

Training for Pennsylvania Resource Families Reasonable & Prudent Parent Standard Law

This introductory training resource is designed to disseminate vital information about the Reasonable and Prudent Parent Standard to everyone affected by the changes in new Federal and State law. This training is a starting point for Resource Families and other professionals on the Resource Parents Role in the implementation of “reasonable and prudent parent standard” in Pennsylvania. A couple things to remember as starting points. This training focuses on Resource Parents and additional training should be offered to professionals on their role to implement the new statute. With this new statute as with all other best practices, the desired outcomes can only be achieved when all stakeholders /parties work together as a team. Lastly Pennsylvania has some of the best statutes already that work towards prudent parent standard and normalcy for youth. They are listed below and will also be covered in this training.

Pennsylvania Crossover Laws that work in tandem with Act 75 of 2015

- 1. Pennsylvania's Resource Family Care Act–Act 73 of 2005**
- 2. Pennsylvania's Children in Foster Care Act–Act 119 of 2010**
- 3. Pennsylvania's Resource Parents RIGHT to Participation in Court –Act 76 of 2007**

Topics Covered for Transfer of Learning

- A. Historical information and overview of HR 4980 and review of Pennsylvania's HB 477 (Act 75 of 2015)**
- B. An overview of the intent and shift in focus towards Normalcy**
- C. Resource Parents role as the Caregiver**
- D. "Reasonable and Prudent Parent Standard”**
- E. Age or Developmentally Appropriate Activates**
- F. Court Reviews and the Resource Prudent Parent Standard**

A. Historical information and overview of HR 4980 and review of Pennsylvania's HB 477 (Act 75 of 2015)

For many years there has been a movement driven by the youth in foster care to try and create more normal life situations while in the system. The tool to accomplish this goal by some states was to pass laws to implement a **“reasonable and prudent parent standard”** for decisions made by a resource parent or a designated official for a child care institution. Such a standard allowed caregivers to make parental decisions that maintain the health, safety, and best interest of the child and also decisions about the child's participation in extracurricular, enrichment, cultural and social activities. For the implementation Caregivers would have to be trained on the reasonable and prudent parent standard, specifically around the child's participating in **age or developmental appropriate activities**. A major change for all children and youth in foster care in the United States came on September 29, 2014 when President Obama signed into law the Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183/H.R. 4980). The bipartisan bill passed the House on July 23 and passed the Senate by unanimous consent on September 18. This Federal legislation had a provision Supporting Normalcy for Children in Foster Care (Sec. 111). This law requires all states to implement a “reasonable and prudent parent standard” for decisions made by a resource parent or a designated official for a child care institution. All states must now produce best practices for assisting resource parents to apply the reasonable and prudent parent standard in a way that protects the child while also allowing them to experience normalcy, and also takes into consideration the concerns of the biological parents related to participation in activities (although these concerns won't necessarily determine the participation of the child in activities). This provision also ensures that liability policies will ensure appropriate liability for caregivers who approve a child's participation in an activity in accordance with the reasonable and prudent parent standard. Many states have already passed laws for the implementation of the new Federal law. This included Pennsylvania when they passed House Bill (HB477) and is now law known as Act 75 of 2015. This training will focus on the use of the Pennsylvania law for the implementation of the Federal law pertaining to normalcy. The Federal legislative goals of the Prudent Parent Standard laws including Pennsylvania' are:

- Every child adjudged a dependent child of the juvenile court (a foster child) shall be entitled to participate in age-appropriate extracurricular, enrichment, and social activities.
- Caregivers must use a "prudent parent standard" in determining whether to give permission for a foster child to participate in extracurricular, enrichment, and social activities.
- Caregivers must take reasonable steps to determine the appropriateness of the activity in consideration of the child's age, maturity, and developmental level.
- Any state or local regulation or policy which prevents or creates barriers to participation in those activities is prohibited.
- Each state and local entity is required to ensure that private agencies providing services to foster children have policies consistent with this section and that those agencies promote and protect the ability of foster children to participate in age-appropriate extracurricular, enrichment, and social activities.

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B. An overview of the intent of new law--Shift in focus to Normalcy

The best and most accurate way to get to the legislative intent is take excerpts of the transmittal from June 14, 2013 from the Chairman, Ranking Member, and members of the U.S. House Ways and Means Subcommittee on Human Resources, which has jurisdiction over the nation's foster care and related child welfare programs. "We are writing to encourage your increased attention to helping children in foster care live more normal lives. Every day, children in foster care across the country face unnecessary barriers that limit their opportunities to succeed. However, we hope that by working together we can remove these barriers and improve the lives of thousands of foster youth across the country. A hearing in our subcommittee spotlighted this issue, along with recent state efforts to promote normalcy for children in foster care. We heard the views of former foster youth, experts representing youth in foster care, foster parents, and advocates. As parents and grandparents, we are concerned that this list and other examples in the hearing testimony we received suggests that too often the foster care system not only prevents kids from leading normal lives, but that it takes away exactly the sorts of activities that they need to grow and develop into happy, healthy, and productive adults. It is no wonder that, as one former foster youth put it, "Growing up in the foster care system, I felt like I was in captivity." We recognize the paramount need for safety for children in care, but our quest for safety should not stifle the normal development of young people. We encourage you to consider the findings of our hearing and the excellent testimony we received.

List of activities provided by youth at committee hearing and also suggestions from PA Youth Advisory Board.

- Going to the mall
- Going to summer camp
- Taking, part in a family vacation
- Being in a carpool
- Getting a haircut
- Getting a driver's license
- Having a part-time or summer job
- Going to a sleepover
- Allowances
- School activities Sports, arts and extra-curricular activities
- Employment or post-secondary school opportunities
- Access to social media and other current means of connecting
- Access to self-expression: art, religion, personal style etc.

STOP: Pennsylvania's Children in Foster Care Act--Act 119 of 2010 was a law that was created in the same spirit as the normalcy movement by mandating agencies meet identified needs for youth in care. Note that all of the information/topics in the attachments are LAW and MUST be followed.

Attachments need to be reviewed before moving on in this training. Children in Foster Care Act--Act 119 of 2010 Children in Foster Care Act of 2010 Fact Sheet

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C. Resource Parents role as the Caregiver

As explained earlier in this training the vehicle for the implementation for normalcy is the reasonable and prudent parent standard (RPPS). The enactment of Act 75 established the RPPS in Pennsylvania. It is very important to understand that the majority of decisions by the resource parent as outlined in section B of this training are day to day decisions to create normalcy for the child/youth in their home. There will be decisions that need to be made that go beyond that scope or role of day to day decisions. It is very important to note that in Pennsylvania's law there is a mechanism to balance from the day to day to the bigger decisions that need to be made. Pennsylvania's law actually gives clarity to handling the bigger decisions that are above the day to day by incorporating into the law use of service plans and the court system. This allows the stakeholders and family of origin to be the main parties when making the bigger decisions that are on the service plans and court orders. Pennsylvania's Statute is written as follows and note how it is balanced with (1) The bigger decisions from other parties that must be followed and (2) The **day to day** decisions that do not require approval of agency and can made by the resource parent.

HB477 PG.4 section 4(b) Caregiver authority (1) Must be exercised using the reasonable and prudent parent standard and DOES NOT CONFLICT with any applicable court order or service plan.(2) May be exercised without the prior approval of a county agency or private agency.

REMEMBER, the goal of this law for you as caregiver is to:

- Empower the out-of-home caregiver to encourage youth to engage in extracurricular activities that promote child well-being.
- Allow for reasonable parenting decisions to be made by the out-of-home caregiver without waiting to obtain the social worker or Juvenile Court approval.
- Remove barriers to recruitment and retention of high quality foster caregivers.
- Reduce the need for social workers to either give permission or to obtain Juvenile Court approval for reasonable care giving activities.
- Respect the rights of youth in out-of-home care.
- Provide the youth with as "normal" life experience in-out-home care as possible.

STOP: Pennsylvania's Resource Family Care Act--Act 73 of 2005 was a law that was created in order to mandate that resource parents be part of the professional team. Therefore you should still be consulted as member of the professional team on some of the bigger decisions. This statute also mandates many other responsibilities on agencies to include you as part of the Child Welfare team and knowing this law may highly increase your success as a resource parent in the implementation of normalcy. Attachment needs to be reviewed before moving on in this training: Pennsylvania's Resource Family Care Act Bulletin (Act 73 of 2005).

D. "Reasonable and Prudent Parent Standard."

In Pennsylvania's Act 75 of 2015 the definition section defines the Reasonable and Prudent Parent Standard as the following. **The standard characterized by careful and sensible parental decisions that maintain the health, safety and best interests of a child while encouraging the emotional and developmental growth of the child.**

The RPPS is the standard characterized by careful and sensible parental decisions that maintain the foster child's health, safety, and best interests. This standard supports the empowerment of a caregiver to exercise common sense and good judgment to assess circumstances and events in which a foster child may participate. The standard also enables participation by a foster child in age-appropriate extracurricular, enrichment, and social activities in order to improve the normalcy of life in foster care. When the caregiver is faced with decisions regarding his or her child's participation in activities, the caregiver or licensee should use considerations and requirements to be met. It is important to remember that this Statute came into being by youth that advocated for its passing. So majority of the youth will be responsible and at age appropriate levels and will not have severe mental health issues. With that being said there are standards and guidelines that must be applied in the RPPS responsibilities/requirements.

In applying the RPPS, a caregiver should:

- Consideration information about the history of child or youth placed with them;
- Have adequate information about the activity;
- Take reasonable steps to determine the appropriateness of an activity and if there are any special needs;
- Take into account any foreseeable risks to the child or others;
- Ask the following questions for reasons to approve or disapprove:

A. Does this activity seem reasonable? Remember this is not only for safety reasons but also financial as the question caregivers should be asking themselves is would we have our own children participate. Example: If it is a \$3000.00 a week space camp is that financially reasonable? Obviously for almost every caregiver it would not be possible.

B. Is this activity age-appropriate? A caregiver or licensee should consider the foster child's maturity level, mental and physical health, and developmental level. Age-appropriate is defined as "...activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity. Age appropriateness is based on the development of cognitive, emotional, physical, and behavioral capacity that is typical for an age or age group."

C. Are there foreseeable hazards?

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- D. Is there anything based upon the foster child's known case history or with the current caregiver to suggest that this activity would not be appropriate for the foster child?
- E. Does this decision maintain the foster child's health, safety and best interests along with others that may be involved in the decision?
- F. Does this activity assist in normalizing life in foster care?
- G. Does it take into consideration the child or youths wishes?
- H. Does this activity assist in providing the child with the most family-like experience?
- I. Does this support the youth in developing skills necessary to have a successful transition into adulthood.

A couple things to consider when applying RPPS. When a caregiver or licensee has any questions or concerns, they should consult with the agency that the foster child is adjudicated through. Caregiver should also make sure that they have all the required information because things such as emergency placements may have gaps in valuable information. Also remember in the decision making process it is not always to approve but also disapprove if necessary, depending on how you answer the questions above. See below on the actual language in the law.

HB477 Section (2-4) It is the intent of the General Assembly to recognize the importance of normalizing the lives of children in out-of-home placements and to empower their caregivers to approve or disapprove a child's participation in activities without prior approval of the department, the child's county agency or private agency caseworker or the court.

Liability: When exercising the prudent parent standard it is important to understand the law has built in language to minimize liability issues.

HB477 Section (4. d) Limitation of liability -- A caregiver, county agency and private agency shall not be liable for harm caused to a child while engaged in an activity or experience approved by the caregiver if:

- (1) the caregiver has completed the required training relating to the reasonable and prudent parent standard;
- (2) the caregiver has made a good faith effort to use the reasonable and prudent parent standard in approving the activity or experience; and
- (3) the approval does not conflict with any applicable court order or service plan.
- (4) Other liability protection --This section shall not remove or limit any existing liability protection afforded by any other law.

E. Age or Developmentally Appropriate Activities

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Pennsylvania's House Bill HB477 (Act 75 of 2015) defines “Age-appropriate or developmentally appropriate” as follows:

- (1) 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
- (2) In the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical and behavioral capacities of the child.

Obviously most of the children in care will be at their maturity chronological age or level of maturity. That is not to say that most children in care do not have stressors and trauma in their lives that other children may not have but that does not mean they are not close to the same chronological age of maturity as most children. There are going to be cases where a child/youth placed in your home is not at the age appropriate level. An example would be a 17 year old that may act and make decisions like a 12 year old. Remember we are working as a team and most of this information can be obtained from the professionals on the child welfare team. Before you ask yourself the questions in section D of this training on prudent parent standard it would be advantageous to have the question answered by your professional team “What is the maturity level, mental and physical health, and developmental level of the child/youth in my home”?

Pennsylvania's balanced approach to get questions answered on “Age-appropriate or developmentally appropriate” youth placed.

Resource parents may not be equipped to answer that question without having all the available information about a child/youth placed in their home. Fortunately for resource parents in PA we already have a law that should help with this. Upon any child being placed in a resource home the placing agency may be able to help answer **Age-appropriate or developmentally appropriate** questions. There are times and situations when the agency may not have that information but can supply when it is obtained. Note the following from the resource family care act.

Under Act 73 of 2005 section 4 (3 and 4) the following is mandated that the agency provide the following.

- (3) Open, complete and timely responses from the county or private agency when contacted by the resource family regarding the role of the resource family and the care of the child.
- (4) Information about the child's medical history, general behavior and relationship with his or her parents shall be provided to the resource family as soon as that information is obtained by the county or private agency. Within a reasonable amount of time the agency shall also provide information to the resource family concerning the educational history, life experiences and previous and prospective placement circumstances of the child.

Along with Act 73 and being able to get that information from the agency to help with your decision making process HB477 has another vehicle. The service plans and court orders to guide you in your decisions. Under Pennsylvania law a service plan must be done within 30 days of a child/youth coming into care.

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This will be done by the agencies placing the child/youth and may also be the best guidelines to help you in your decision making process. This may have the family of origin involved and they may be able to give information as a team member that no one else can supply. In most cases between getting all the information at placement or soon as it is obtained, as well as the court orders and service plans, you should be able to make an informed decision when applying the Resource Prudent Parent Standard.

REMEMBER: As discussed in this training there are the basic day to day decisions which may be fairly easy and made without guidance. Then there are the complicated decisions. You do not and should not have to operate in a vacuum with complicated decisions as you are part of a team. Use the tools that the team has to offer in order to make the most informed decision that you can. Note that there are going to be times and situations when you do not have all the information to feel comfortable making a decision. In those situations you should call the primary case worker for guidance.

F. Court Reviews and the Resource Prudent Parent Standard

In Pennsylvania resource parents have the right to participate in hearings under Federal and State law. This is a great tool for resource families to make sure that normalcy is being achieved from their role. Resource parents by the nature of this law are not responsible for any documentation but play a very important part of the court process as the Reasonable and Prudent Parent Standard is their role. In the past resource parents rarely participated in court but since 2006 their role has been recognized as vital and now mandated under federal and state law. With Resource Prudent Parent Standard in this new law it is even more vital to participate in court in order to implement normalcy for the youth in their care. Remember you are working as a team and you may have valuable information that the case worker needs to present to the court. It is good practice to journal the efforts made to provide normalcy/RPPS in your home and provide that information to the child/youths case worker so they may present it in court. Historically there has been some confusion on Resource parents **Right** to participate in court so we are providing the following information as this is such an important piece to implementation of Pennsylvania's HB477 (Act75 of 2015).

Notice and Right to be Heard

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Adoption and Safe Families Act (ASFA) was a federal law that recognized that resource parents often have valuable information that will help the court make its decisions. Under ASFA, resource parents must be allowed to have input at periodic review and permanency hearings. With that being said Congress found that many agencies were not reliably providing this notice as required by federal law under ASFA. Therefore, Congress wanted courts to ensure that the foster parents, relative caretakers, and pre-adoptive parents actually receive notice and have the **RIGHT** to be heard. In order to insure resource family participation, congress passed a new law, Social Security Act section 438(b)(1), 475(5)(G), 42 U.S.C. §629g(b)(1), 675(5)(G). Now to be eligible to receive a CIP grant under this section, the highest State court must have a rule that requires state courts to ensure that foster parents, pre-adoptive parents, and relative caregivers of children in foster care are notified of any proceeding regarding a child. State agencies must also ensure that foster parents of a child and any pre-adoptive parent or relative providing care for the child, are provided with notice of, and have a right to be heard in, any proceeding to be held with respect to the child. Pennsylvania also passed Act 76 to reinforce the new Federal Statute giving foster parents the **RIGHT** to participate. Pennsylvania also passed house bill 1511 and the Governor signed it in to law as Act 109 Of 2008. Act 109 of 2008 allows resource families to provide written documentation to be presented in court if they cannot attend or are more comfortable presenting that way. **Note this does not replace their RIGHT to be present and heard in person.**

STOP: Pennsylvania's Resource Parents RIGHT to Participation in Court –Act 76 of 2007 was a law that was created in order to mandate that resource parents be part of the court process. This statute mandates that you be included in the court process. Attachments need to be reviewed before moving on in this training.

1. Pennsylvania's Resource Parents RIGHT to Participation in Court (Bulletin on implementation of Act 76)

3. PA Resource family court participation guide.