



JERRY PETROWSKI

WISCONSIN STATE SENATOR

Senate Bill 309

January 6, 2016

Members of the committee, thank you for giving me the opportunity to speak today on Senate Bill 309, which relates to the use of the reasonable and prudent parenting standard by foster care workers and permanency planning for children over the age of 14. I would like to thank Representative Loudenbeck and the Department of Children and Families for all of the work they have done on this bill. A representative from the department is present today and will be available to answer any technical questions dealing with this bill.

Senate Bill 309 establishes a reasonable and prudent parenting standard for out of home care workers to use in making everyday decisions that affect the life of a child. This standard is simple. It requires care providers to make reasonable and prudent decisions, weighing the risks and benefits for the child, in allowing them to participate in after-school activities as well as other social activities. Current law and policy often require a difficult and lengthy process just to secure approval for a child to do something as simple as attend a school field trip or participate in after-school sports. This standard allows children in the care out-of-home providers to pursue activities they're interested in, engage in activities with children their own age, and develop trust with their out-of-home care provider, further strengthening that important relationship. Most importantly, it allows a child who has been put in this difficult situation the opportunity to live a normal life as much as possible.

This bill also makes changes to permanency planning options for children 14 or older. Getting these independent living plans discussed and set earlier in the process will have a positive long term impact on stability in these children's lives.

In short, Senate Bill 309 ensures we are making every effort to encourage a normal and stable life for children who, through no fault of their own, are placed in these situations.

Thank you again for the opportunity to speak today on this topic. We would be happy to answer any questions members of the committee may have at this time.

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Amy Loudenbeck

REPRESENTING WISCONSIN'S 31ST ASSEMBLY DISTRICT

**Testimony of Rep. Amy Loudenbeck
Senate Bill 309
Senate Committee on Health and Human Services
January 6, 2016**

Thank you to the Committee Chair and to my colleagues in the Senate for the opportunity to provide testimony on Senate Bill 309 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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Governor Scott Walker
Secretary Eloise Anderson

Secretary's Office

Date: January 6, 2016
To: Members of the Senate Committee on Health and Human Services
From: Fredi-Ellen Bove, Administrator, Division of Safety and Permanence
Re: Department Position on SB 309 – In Support

Senator Vukmir and Senate Committee on Health and Human Services,

Thank you for the opportunity to testify on SB 309. My name is Fredi-Ellen Bove and I am the Administrator for the Division of Safety and Permanence within the Wisconsin Department of Children and Families (DCF). With me is Ron Hermes, the Director of the Bureau of Permanence and Out-of-Home Care at DCF.

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.



TO: The Honorable Members of the Senate Committee on Health and Human Services
FROM: Kathy Markeland, Associate Director
DATE: January 6, 2016
RE: Support for Senate Bill 309

On behalf of the Wisconsin Association of Family & Children's Agencies, thank you for the opportunity to share our support for Senate Bill 309.

WAFCA is a member association that works to improve the lives of families and children in Wisconsin. Our member agencies provide a wide array of prevention and supportive services such as foster care, in-home support, counseling, and mental health treatment. WAFCA represents many out-of-home care providers across the state such as treatment foster care agencies, residential care centers and group homes.

Senate Bill 309 makes a number of changes to state law governing the care of children in foster care. These proposed changes are in response to recent federal law changes, which require states to adopt a "reasonable and prudent parenting standard" for making decisions regarding a child or youth's participation in developmentally appropriate activities.

This new standard will provide additional flexibility for out-of-home care providers as they seek to give children and youth "normal" childhood experiences – such as spending the night at a friend's house, participating in extracurricular activities and riding home from school with a friend.

WAFCA member agencies had the opportunity to consult with the Department as they developed the scope of Wisconsin's "prudent parenting" standard. During the course of our discussions, WAFCA members identified a number of activities that are limited for children in care due to legal barriers regarding appropriate parental permission. While it is important to respect parental rights, SB 309 will provide greater latitude for foster parents and other out-of-home care providers to permit children to participate in activities with their peers.

Our members also identified a number of concerns regarding the potential increased liability for foster parents and agencies as they exercise "prudent parenting." We believe that SB 309, as currently drafted, provides sufficient protection from civil liability arising from prudent parenting decisions. However, as we implement the law, we will need to continue to monitor how this additional discretion works in practice.

In addition to the need to monitor for any unforeseen liability, we are also aware that there will be a need during the rule-making process to engage in additional conversation with the Department regarding appropriate licensing oversight of our providers as they make good faith efforts to exercise the new flexibility that prudent parenting provides.

As partners in Wisconsin's child welfare services system, WAFCA members are committed to advancing the safety, permanence and well-being of the children entrusted to our care. We are hopeful that the new tools provided under SB 309 will contribute to continued improvement in our practice and better outcomes for children and families.