



# Amy Loudenbeck

REPRESENTING WISCONSIN'S 31<sup>ST</sup> ASSEMBLY DISTRICT

**Testimony of Rep. Amy Loudenbeck**  
**Assembly Bill 406**  
**Assembly Committee on Children and Families**  
**October 28, 2015**

Thank you to the Committee Chair and to my colleagues in the Assembly for the opportunity to provide testimony on Assembly Bill 406 which is supported by the Department of Children and Families and intended to improve the well-being of children and youth in the foster care system.

The federal Preventing Sex Trafficking and Strengthening Families Act of 2014 amended the Title IV-E foster care program to address a number of issues related to children in out-of-home care. This bill brings Wisconsin into compliance with the new federal law in three areas: reasonable and prudent parenting standards for out-of-home care providers, limiting the permanency goal of "Other Planned Permanent Living Arrangements", and reducing the age of youth receiving independent living services from age 15 to age 14:

1. A reasonable and prudent parenting standard is a standard of decision making 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. This standard requires out-of-home care providers to make reasonable and prudent decisions to allow children and youth in their care to participate in extracurricular, enrichment, cultural and social activities such as sports, scout camping trips, vacations and school field trips. Achieving a level of normalcy for children in out-of-home care will be beneficial for the long-term emotional well-being of children and families.
2. Various changes to limit the permanency goal of "Other Planned Permanent Living Arrangements" for youth age 16 and over will encourage the return of a child home or placement of the child for adoption, with a guardian, or with a fit and willing relative.
3. Under current law, youth in out-of-home require independent living planning and services at age 15. The change under the bill will require planning and services beginning at age 14. In addition, the independent living plan must be created in consultation with the youth and two individuals selected by the youth who are not the foster parents or caseworker. An independent living plan involves providing youth with information and skills, such as cooking, job searching and managing personal finances to function successfully as an adult.

Colleagues, thank you for your time today and for allowing me to share information about this important proposal.



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Date: October 28, 2015  
To: Members of the Assembly Committee on Children and Families  
From: Fredi-Ellen Bove, Administrator, Division of Safety and Permanence  
Re: Department Position on AB 406 – In Support

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Representative Rodriguez and Assembly Committee on Children and Families,

Thank you for the opportunity to testify on AB406.

The Department of Children and Families appreciates the opportunity to work with you to continue to improve outcomes for children and families served by the child welfare system.

Our testimony provides an overview of the changes to federal law which require Wisconsin to enact changes to existing child welfare laws to comply with federal regulations and maintain access to federal Title IV-E child welfare funding, which accounts for \$105 million per year in funding to Wisconsin.

The Preventing Sex Trafficking and Strengthening Families Act of 2014 amends the Title IV-E foster care program to address a number of issues intended to improve the well-being of children and youth in the foster care system, including: introducing a requirement for “reasonable and prudent parenting standard” for out-of-home care providers to make decisions about children in their care, limiting the permanency goal of Other Planned Permanent Living Arrangements for youth 16 years or older, and reducing the age for providing independent living services for youth in out-of-home care from 16 to 14 years old.

### **Reasonable and Prudent Parenting Standard**

Current law and administrative rules require that the birth parent/guardian grant permission when their children are living temporarily in foster care or other out-of-home care settings, to allow the child to participate in many activities.

The new federal law requires states to establish reasonable and prudent parenting standards for foster parents and other out-of-home care providers to promote normalcy for children living temporarily in out-of-home care.

The reasonable and prudent parenting standard allows out-of-home care providers to make decisions to permit children in their care to participate in age or developmentally-appropriate activities based on the cognitive, emotional, physical, and behavioral capacities of the child. This standard will help promote normalcy for children in out-of-home care by allowing them to pursue their interests, engage in the same activities as their peers, such as sports teams or scout

camping trips, build skills for their future, and promote a trusting, caring relationship with the foster parent(s), while still keeping the health, safety, and best interests of the child or youth as the priority.

The standard will be applied to decisions by out-of-home care providers related to transportation, recreation, extra-curricular activities, employment, peer relationships, and personal expression. Use of the standard will not supersede existing court orders, rulings and decisions related to visitation, therapy, other related schedules, or existing laws applicable to other areas such as medical and educational statute.

Under the new provision, out-of-home care providers and the child welfare agency will be expected to consult, whenever possible, with the parents/guardians and children regarding their participation in activities. The out-of-home care providers will be provided with the information and background on the child necessary to make reasonable and prudent parenting decisions when a child is placed with them. Out-of-home care providers will not be liable for harm to the child or others as a result of the event or activity approved by the out-of-home care provider, as long as the out-of-home care provider acted in accordance with the reasonable and prudent parenting standard.

To help enforce the application of the reasonable and prudent parenting standard, the federal law and state statutory changes also require that the child's permanency plan, which is developed by the child welfare caseworker, describe efforts made by the child welfare agency to ensure that the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities determined in accordance with the reasonable and prudent parent standard.

The new federal and proposed state statutory provisions respond to concerns raised by current and former foster youth nationally and in Wisconsin that they have felt disadvantaged, stigmatized, and alienated because as foster children/youth they are not able to participate fully in extracurricular and social activities with their fellow students and friends.

Contingent on passage of the proposed legislation, all out-of-home care providers, caseworkers, and relevant staff will be provided training, guidance, and technical assistance on the reasonable and prudent parenting standard.

### **Other Planned Permanent Living Arrangements**

The new federal law also restricts the use of Other Planned Permanent Living Arrangements or OPPLA to children 16 years of age or over. The law provides that Tribes have two years to come into compliance with this requirement, i.e., by September 29, 2017. To conform to the new federal requirements, the proposed bill restricts the use of OPPLA to children age 16 or older, repeals existing sustaining care contracts for children under the age of 16, and does not allow the implementation of new sustaining care contracts.

When OPPLA is selected as the permanency goal for a child, the agency must demonstrate it made intensive and ongoing efforts, including searching social media, to return the child to the child's home or to place the child for adoption, with a guardian, or with a fit and willing relative and that those efforts have been unsuccessful.

The agency must determine why OPPLA is the best goal for the child and why it continues not to be in the best interests of the child to be returned to his or her home or to be placed for adoption, with a guardian, or with a fit and willing relative.

### **Independent Living Planning**

Finally, the federal law requires independent living planning to begin for children at a younger age. To conform to the new federal law, the proposed state legislation changes the age for the initiation of independent living planning from 15 to 14. Independent living planning involves providing youth the information and skills, such as cooking, job searching, and managing personal finances, to function successfully as an adult.

Additionally for youth ages 14 and older, the child welfare caseworker must prepare the permanency plan in consultation with the youth and two individuals selected by the youth who are not the youth's foster parent(s) or caseworker. The agency may reject a person selected by the youth if the agency has good cause to believe that the person would not act in the best interests of the youth.

The youth's independent living plan must include a document (i.e. the Handbook for Youth in Foster Care) that describes the rights of the child with respect to education, health, visitation, and participation in juvenile court proceedings, the right of the child to receive identification documents, and the right of the child to stay safe and to avoid exploitation.

The Department thanks Representative Loudenbeck and Senator Petrowski for authoring this bill and thanks the Chair for holding a hearing. We thank the Committee for your consideration of the Department's comments and appreciate the Committee's commitment to support positive outcomes for vulnerable children and families in our state. I am pleased to answer any of your questions.