

HOUSE BILL NO. HB0118

Foster care and permanency-additional requirements.

Sponsored by: Representative(s) Throne and Senator(s) Craft

A BILL

for

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

8

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

10

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

13

14

CHAPTER 13

15

REASONABLE AND PRUDENT PARENT STANDARD

16

1 **14-13-101. Definitions.**

2

3 (a) As used in this chapter:

4

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

8

9 (A) Generally accepted as suitable for
10 children of the same chronological age or level of maturity
11 or that are determined to be developmentally appropriate
12 for a child based on the development of cognitive,
13 emotional, physical and behavioral capacities that are
14 typical for an age or age group; or

15

16 (B) In the case of a specific child,
17 suitable for that child based on the developmental stages
18 attained by the child with respect to the cognitive,
19 emotional, physical and behavioral capacities of the child.

20

21 (ii) "Caregiver" means a foster parent, a
22 designated official for a child caring facility certified
23 pursuant to W.S. 14-4-101 through 14-4-117 or any other

1 person with whom the child is placed by court order in an
2 out-of-home placement or any other placement pursuant to
3 chapter 3, article 4 of this title and chapter 6, articles
4 2 and 4 of this title;

5

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

8

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

14

15 (A) Foster family homes;

16

17 (B) Foster homes of relatives;

18

19 (C) Group homes;

20

21 (D) Emergency shelters;

22

23 (E) Residential facilities;

1

2

(F) Pre-adoptive homes;

3

4

(G) Child care institutions.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

(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, 14-6-102 or the Juvenile Justice Act, W.S. 14-6-201 through 14-6-252;

(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:

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

3
4 (B) The right to consent to adoption;

5
6 (C) The right to reasonable visitation
7 unless restricted or prohibited by court order;

8
9 (D) The right to determine the minor's
10 religious affiliation; and

11
12 (E) The right to petition on behalf of the
13 minor.

14
15 **14-13-102. Access and standards.**

16
17 (a) Subject to subsections (b) and (d) of this
18 section, a child in an out-of-home placement is entitled to
19 engage in, to the greatest extent possible, age appropriate
20 or developmentally appropriate activities and experiences
21 as he would otherwise be able to experience in his own
22 home. A child with a disability or special needs in an
23 out-of-home placement shall have the same access to age

1 appropriate or developmentally appropriate activities and
2 experiences as the child's nondisabled peers, even if
3 reasonable accommodations are required.

4

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

13

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

18

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

21

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

1

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

4

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

7

8 (v) The child's wishes;

9

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

12

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

15

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

18

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

22

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

6

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

12

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

15

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

18

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

22

23 **14-13-103. Limitation of liability.**

1

2 (a) A caregiver shall not be liable for harm caused
3 to a child as the result of his participation in an
4 activity or experience approved by the caregiver if the
5 caregiver complies with the requirements of W.S.
6 14-13-102(d).

7

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

12

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

15

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

22

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

3
4 (ii) Whether to allow a child to engage in
5 extracurricular, enrichment, cultural or social activities
6 including sports, field trips and overnight activities
7 lasting one (1) day or longer; and

8
9 (iii) The signing of permission slips and
10 arranging transportation for the child to and from
11 extracurricular, enrichment, cultural and social
12 activities.

13
14 (b) At certification and recertification reviews, the
15 department shall verify that caregivers providing
16 out-of-home placement promote and protect the ability of a
17 child to participate in age appropriate or developmentally
18 appropriate activities and experiences.

19
20 (c) The department shall develop standards and a
21 process by which individuals employed by facilities
22 providing out-of-home placements are designated to make

1 decisions for children under the reasonable and prudent
2 parent standard.

3

4 **Section 2.** W.S. 14-3-402(a) by creating a new
5 paragraph (xxiv) and by renumbering (xxiv) as (xxv),
6 14-3-431(j) and (k), 14-6-201(a) by creating a new
7 paragraph (xxvi) and by renumbering (xxvi) as (xxvii),
8 14-6-229(e)(ii)(B), 14-6-402(a) by creating a new paragraph
9 (xxiii) and 14-6-429(c)(i)(B) are amended to read:

10

11 **14-3-402. Definitions.**

12

13 (a) As used in this act:

14

15 (xxiv) "Another planned permanent living
16 arrangement" means a permanency plan other than
17 reunification, adoption, legal guardianship or placement
18 with a fit and willing relative;

19

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

22

1 **14-3-431. Duration of orders of disposition;**
2 **termination of orders; permanency hearings; petition for**
3 **termination of parental rights.**

4
5 (j) At the permanency hearing, the department of
6 family services shall present to the court:

7
8 (i) Efforts made to:

9
10 (A) Effectuate the permanency plan for the
11 child, address the options for the child's permanent
12 placement, examine the reasons for excluding other
13 permanency options and set forth the proposed plan to carry
14 out the placement decision, including specific times for
15 achieving the permanency plan;~~. The department of family~~
16 ~~services shall provide the court~~ and

17
18 (B) Ensure the child be provided, to the
19 greatest extent possible, the opportunity to participate in
20 age appropriate or developmentally appropriate activities
21 and experiences as defined in W.S. 14-13-101(a)(i) to
22 promote healthy child and adolescent development consistent
23 with W.S. 14-13-101 through 14-13-104.

1

2

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

4

5

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

8

and

9

10

(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, including evidence of efforts to use social media or other search technology to find biological family members for the child.

16

17

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

18

19

(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~~

23

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

4
5 (iii) Ask the child about his desired permanency
6 outcome if it is determined that the child should be
7 present at the hearing;

8
9 (iv) Ask the child's guardian ad litem or other
10 legal representative about the child's desired permanency
11 outcome if it is determined inappropriate for the child to
12 be present at the hearing;

13
14 (v) If the permanency plan is classified as
15 another planned permanent living arrangement:

16
17 (A) Make a judicial determination and
18 explain why, as of the date of the hearing, another planned
19 permanent living arrangement is the best permanency plan
20 for the child; and

21
22 (B) Provide reasons why it continues not to
23 be in the best interest of the child to return home or be

1 placed for adoption or with a legal guardian or a fit and
2 willing relative.

3
4 (vi) Require that the child be provided, to the
5 greatest extent possible, the opportunity to participate in
6 age appropriate or developmentally appropriate activities
7 and experiences as defined in W.S. 14-13-101(a)(i) to
8 promote healthy child and adolescent development consistent
9 with W.S. 14-13-101 through 14-13-104.

10
11 **14-6-201. Definitions; short title; statement of**
12 **purpose and interpretation.**

13
14 (a) As used in this act:

15
16 (xxvi) "Another planned permanent living
17 arrangement" means a permanency plan other than
18 reunification, adoption, legal guardianship or placement
19 with a fit and willing relative;

20
21 ~~(xxvi)~~ (xxvii) "This act" means W.S. 14-6-201
22 through 14-6-252.

23

1

2 **14-6-229. Decree where child adjudged delinquent;**
3 **dispositions; terms and conditions; legal custody.**

4

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

7

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

10

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

17

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

20

21 (1) If the permanency plan is
22 classified as another planned permanent living arrangement,
23 documentation of the ongoing and unsuccessful efforts to

1 return the child home or place the child for adoption or
2 with a legal guardian or a fit and willing relative,
3 including evidence of efforts to use social media or other
4 search technology to find biological family members for the
5 child; and

6
7 (2) Efforts made to ensure that
8 the child is provided, to the greatest extent possible, the
9 opportunity to participate in age appropriate or
10 developmentally appropriate activities and experiences as
11 defined in W.S. 14-13-101(a)(i) to promote healthy child
12 and adolescent development consistent with W.S. 14-13-101
13 through 14-13-104.

14
15 (II) The court shall:

16
17 (1) Determine whether the
18 permanency plan is in the best interest of the child and
19 whether the department of family services has made
20 reasonable efforts to finalize the plan;

21

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

4
5 (3) Ask the child or, if the
6 child is not present at the review, the child's guardian ad
7 litem or other legal representative about the child's
8 desired permanency outcome;

9
10 (4) If the permanency plan is
11 classified as another planned permanent living arrangement:

12
13 a. Make a judicial
14 determination and explain why, as of the date of the
15 review, another planned permanent living arrangement is the
16 best permanency plan for the child; and

17
18 b. Provide reasons why it
19 continues not to be in the best interest of the child to
20 return home or be placed for adoption or with a legal
21 guardian, or be placed with a fit and willing relative for
22 purposes of guardianship or adoption.

23

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

8
9 **14-6-402. Definitions.**

10
11 (a) As used in this act:

12
13 (xxiii) "Another planned permanent living
14 arrangement" means a permanency plan other than
15 reunification, adoption, legal guardianship or placement
16 with a fit and willing relative.

17
18 **14-6-429. Decree where child adjudged in need of**
19 **supervision; dispositions; terms and conditions; legal**
20 **custody.**

21
22 (c) In cases where a child is ordered removed from
23 the child's home:

1

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

4

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

11

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

14

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

23

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

8
9 (II) The court shall:

10
11 (1) Determine whether the
12 permanency plan is in the best interest of the child and
13 whether the department of family services has made
14 reasonable efforts to finalize the plan;

15
16 (2) Order the department of
17 family services to take any additional steps necessary to
18 effectuate the terms of the permanency plan;

19
20 (3) Ask the child or, if the
21 child is not present at the review, the child's guardian ad
22 litem or other legal representative about the child's
23 desired permanency outcome;

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

(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.

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

5

6

(END)