permanency outcome if it is determined inappropriate for the child to be present at the hearing;

(v) If the permanency plan is classified as another planned permanent living arrangement:

(A) Make a judicial determination and explain why, as of the date of the hearing, another planned permanent living arrangement is the best permanency plan for the child; and

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(B) Provide reasons why it continues not to be in the best interest of the child to return home or be placed for adoption or with a legal guardian or a fit and willing relative for purposes of guardianship or adoption.

(vi) Require that the child be provided, to the greatest extent possible, the opportunity to participate in age appropriate or developmentally appropriate activities and experiences as defined in W.S. 14-13-101(a)(i) to promote healthy child and adolescent development consistent with W.S. 14-13-101 through 14-13-104.

14-6-201. Definitions; short title; statement of purpose and interpretation.

(a) As used in this act:

(xxvi) "Another planned permanent living arrangement" means a permanency plan for youth sixteen (16) years of age or older other than reunification, adoption, legal guardianship or placement with a fit and willing relative;

~~(xxvi)~~ (xxvii) "This act" means W.S. 14-6-201 through 14-6-252.

14-6-229. Decree where child adjudged delinquent; dispositions; terms and conditions; legal custody.

(e) In cases where a child is ordered removed from the child's home:

(ii) If a child is committed or transferred to an agency or institution under this section:

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(B) Not less than once every six (6) months, the court of jurisdiction shall conduct a formal review to assess and determine the appropriateness of the current placement, the reasonable efforts made to reunify the family, the safety of the child and the permanency plan for the child. During this review:

(I) The department of family services shall present to the court:

(1) If the permanency plan is classified as another planned permanent living arrangement, documentation of the ongoing and unsuccessful efforts to return the child home or place the child for adoption or with a legal guardian or a fit and willing relative for purposes of guardianship or adoption, including evidence of efforts to use social media or other search technology to find biological family members for the child; and

(2) Efforts made to ensure that the child is provided, to the greatest extent possible, the opportunity to participate in age appropriate or developmentally appropriate activities and experiences as defined in W.S. 14-13-101(a)(i) to promote healthy child and adolescent development consistent with W.S. 14-13-101 through 14-13-104.

(II) The court shall:

(1) Determine whether the permanency plan is in the best interest of the child and whether the department of family services has made reasonable efforts to finalize the plan;

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(2) Order the department of family services to take any additional steps necessary to effectuate the terms of the permanency plan;

(3) Ask the child or, if the child is not present at the review, the child's guardian ad litem or other legal representative about the child's desired permanency outcome;

(4) If the permanency plan is classified as another planned permanent living arrangement:

a. Make a judicial determination and explain why, as of the date of the review, another planned permanent living arrangement is the best permanency plan for the child; and

b. Provide reasons why it continues not to be in the best interest of the child to return home or be placed for adoption or with a legal guardian, or be placed with a fit and willing relative for purposes of guardianship or adoption.

(5) Make findings whether the child has been provided, to the greatest extent possible, the opportunity to participate in age appropriate or developmentally appropriate activities and experiences as defined in W.S. 14-13-101(a)(i) to promote healthy child and adolescent development consistent with W.S. 14-13-101 through 14-13-104.

14-6-402. Definitions.

(a) As used in this act:

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(xxiii) "Another planned permanent living arrangement" means a permanency plan for youth sixteen (16) years of age or older other than reunification, adoption, legal guardianship or placement with a fit and willing relative.

14-6-429. Decree where child adjudged in need of supervision; dispositions; terms and conditions; legal custody.

(c) In cases where a child is ordered removed from the child's home:

(i) If a child is committed or transferred to an agency or institution under this section:

(B) Not less than once every six (6) months, the court of jurisdiction shall conduct a formal review to assess and determine the appropriateness of the current placement, the reasonable efforts made to reunify the family, the safety of the child and the permanency plan for the child. During this review:

(I) The department of family services shall present to the court:

(1) If the permanency plan is classified as another planned permanent living arrangement, documentation of the ongoing and unsuccessful efforts to return the child home or place the child for adoption or with a legal guardian or a fit and willing relative for purposes of guardianship or adoption, including evidence of efforts to use social media or other search technology to find biological family members for the child; and

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(2) Efforts made to ensure that the child is provided, to the greatest extent possible, the opportunity to participate in age appropriate or developmentally appropriate activities and experiences as defined in W.S. 14-13-101(a)(i) to promote healthy child and adolescent development consistent with W.S. 14-13-101 through 14-13-104.

(II) The court shall:

(1) Determine whether the permanency plan is in the best interest of the child and whether the department of family services has made reasonable efforts to finalize the plan;

(2) Order the department of family services to take any additional steps necessary to effectuate the terms of the permanency plan;

(3) Ask the child or, if the child is not present at the review, the child's guardian ad litem or other legal representative about the child's desired permanency outcome;

(4) If the permanency plan is classified as another planned permanent living arrangement:

a. Make a judicial determination and explain why, as of the date of the review, another planned permanent living arrangement is the best permanency plan for the child; and

b. Provide reasons why it continues not to be in the best interest of the child to return home or be placed for adoption or with a legal

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guardian, or be placed with a fit and willing relative for purposes of guardianship or adoption.

(5) Make findings whether the child has been provided, to the greatest extent possible, the opportunity to participate in age appropriate or developmentally appropriate activities and experiences as defined in W.S. 14-13-101(a)(i) to promote healthy child and adolescent development consistent with W.S. 14-13-101 through 14-13-104.

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Section 3. This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk